



**SUBMISSION TO THE TELECOMMUNICATIONS AUTHORITY OF BAHRAIN
(TRA)**

BY

**BAHRAIN TELECOMMUNICATIONS COMPANY
(BATELCO) BSC**

ON

**APPROPRIATE APPROACH FOR IMPLEMENTATION OF LOCAL LOOP UNBUNDLING
(LLU) IN THE KINGDOM OF BAHRAIN**

7 MAY 2009

in this document [•] indicates information removed due to confidentiality

1. On 26 March 2009, TRA released a consultation paper to seek Licensed Operator's views with respect to the Appropriate Approach for the Implementation of LLU in the Kingdom of Bahrain (the "**Consultation**") which is part of the Local Loop Unbundling Consultation.
2. Batelco of Building 1095 Road 1425 Hamala 1014 welcomes the opportunity to make a submission on the Consultation.
3. The TRA proposes to define the TRA's preferred approach for the implementation of LLU in the Kingdom of Bahrain.
4. Batelco has a substantive interest in the subject matter of the Consultation and proposed **Regulation** as:
 - a) it is the incumbent Bahraini national operator complying with the current arrangements under section 40 of Telecommunications Law and the Access Regulation.
 - b) the proposed Regulation will require Batelco to expend significant additional costs and resources for provision of LLU.

Definitions used in this response are those used in the Consultation on the Regulation.

5. Batelco thanks the TRA for the opportunity to provide its comments on the proposed Appropriate approach for the Implementation of LLU in the Kingdom of Bahrain (the "**Consultation**").
6. Whilst Batelco has offered comments in relation to this Consultation in relation to implementation, this is not to be considered as agreement that implementation should indeed take place. Batelco reserves its legal rights in relation to LLU introduction.
7. If the TRA has any further enquiries then they should be directed to:

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RESPONSES TO THE QUESTIONS IN THE CONSULTATION

Question 3.1

Do you agree with the TRA's proposition to implement only Full LLU for the time being? Please elaborate. Should both full LLU and LS be implemented or only one of these products?

For the reasons contained in our response to the TRA's study on regulation of wholesale broadband markets, Batelco submits that it is not appropriate and necessary at this time to implement LLU. We recommend that NGA issues are urgently addressed before recommending LLU over PSTN and bitstream along is allowed to deliver competition and increased customer choice in a micro-state like Bahrain.

If mandated, only full LLU should be required rather than an over-extensive menu of wholesale products.

Question 3.2

Do you agree with TRA's proposition not to implement SLU for the time being?

Batelco agrees with the TRA's proposition not to implement SLU for the reasons outlined in the Consultation. In Batelco's view Bitstream is the appropriate and necessary remedy. Batelco contends that SLU of copper is even less appropriate than LLU given the prospect of development of the NGA (although Batelco have not committed to NGA). In general, Batelco supports an approach where regulatory intervention is kept at a minimum in favour of commercially negotiated solutions.

Question 3.3

Do you agree with TRA's proposition that non-active lines for which there is capacity at the main network level and at the distribution level should be unbundled? Please elaborate.

If LLU is mandated Batelco **agrees** with the TRA's proposition that non-active lines (if available) and active lines should be unbundled subject to technical feasibility.

Question 4.1

Do you agree with TRA's proposition that the list of MDFs with their category of size and location of these MDFs on a map (except the ones for which valid national

security reasons prevent their location being made public) with their coverage area should be made available free of charge by Batelco on simple request subject to a confidentiality agreement signed by the OLO as soon as possible after issuance of the Order? Please elaborate.

Batelco **does not agree** with the TRA's proposition. All information on service nodes is confidential and commercially sensitive information. Batelco does not support an approach where it is forced to provide information prior to testing and placing of orders. Batelco is able to provide a map of the coverage area of each service node to OLO's on request. Provision of this information would be subject to a fair and reasonable administrative charge. Batelco submits charging for the information this is only fair, as there will be a cost to Batelco for providing the information to the OLO. Batelco therefore proposes a review of the information to be provided and for that information to be supplied after testing and on receipt of a valid LLU request.

