



April 5, 2005

Telecommunications Regulatory Authority
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ATT: Mr. A. Andreas Avgousti- General Director
Ms Daneh Al-Rayes- Director of Communications and Consumer affairs

Subject: TRA Draft Plan for 2005/2006

Dear All,

We refer to the TRA's Draft Plan for 2005/2006 dated March 22, 2005, in which the TRA sets forth its proposed areas of regulatory activity during the forthcoming two years and solicits comment from interested parties.

MTC-Vodafone (Bahrain) ("MTC-VB") would like to submit the following comments on this Draft Plan.

a) Consumer Protection

Use of Bulk SMS

MTC-VB is aware of and understands customer concerns regarding the issue of bulk SMS. However, MTC-VB notes that it would be very difficult from a technical perspective for operators to block SMS messages sent to customers from suppliers to market their products, particularly if the SMS messages are sent from abroad. Accordingly, MTC-VB submits that any framework or rules that the TRA may contemplate putting in place to address this issue should be established only after conducting a full public consultation, taking careful consideration of the technical



practicalities and costs in implementing such framework or rules.

b) Regulatory Framework

Access Framework

The item in the TRA's draft agenda relating to access (Regulatory Framework, section 1) refers only to a Regulation, RIO and RAO as the regulatory activities the TRA expects to undertake with respect to access regulation. MTC-VB notes that a number of other regulatory actions will also need to be taken as a matter of urgency to implement the access regulatory framework, and that adequate resources will need to be allocated to these actions to ensure that the access regulatory framework is implemented as swiftly and effectively as possible. In particular, the TRA will need to conduct market and dominance assessments and prepare access orders before the proposed regulatory framework (as set forth in the TRA's prior access consultation) can be implemented. Indeed, to resolve the existing access bottlenecks without operators having to resort to formal dispute resolution proceedings, access orders will need to be made with respect to all of the network facilities and components listed in the TRA's access resolution, as well as ducts, fiber and the other facilities referred to in the MTC-VB's submission in the access consultation. MTC-VB respectfully submits that putting in place and implementing the access regulatory framework should be the TRA's top priority in upcoming months. Section 40(6) of the Telecom Law states that certain key network facilities of Batelco should have been made available for access a year ago. The fact that access to such facilities is still not available on fair and reasonable terms is significantly hindering the development of competition in the Bahraini telecommunications market.

The draft agenda also does not refer to the need to conducting the twice-yearly RIO review. The TRA will presumably need to dedicate resources to this task to ensure that the process is completed as swiftly and efficiently as possible. Indeed, the review process would benefit from the adoption of clear procedures and timelines, so that interested parties are aware of the timing of the various steps in the process. As the TRA is aware, undertaking and completing

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the RIO approval process has been and continues to be, in practice, a condition precedent to operators being able negotiate and enter into supply agreements with Batelco.

Liberalization of Directory Enquiry Services

The TRA's draft agenda contains a whole section on DQ liberalization (Regulatory Framework, section 5), yet makes no mention of a requirement that Batelco establish a DQ information database for other operators/service providers to access on reasonable and fair terms. Despite the TRA's rulings that such a database should be established, none is currently available. Accordingly, the TRA may need to devote resources to ensuring that this database is established promptly and made available for the use of other operators and service providers on fair and reasonable terms. Until this database is made available to other operators on fair and reasonable terms, there would be little point in devoting the TRA's valuable resources to the introduction of competition in the DQ service market.

Framework for Interconnection/Access Dispute Resolution and Inter-Operator Complaints

The TRA's draft agenda in sections 6 and 7 of the Regulatory Framework discusses the need for a published framework for disputes and inter-operator complaints. MTC-VB would thoroughly support the TRA taking measures to streamline dispute resolution and complaint procedures, including by setting concrete response times, streamlining and rationalizing the various procedural steps and including follow-up procedures to ensure that the TRA's rulings are duly complied with. Such procedures should be published, so that all interested parties are aware in advance of the procedures that would need to be followed. With hindsight, it is clear that the Batelco/MTC-VB interconnection dispute took too long to complete and consumed too many resources (human and financial) of both the TRA and the parties concerned, and that the applicable procedures would have benefited from considerable streamlining. Also, it would have been beneficial for such procedures, covering the entire process from the initial referral to the TRA to the publication of the final ruling, to have been formalized and published at the outset of the dispute proceeding.

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c) Regulatory Policy

Third Mobile License.

The TRA indicates in the draft agenda that it will be evaluating whether further mobile licenses (MVNO or infrastructure-based) should be awarded. MTC-VB agrees that any such decision should be made only following full public consultation on all of the issues involved.

d) Other

The Telecom Law and operator licenses contain provisions prohibiting anti-competitive conduct. The draft agenda makes no mention of resources that will be allocated to monitoring and enforcing these provisions. Competition laws can be complicated and difficult to apply, and therefore MTC-VB suggests that it may be helpful for the TRA to organize a dedicated competition law team that will develop expertise in the field. A number of issues have been identified to date as potentially warranting an investigation into abusive conduct or other anti-competitive behavior. Resources would need to be allocated to investigate such conduct in order to give effect to and enforce these legislative and license provisions.

With respect to the National Numbering Plan, MTC-VB would like to be advised on the current status of the public consultation with respect to the National Numbering plan that was supposed to be issued during the beginning of 2005. MTC-VB would like this important issue to be added and classified within the priority items on the TRA's agenda during the coming months. MTC-VB requests that any change to the NNP be made only following full public consultation on all of the issues involved and that such consultation shall concern as well the possibility of introducing number portability as per the provisions of the Telecommunications law.

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A further aspect of the TRA's duties not mentioned in the TRA's draft agenda is enforcement generally. It is important that the TRA reserve and devote sufficient resources to ensure that any rulings or orders it makes are complied with by the licensed operator concerned. For example, Batelco has been repeatedly ordered to put appropriate service level agreements in place with respect to interconnection and other services, yet none have been offered to date. Similarly, in the TRA's Final Determination on the recently concluded interconnection dispute, Batelco was ordered to make available a database of directory listings for other licensed operators to access. Again, some three months after that ruling was made, no such database has been made available. Where an operator fails to comply with the TRA's rulings, procedures and processes need to be in place to enforce such rulings and to impose sanctions where appropriate.

Members of the MTC-VB team are available if the TRA would like to discuss any of these items in more detail.

Yours sincerely

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Samir Amro, Ph.D.

Legal and Regulatory Affairs

MTC-Vodafone Bahrain