

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

A public consultation document issued by the  
Telecommunications Regulatory Authority of the  
Kingdom of Bahrain

29 November 2007

LAU/1107/251

The address for responses to this document is:

The General Director

Telecommunications Regulatory Authority (TRA)

PO Box 10353, Manama, Kingdom of Bahrain

Alternatively, e-mail responses may be sent to the

Authority's email address at [consult@tra.org.bh](mailto:consult@tra.org.bh)

The deadline for responses is **5pm on 11 January 2007**

**Purpose:** To seek Licensed Operators' views with respect to whether the terms and conditions of Batelco's existing Reference Interconnection Offer and Reference Access Offer requires amendment and if so to seek comments upon what proposed amendments Licensed Operators consider necessary.



هيئة  
تنظيم  
الاتصالات  
Telecommunications  
Regulatory  
Authority

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

**1. Introduction**

1.1 This Consultation is issued pursuant to the Authority's Consultation Process Regulation issued by the Authority on 10 August 2003<sup>1</sup>.

**2. Background**

2.1 Section 57 of the Telecommunications Law<sup>2</sup> governs the Interconnection and Access regime in the Kingdom of Bahrain<sup>3</sup>.

2.2 On 30 April 2005 the Authority published the Access Regulation, Regulation 1 of 2005, pursuant to section 57(e)<sup>4</sup>.

Interconnection Provisions

2.3 Section 57(b) of the Telecommunications Law requires that a Dominant Operator in a particular Telecommunications market shall, within 3 months of such determination and every six months thereafter, publish a Reference Interconnection Offer ("RIO") after obtaining the Authority's approval on such offer.

2.4 Pursuant to section 57(b) the Authority may issue an Order specifying the terms and conditions and the tariffs if it does not approve the contents of such a Reference Interconnection Offer, which is effective from the date of issue, unless the Authority specifies another date.

---

<sup>1</sup> Arabic and English versions of the Consultation Process Regulation can be found at <http://www.tra.org.bh/en/LegalRegulations.asp>. Note that only the Arabic version of Consultation Process Regulation may be relied upon for legal purposes. The English translation is published for information purposes only.

<sup>2</sup> Legislative Decree No. 48 of 2002 promulgating the Telecommunications Law.

<sup>3</sup> Arabic and English versions of the Telecommunications Law can be found at <http://www.tra.org.bh/en/Instruments.asp>. Note that only the Arabic version of the Telecommunications Law may be relied upon for legal purposes. The English translation is published for information purposes only.

<sup>4</sup> Arabic and English versions of the Access Regulation can be found at <http://www.tra.org.bh/en/LegalRegulations.asp>. Note that only the Arabic version of the Access Regulation may be relied upon for legal purposes.

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

Access Provisions

- 2.5 According to Article 3.3(c) of the Access Regulation any Dominant Operator in a relevant market shall make available a Reference Access Offer ("RAO") in accordance with Article 4 of the Access Regulation.
- 2.6 Article 4.1 of the Access Regulation requires any Licensed Operator subject to Access Obligations (as defined in the Access Regulation) to make available a Reference Access Offer.
- 2.7 Article 5.1 of the Access Regulation requires any Dominant Operator subject to Article 4.1 of the Access Regulation to submit its Reference Access Offer to the Authority for Approval within two months of being declared to have a Dominant Position in a relevant market and thereafter in any event to submit its Reference Access Offer to the Authority for approval every six months of the date of publication of its most recently published Reference Access Offer.
- 2.8 Articles 5.2, 5.3, 5.4 and 5.5 of the Access Regulation govern the procedures by which the Authority Approves or Orders Reference Access Offers, the effective dates of such Approvals or Orders and the requirements for publication of such Approvals or Orders by the Dominant Operator.

History of Batelco's Interconnection and Access offers and related orders

- 2.9 The Authority determined Batelco to be dominant in various Interconnection markets on 9 August 2003.
- 2.10 The Authority determined Batelco to be dominant in certain Access markets on 22 January 2006.
- 2.11 Since 2003, Batelco has submitted to the Authority Reference Interconnection Offers which the Authority has issued orders upon. In 2006 Batelco submitted to the Authority its first Reference Access Offer, upon which the Authority issued an order on 12 July 2006.