Question 4.2

Do you agree with TRA's proposition to organise LLU field tests? Do you agree with the proposed timing? What is your opinion on the site selection proposition? What is your opinion on the OLOs' selection proposition? Please elaborate.

Batelco submits that the scope of the suggested "field tests" is not clear. Batelco would welcome elaboration on this point from the TRA. We would speculate that the field test is purely to demonstrate the capability of the copper network from one service node using MSANs.

The proposed timing of the field tests of mid-2009 is too ambitious. In Batelco's view it is very unlikely that any OLO will be ready by this date. Batelco believes that the time frame for the field test is not practical for the following reasons:

- The field test needs to be conducted after agreeing the approach and drafting the necessary processes to ensure that the test is focused on the selected option and that no efforts are wasted on non viable options.
- The plan does not consider the procurement and selection of equipment by the OLO and delivery lead-time which may extend up to eight weeks based on Batelco's experience.
- Depending on the co-location method, the site preparation requires time in order to arrange for the necessary ancillary services.

As well as a “field test” Batelco submits that there should also be a pilot test with one single operator who is committed to LLU to ensure effective processes are adopted and LLU can be provisioned successfully.

In addition resources may not be readily available to support more than one OLO for the period of the trial. There is precedent in Bahrain for pilot tests to be conducted with one OLO for example, both Bitstream and CPS pilot tests were conducted with one OLO.

The pilot test should run for six months to give the OLO the opportunity to obtain customers, and also to test processes it has set in place such as billing, CRM, and customers services and provisioning of ancillary services.

The pilot test cannot start until the prices of the LLU RO are finalised between Batelco and the TRA.

Do you think that other collocation options than the two currently proposed should be envisaged for the LLU field tests?

Batelco submits that there should be no on-site collocation, only distant collocation. Batelco believes that the distant co-location option is the best option for the following reasons:

- There are many sites that are close to Batelco service nodes that could be equipped and used for distant co-location at reasonable cost.
- There is a serious physical space issue– at least for some of the exchanges that are likely to be in demand by OLO’s. The TRA’s sample service nodes on recent site visits were skewed in favour of those service nodes where there were the highest number of lines per site. Batelco estimated that if all the service nodes were surveyed, there would be congestion issues in approximately half of these (compared with the sample the TRA chose for the site visits).
- To give equal and fair opportunity to all OLOs irrespective whether they came first or last.
- To eliminate unnecessary processes such as space allocation and site access.
- To eliminate barriers for OLO’s building own backhaul or own access network.

Based on the above, Batelco strongly recommends that the field test is based on the distant co-location option and the processes around it to avoid wasting costs on non viable and non future proof options.

Question 4.3

Do you agree with TRA's proposition to organise capacity building workshops on the LLU offer (to be included in the RO) prior to LLU implementation? What is your opinion on the proposed agenda and timing of these workshops?

Batelco agrees to the TRA's proposition of a workshop but believes that the proposed timing of the third quarter is too early.

The type of "workshop" described in the Consultation usually occurs just before the commercial launch of a product in order to improve awareness and knowledge of a wholesale offer. It would be useful to go through the processes that have been put in place at this time. However the workshop can only realistically occur when all the legal terms, procedures and processes are agreed with the TRA.

Batelco submits that the timetable of three days for such a workshop is too long and a more realistic timeframe would be half a day.

Question 5.1

Do you agree with TRA's proposition to determine full LLU prices on an interim basis? Please elaborate.

Please see our comments on the Draft Order in relation to pricing and tariffs. Batelco recommends proper existing information needs to be compiled on a fair and reasonable pricing basis. Benchmarks on an interim basis are likely to be problematic.

Question 5.2

Do you agree with TRA's proposition that "price on application" should be avoided in Batelco's LLU RO? Do you also agree that TRA's proposition to avoid possible upfront fees and to transform possible upfront fees into recurring charges?

Batelco does not agree with the TRA's proposition. Batelco believes that removal of price on application causes Batelco to be unable to recover capital costs on any significant investments made by Batelco for LLU (for example developing billing systems). Batelco may need to obtain a quote from a supplier following a service request and therefore in Batelco's view it is only fair to impose a "price on application" requirement for the LLU RO provided the price is fair and reasonable.

Question 6.1

Do you agree with TRA's non-discrimination approach that should guide the definition of operational processes and the drafting of the LLU offer?

The TRA is referred to Batelco's confidential response on the recent Section 53 on the Bitstream Service dated 31 March 2009. The TRA's approach to non-discrimination is also contained in non-legally binding guidelines which have never been consulted upon, despite their far reaching consequences. Batelco does not agree with the TRA's approach which amounts to an unofficial policy of implementing functional separation and/or "equivalence of inputs" without parameters, without consultation and without basis under the Telecommunications Law. Batelco submits that the issue of functional separation and/or equivalence should be fully addressed through further public consultation.

There can be differences between retail and wholesale delivery processes which can be objectively justified and which do not materially affect customers. Making such processes identical regardless, can be achieved at great cost. This loses sight of the benefits of doing so.

Defining rigid operational processes at great cost and effort on the artificial premise that Batelco is functionally separated belies reality, because this has not taken place. Processes also are achieved at the expense of flexible and mutually beneficial commercial relationships with wholesale customers. Batelco submits the TRA should focus on the big picture and not introduce "bottom up" and piecemeal functional separation.

Do you agree with TRA's proposition to request from Batelco a description of its relevant internal processes for the purpose of the Approval of the LLU Reference Offer?

Batelco does not agree with the TRA's proposition to provide internal processes. The result of the internal processes should be regarded by the TRA as the relevant information needed; how Batelco reaches these results through internal processes is confidential. Moreover, internal processes are constantly updated and subject to change.

Question 6.2

Do you agree with TRA's approach to the provision of specific information related to LLU within the LLU RO of Batelco? Which items of the list above are relevant in the specific context of LLU implementation in Bahrain and should be included in the LLU RO? What are the objective criteria to be used for assessing whether an item of the list above should be considered commercially sensitive in the specific context of LLU implementation in Bahrain?

Batelco agrees with the TRA that certain information is important for OLOs. However, some of the information specified in the list are considered commercially sensitive and not relevant

to LLU implementation and should not be included in the LLU RO. There are also serious security concerns in allowing information on for example cable entry points being made public. Breaches of security could have very serious consequences as well as resulting in disruption of telecommunications services in Bahrain.

OLO's will be able to discriminate between sites resulting in a two tier telecommunications system, where those sites not deemed worthy of OLO investment may be left out. Batelco estimates that [•] service nodes are likely to be unbundled.

Moreover, it is time-consuming and administratively difficult to extract the information and therefore should be performed on a case by case basis based on a specific order. The information contained in list becomes out of date quickly and is therefore time consuming and costly to maintain as an up to date document.

There is a need to assess overall demand before compiling such a document.

Batelco reemphasises that distant collocation is the best option as it will eliminate the need for the information that relates to space, power and air-conditioning.

The number of non-active lines (soft disconnect) is considered commercially sensitive and are also not relevant, please see the answer to question 3.3 where Batelco states that active and non-active lines should be unbundled subject to testing.

Question 6.3

Do you agree with the TRA's view that both a cost-oriented LLU backhaul offer from the incumbent and enabling backhaul built by OLOs are necessary? If yes, could you please detail your expectations for the LLU backhaul offer to be provided by Batelco (bandwidth of backhaul, type of protocol, etc)?

Batelco is happy to offer LLU backhaul on reasonable request subject to technical feasibility and provided Batelco can recover its costs and mark up.

Could you please detail your expectations in terms of self-providing LLU backhaul (e.g. deployment of fibre into Batelco's Service Node) or purchasing LLU backhaul from another OLO?

Batelco re-emphasises that distant collocation is the best option and if selected, there should be no risks or limitations that will render their own backhaul build-out by OLOs.

Question 6.4

Do you agree with TRA's proposed rules for space allocation?