**3. Current Issues**

- 3.1 The Authority must assess the proposed prices and terms and conditions of Batelco's submitted RIO and RAO, each of which is regularly submitted to TRA as described above. The Authority must then either approve the submitted RIO and RAO, or where it does not approve on the basis that the Authority does not consider the proposals to be fair, reasonable and non-discriminatory, issue an order to Batelco outlining the prices and terms and conditions it does determine to be fair, reasonable and non-discriminatory.

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

3.2 Any RIO and RAO from an Operator that is determined to be in a Dominant Position ("Dominant Operator") must be fair, reasonable and non-discriminatory. The Authority therefore expects that any RIO and RAO will, for instance,:

- be as up-to-date and relevant as possible;
- be in line with international and industry standards;
- provide Other Licensed Operators ("OLOs") with the facility to best utilize existing infrastructure, whilst also allowing the market to develop new and innovative services; and
- allow OLOs to make comparable offerings that compete with the retail offerings of the Dominant Operator.

3.3 Since the inception of the existing RIO and RAO processes with Batelco, the Authority has observed, both as a result of its own experiences and based upon the experiences related to the Authority from other OLOs, that there are a number of areas where the existing RIO and RAO might be improved or amended and, consequently, has a number of proposed areas for review.

3.4 The most prominent areas for review are:

3.4.1 Forecasting requirements for services placed upon other Licensed Operators;

3.4.2 Service Level Agreements for each service;

3.4.3 Whether the current requirements for Bank Guarantees are reasonable; whether other forms of security for payment are possible and less burdensome upon OLOs.;

3.4.4 Whether the Joint Working Manual ("JWM") is too cumbersome; should it simply be a document detailing relevant technical interworking and testing specifications; whether forecasting and other procedural requirements found in the JWM should be removed from it and placed in other parts of the RIO and RAO;

3.4.5 Should the RIO and RAO be more specific in terms of procedures that would prevent possibilities or situations that might be described as non-price discrimination, for example, the handover procedures of end-users from Batelco to OLOs for the bitstream, wholesale DSL and Carrier Pre-Selection products;

3.4.6 Supply Terms and Conditions Generally;

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

- 3.4.7 General Structure and Layout of Batelco's Reference Offer as published on its website.
- 3.5 The Authority would also be interested in hearing from other Licensed Operators with respect to other amendments or changes that they consider might be made to Batelco's existing RIO and RAO, together with reasoned explanations for any such observations and proposals.
- 3.6 This paper also outlines the Authority's and Batelco's proposal to synchronise and unify the submission and assessment of Batelco's RIO and RAO.
- 3.7 The Authority will consider all responses to this consultation and may publish some or all of these responses (please refer to paragraph 6.3 below). The Authority will then consider the appropriate action to take, if any.

**4. Areas for Review**

- 4.1 The following contains more detailed observations of the areas referred to at paragraphs 3.4.1 to 3.4.7 above.

Forecasting Requirements

- 4.2 A number of OLOs have complained to the Authority that the existing forecasting requirements and the consequences that flow from the application of the forecasting requirements are not necessarily fair and reasonable.
- 4.3 Operators note that as they are currently framed the forecasting requirements are unduly onerous and inflexible.
- 4.4 The Authority would be interested in receiving further views on this topic as well as suggestions on how in operators' views the forecasting requirements might be made to be flexible, fair and reasonable while still providing Batelco with sufficient information to allow it to meet with the proper requirements of operators and its own customers.

Service Level Agreement

- 4.5 Presently there are Service Level Agreements ("SLA") for Customer Sited Interconnect and In-Span Interconnect products only.
- 4.6 The Authority considers that SLAs are an industry standard and are essential tools to define, monitor and enforce the provision of an

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

acceptable level of service from Batelco (and any operator) to another operator.

- 4.7 Many smaller operators provide SLAs as a matter of course for their own retail customers, thus indicating that the industry in Bahrain has quickly progressed to accept these as a normal practice. However such SLAs may be put at risk if the operator is in turn reliant upon a Batelco service that is not supported by an SLA.
- 4.8 SLAs can tie into the minimum quality of service ("QOS") requirements that might be introduced by the Authority at some time in the future,<sup>5</sup> reflecting market requirements.
- 4.9 SLAs could be adopted for each RIO and RAO service where relevant.

Bank Guarantees

- 4.10 There have been a number of complaints made to the Authority by operators that the current requirement and level of Bank Guarantees is possibly too onerous.
- 4.11 The Authority presently understands that bank guarantees in Bahrain are themselves generally secured by the bank against money in its customer's own account, and usually for all, or nearly all, of the bank guarantee amount (i.e. a 100% cash margin). Consequently this puts a financial burden on other licensed operators which may amount to a significant barrier to entry or otherwise reduce their ability to invest.
- 4.12 The Authority is therefore considering whether the level of bank guarantees is too high and whether bank guarantees are the only and/or the most appropriate means of security. The Authority would be interested in licensed operators' views on what other forms of security could be introduced and/or propose how the present system for providing security may be adjusted in a way that still adequately, reasonably and fairly protects Batelco's interests whilst minimizing the financial burden on licensed operators.

Joint Working Manual

- 4.13 It has become apparent that the existing Joint Working Manual ("JWM") may be too cumbersome, particularly with respect to its requirements for forecasting (see paragraphs 4.2 to 4.4 above) and that the JWM should simply be a document detailing relevant technical interworking and testing specifications only

---

<sup>5</sup> TRA is anticipating consulting on a Quality of Service Regulation in the near future.

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

4.14 The Authority would be interested in licensed operators' views on whether the forecasting requirements found in the JWM should be removed from it and placed in another part of the RIO and RAO and how else the JWM might be improved.

Procedures – Equivalent, Fair and Defined?

4.15 The Authority is required to monitor and enforce against not just price-discrimination, but also non-price discrimination. The Authority issued a position paper on this topic in September 2007 (The paper can be found <http://www.tra.org.bh/en/pdf/PositionPaperonPriceandNon-PriceDiscrimination.pdf>).

4.16 The general principle underpinning the concept of non-discrimination, or equivalence, is that Batelco's network and/or wholesale arm should not treat other licensed operators in a manner less favourable than its own retail arm. This means that Batelco's procedures for dealing with other licensed operators should be at least as efficient as those with its own retail arm.

4.17 The Authority would like to seek views from licensed operators in Bahrain with respect to whether in their opinion there are issues with respect to the current systems in place for such matters as end-user handover procedures and whether the Authority should do more in relation to this issue either through requiring more prescriptive procedure provisions within the body of Batelco's RIO and RAO or through an instrument like an "Equivalence Regulation" or "Handover Procedure Regulation"?

RIO and RAO Terms and Conditions Generally

4.18 The Authority would welcome comments generally relating to the existing terms and conditions of Batelco's RIO and RAO, particularly Schedule 9 - Supply Terms.

4.19 The Authority would also like to understand the scope of any commercial arrangements (i.e., arrangements that are made on the terms and conditions different from those in Batelco's Reference Offers) that Batelco may have introduced in addition its Reference Offers. The Authority is keen to understand whether it is the practice of the Telecommunications industry in Bahrain that only the terms of the Reference Offers are used for the terms and conditions of Interconnection or Access agreements or whether the Reference Offer is used to establish minimum conditions upon which additional terms

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

are agreed. The Authority would welcome licensed operators' advice in this regard.

General structure and layout of the Reference Offer

- 4.20 Batelco's existing Reference Offer as published on its website is, necessarily, a large document.
- 4.21 Do operators consider that the structure and layout of the document could be changed for improvement or is it sufficiently clear and structured as it is? If changes should be made what changes should be adopted?

Other areas for review?

- 4.22 The issues listed above are what have so far been identified by the Authority and by other operators as being the areas of the Reference Offers that might be reviewed with a view to improvement. The Authority would welcome any other suggestions, supported with reasoned explanations of why changes or improvements should be made and where possible proposals for such changes and improvements.