Batelco submits that distant co-location avoids this issue. If the TRA insists on on-site co-location Batelco reserves its position to propose another allocation method if there are cases of high demand in limited spaces. Batelco suggests a simplified lottery ballot for congested service nodes.

Do you agree with TRA's proposed specific process for space allocation for the very first collocation ordering?

Is there any justification for such a coordinated approach to be envisaged after the very first collocation ordering for subsequent orderings? Please elaborate.

Batelco re-emphasises that distant collocation is the best option and if selected would remove the need for specific processes and rules that would be lengthy.

Batelco also believes that removing space allocation rules would provide OLOs with fair and equal treatment.

Batelco would need to consider the OLO's application, security levels needed and financial wellbeing. The TRA should accept that the fastest operator may not be the best LLU operator.

LLU may gather pace later rather than on initial launch therefore the allocation process may need to apply not only to the first co-location order

Question 6.5

What are your views on how to implement the "Use it or lose it Rule"? Please explain in detail.

A time period is not the only criteria; other criteria must be in place, such as fulfilling the supply terms in the RO.

Batelco submits that provided payment obligations apply from a certain date the OLO can reserve that space.

Question 6.6

Do you agree with TRA's proposition to allow end-users to sign a document authorising an OLO to perform all the necessary actions with the incumbent for having their line unbundled, including fixed number portability when appropriate?

Batelco agrees with the TRA's proposition.

Do you agree with TRA's proposition that the consequences of terminating the contract with Batelco should not be a barrier to change from Batelco to an OLO?

Batelco should only deal with the OLO and not the end user. The end user must pay all outstanding debts before the move to LLU.

Question 6.7

Do you agree with TRA's suggestion to request Batelco to release the ANFP for the field tests to occur in mid-2009 in Bahrain?

Batelco agrees with the TRA that the ANFP is an important component of LLU and should be released to control interference and therefore assist in achieving successful LLU.

However, at present Batelco does not have an ANFP in place and considers mid-2009 a very short period for the development of the document as Batelco will need to issue an RFP to obtain a suitable consultant

Question 6.8

Do you agree with TRA's proposition not to implement bulk migration in LLU implementation?

Batelco agrees with the TRA that Bulk Migration is not required in Bahrain due to the limited number of lines.

However, if LLU is implemented, Batelco requests to withdraw Bitstream and WSDSL which means customers must be migrated in bulk for LLU in those specific cases.

Batelco notes that 'bulk' has not been defined by the TRA.

Question 6.9

Do you agree with TRA's proposition for the forecasts to be done by OLOs? Do you agree with TRA's proposition that OLOs should not pay any penalty if their orders for LLU services are different from forecasts? Do you agree with TRA's proposition that provisions are required to take into account forecasting tolerances? Please elaborate.

Batelco agrees with the TRA's proposition that forecasts should be done by OLOs.

However, Batelco believes that the period of 12 or 6 months for collocation should be extended to 12 months or longer, as Batelco needs to be aware of what may be needed to prepare LLU sites (for example, additional power, air conditioning etc.)

Batelco agrees with the periods of 3 or 6 months for full LLU orders.

Batelco does not agree with TRA's proposition that OLOs should not pay any penalties. OLOs must be subject to penalties in cases where Batelco invests in preparing sites for orders and the OLO then decides not to enter a particular site.

Question 6.10

Do you agree with the TRA's list of a minimal set of parameters for SLAs that should be associated with LLU?

Batelco believes that only LLU basic service provision and fault clearance should be provided. As a matter of best practice Batelco submits that SLA's should be developed after the final processes are implemented and any development of interim SLA's would not be an efficient use of time.

The delivery time for ancillary services varies from case to case based on the volume of work, site conditions and material availability. Accordingly, it is recommended these are not included in the SLA.

At the Wholesale level, Batelco will need to cease services and provide a new service (RO LLU), as for other access products.