Unified Reference Interconnection and Reference Access Offers – A Reference Offer

- 4.23 The Authority and Batelco have discussed the synchronization of the timing of the submission of Batelco's Reference Interconnection and Reference Access Offers to the Authority.
- 4.24 The requirement on Batelco to resubmit a revised RIO and RAO as described in paragraphs 2.3 to 2.8 above leads to up to four such offers per year and the requirement on the Authority to review, analyze, approve or order such offers can present a significant regulatory burden upon both Batelco and the Authority. This process does not necessarily provide any more significant certainty to the Telecommunications market.
- 4.25 The Authority considers that it would be desirable for the RIO and RAO submission and publication dates to be synchronized and further that the requirement for submission dates of new, revised RIOs or RAOs on the part of dominant operators to be effective for 12 months rather than six months.

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

- 4.26 As such the Authority and Batelco have proposed that Batelco's RIO and the RAO will now be submitted as one consolidated document, to be known as a Reference Offer ("RO") and then assessed and either approved or ordered by the Authority in the usual fashion. The Authority estimates that the approval or order will be issued in mid April 2008.
- 4.27 Batelco is still required under the Telecommunications Law and the Access Regulation to regularly submit a revised RIO and RAO as described in paragraphs 2.3 to 2.8 above. To ensure the continuity of the effect of the RO ordered in April 2008 Batelco will be required to resubmit to the Authority approved or ordered April 2008 RO and TRA will review it with a view to approval (however TRA must still satisfy itself that the RO terms or conditions are fair, reasonable and non-discriminatory). In this manner it is expected that the terms and conditions as approved or ordered in April 2008 RO will in effect be in force for a period of 12 months from the effective date of the TRA's approval or order issued in April 2008.
- 4.28 For the avoidance of doubt the Authority reiterates that the Authority fully reserves its right to impose new products pursuant to the Access Regulation, the Telecommunications Law or to otherwise intervene pursuant to its rights and duties under the Telecommunications Law should it be required to, at any time the Authority sees fit.
- 4.29 As such the proposed cycle for submission of the consolidated RO and the Authority's assessment and approval or orders will be as follows:

**Date**

**Action**

4 December 2007	Batelco submit new revised RIO and new revised RAO for TRA review.
22 April 2008	TRA issues approval or order on Batelco 4 December 2007 submitted RIO/RAO. To be effective from 1 May 2008. Publication (at least of tariffs) to occur before 1 May 2008.
Before 1 May 2008	TRA publishes non-confidential version of RIO/RAO Orders.
6 Months following	Batelco submits 22 April 2008 approved

**PUBLIC CONSULTATION**  
**A Consultation on possible amendments to Batelco's existing Reference Interconnection Offer and Reference Access Offer**

publication of last RIO/RAO i.e. no later than 1 October 2008.	RIO/RAO for TRA re-approval. TRA approves that RIO/RAO. Batelco publishes that RIO/RAO.
1 December 2008	Batelco submit new revised RIO and new revised RAO for TRA review.

4.30 It is proposed that the same system would be adopted for any Dominant Operator, although if an operator is determined, for instance, to be Dominant in an Interconnection market first and then subsequently Access market/s, it is envisaged that the Authority would require that the newly Dominant Operator introduce its RIO and RAO as required by the terms of the Telecommunications Law and Access Regulation and then for the RIO and RAO to be synchronized at a subsequent date in accordance with a timetable similar to that shown above but to commence at a time suited to the newly designated Dominant Operator, the Authority and the market, as determined by the Authority.

**5. Proposed Measure**

5.1 The Authority proposes that upon receipt of the comments from operators it will consider such comments to assist the Authority in considering and determining whether Batelco's RIO and RAO is fair, reasonable and non-discriminatory during its upcoming review of Batelco's RIO and RAO to be submitted.

**6. Consultation**

6.1 The Authority seeks the comments of stakeholders in the Bahraini Telecommunications industry on the proposed measure and draft Regulation.

6.2 Comments should be provided to the Authority by no later than **5pm on 11 January 2007**.

6.3 The Authority may, but is not obliged to, make comments public. Please see article 10 of the Consultation Process Regulation (Regulation 1 of 2003) for further details.

6.4 All comments shall contain a brief statement explaining the interest of the party submitting the comments in relation to the Batelco's RIO

PUBLIC CONSULTATION  
**A Consultation on possible amendments to Batelco's existing Reference  
Interconnection Offer and Reference Access Offer**

and RAO. In addition, the interested party must include as part of its comments its:

1. name;
2. name of principal contact person;
3. physical address;
4. telephone number;
5. fax number; and
6. email address.