Question 6.11

Please specify and justify the value for the following parameters of SLAs:

Validation time for:

Full LLU line provisioning

Information provisioning

Internal Tie cable provisioning

External Tie cable provisioning

Dedicated Collocation space provisioning

Co-Mingling space provisioning

Shelter space provisioning

Backhaul provisioning by incumbent

Delivery time for:

Full LLU line provisioning

Information provisioning

Internal Tie cable provisioning

External Tie cable provisioning

Dedicated Collocation space provisioning

Co-Mingling space provisioning

Shelter space provisioning

Backhaul provisioning by incumbent

Problem resolution time for:

Fault clearance

Backhaul repair

[•]

Question 6.12

Comments are requested with respect to the proposed establishment of SLAs.

See above.

Question 7.1

What is the minimal set of KPIs for LLU that should be measured on a monthly basis and published by Batelco on its website? Do you agree with TRA's intention to request Batelco to measure and publish the corresponding minimum set of KPIs for other wholesale and retail products necessary to assess prima facie compliance with non-discrimination?

Batelco agrees with the TRA that KPIs should be published for transparency purposes. However these KPIs should be based on the SLAs to avoid duplicate measurements and control. The issue again is one of timing as explained above. KPIs and SLAs cannot be developed until final processes are implemented.

Batelco suggests that the publication and measurement is in a form of the % in meeting the set KPI's in the SLA.

Question 7.2

Do you agree with TRA's proposition to publish a LLU scorecard that would include: (a) the number of unbundled lines; (b) the number of unbundled MDFs; and (c) the LLU coverage on the basis of a map once LLU is commercially launched? Do you see other indicators that should be included in this scorecard?

Batelco agrees with the TRA's proposition in terms of (a) the number of unbundled lines and (b) the number of unbundled MDFs.

Batelco believes that the LLU coverage on the basis of a map once LLU is commercially launched is not necessary as it will not add any value and will consume much effort to update.

Question 7.3

Do you agree with TRA's proposition to create a Working Group on LLU Operations and Service Schedules that will review the progress of LLU and suggest amendments to the LLU RO? Do you also agree with TRA's opinion that the evolution of and amendments to the ANFP should also be discussed within a Working Group on ANFP?

Batelco does not agree with the TRA's proposition to create a working group on LLU. Batelco does not see the value of multiple reviews of the RO. Batelco recognises the importance of input from OLO's and consulting OLO's on specific issues, however there needs to be a commercial balance that serves all parties. There is an escalation process to handle any problems that are encountered and SLA's once developed will encourage efficient service provision.

Question 8.1

Do you agree with TRA's opinion that structural separation should not be considered at the current time but should be envisaged in the future if TRA determines the existence of anti-competitive practices by the incumbent such that LLU deployment is stymied?

Batelco considers that this important issue should not be included within this consultation on LLU as it is an additional and extreme regulatory remedy. The question also does not refer to functional separation. Both varieties of separation and policy should be consulted upon before implementation because they are additional remedies and have drastic and profound consequences (see Batelco's response on question 6.1 above).

Question 9.1

Do you agree with TRA on the key milestones for the LLU implementation phase?

Batelco believes that the time frame is not feasible in these circumstances and that there are major missing activities from the plan that should be included in order to achieve a practical tentative commercial launch date. These activities are as follows:

- Service provision and assurance processes development.
- The information systems used in Service Delivery and Assurance upgrade to support LLU services which may extend to 12 months based on Batelco experience.
- ANFP development and approval.
- Costing exercise and price determination.
- Batelco may also need time to upgrade and develop its own systems (for example sites preparation time). Security issues and provisioning of partitioning, electrical power, and A/C will realistically take considerable time to put into place. The timescale for complex services in the RO are over twelve months. CPS took 18 months from the date of mandate to commercial launch. Bitstream took 13 months (July 2006 – August 2007).

Batelco submits that it is best practice to have a pilot test for LLU.

Batelco also believes that the field test time frame is not practical for the following reasons:

- The field test needs to be conducted after agreeing the approach and drafting the necessary processes to ensure that the test is focused on the selected option and that no efforts are wasted on non viable options.
- The plan does not consider the OLO equipment selection and delivery lead-time which may extend up to 8 weeks based on Batelco experience.
- Based on the agreed co-location method, the sites preparation requires time in order to arrange for the necessary ancillary services.