

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

19 March 2008

LAU/0308/077

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

The deadline for responses is **5pm on 17 April 2008**

Purpose: To seek Licensed Operators' views with respect to whether TRA should issue an Individual Value Added Services License.



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Telecommunications
Regulatory
Authority

PUBLIC CONSULTATION
A Consultation on a Draft Individual Value Added Services License

1. Introduction and Background

- 1.1 This Consultation is issued pursuant to the Authority's Consultation Process Regulation issued by the Authority on 10 August 2003¹.
- 1.2 The existing Value Added Services ("VAS") license is a class license issued pursuant to section 32 of the Telecommunications Law, Legislative Decree No. 28 of 2002.
- 1.3 In accordance with section 32(a)(2) of the Telecommunications Law only individual licensees can be assigned telephone numbers under the National Numbering Plan.
- 1.4 Based upon a number of approaches to TRA by interested parties, TRA understands that it would be beneficial for Value Added Services Licensees to obtain their own numbering and codes for the purposes of providing Value Added Services.
- 1.5 TRA is of the view that allowing VAS service providers their own numbering, such as freephone or premium rate numbers, will unlock further value in the telecommunications market. It will allow VAS licensees to associate their own particular numbers to their own services, without having to rely upon numbering ranges being made available from the fixed and mobile operators.
- 1.6 TRA hopes that the right to obtain numbering together with the obligation to share directory information amongst all licensees, will increase the competitive dynamics in the VAS sector specifically and the telecommunications industry generally.

2. Proposed Measure

- 2.1 TRA has therefore prepared a draft Individual VAS license for consultation with stakeholders.
- 2.2 TRA proposes to make available an Individual VAS license in substantially the same form and terms as the draft in this consultation document.

¹ 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.

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2.3 The individual VAS license is to be charged out at an initial license fee of BD 2,000.000. However existing VAS licensees can apply for an Individual VAS license for a fee of BD 1,000.000.

3. Consultation

3.1 The Authority seeks the comments of stakeholders in the Bahraini Telecommunications industry on the proposed measure.

3.2 However TRA has recently announced that it intends to offer a Unified License later in 2008 or early in 2009. Therefore TRA is interested in views on whether TRA should introduce an additional type of licence now or resolve the related matters through the introduction of a unified license, which is not anticipated to come into effect until late 2008, early 2009?

3.3 All comments shall contain a brief statement explaining the interest of the party submitting the comments in relation to the draft Individual VAS license. 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.

3.4 Upon receipt of the comments from stakeholders TRA will consider such comments to assist in considering and determining whether to issue the Individual VAS license.

3.5 Comments should be provided to the Authority by no later than **5pm on 17 April 2008.**

3.5 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.

INDIVIDUAL VALUE ADDED SERVICES LICENSE GRANTED TO

[INSERT NAME OF LICENSEE]

Commercial Registration No.

**BY THE TELECOMMUNICATIONS REGULATORY AUTHORITY
UNDER THE LEGISLATIVE DECREE 48 OF 2002 WITH RESPECT
TO TELECOMMUNICATIONS**

Document number: LSU/LC/xxx Version:1.0

Date of issue:xx/xx/xxxx

Approved by the General Director of the TRA

Alan Horne

**INDIVIDUAL VALUE ADDED SERVICES LICENSE GRANTED
BY THE TELECOMMUNICATIONS REGULATORY AUTHORITY**

1. GRANT OF LICENSE

1.1 The Telecommunications Regulatory Authority (the “**Regulator**”) hereby grants this License, under the Telecommunications Law promulgated by Legislative Decree No. 48 of 2002 (“**the Telecommunications Law**”), to whoever has satisfied the procedure and requirements for such a grant (the “**Licensee**”) by virtue of which the Regulator authorizes the licensee to provide the telecommunications services described herein in the licensed area set out herein (the “**license**”)

1.2 The effective date of this license is [date].

1.3 Licensee Address: P.O. Box: [XXXX], Manama, Kingdom of Bahrain.

1.4 This license shall be subject to the provisions herein stated, the Telecommunications Law and any regulations issued thereunder.

2. DEFINITIONS

2.1 For the purposes of this license:

(a) A meaning or definition provided for any word, phrase or expression under the Telecommunications Law shall also be applicable to such word, phrase or expression in this license; unless the context requires otherwise.

(b) A reference to significant market power or dominant position shall be a reference to such power or position, as the case may be, for the relevant market as determined by the Regulator from time to time.

(c) The following terms and expressions shall have the following meanings unless the context requires otherwise:

“**Affiliate**” means, as used with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, that person. In the

case where one person owns, directly or indirectly, 50% or more of the share capital, voting rights, securities or other ownership interest of another person, both such persons shall be deemed an affiliate;

“**Call**” includes any communication conveying voice and data:

- (a) whether between persons and persons, things and things or persons and things;
- (b) whether in the form of speech, music or other sounds;
- (c) whether in the form of data;
- (d) whether in the form of text;
- (e) whether in the form of visual images (animated or otherwise);
- (f) whether in the form of signals; and
- (g) whether in any combination of the foregoing forms;

“**Control**” means, as applied to any person, the possession, directly or indirectly, of the power to direct or cause the direction of the management of that person, whether through ownership, voting or other means and “**controlling**” and “**controlled**” shall be construed accordingly;

“**Effective date**” means the date referred to in section 1.2;

“**International telecommunications services**” means the provision of telecommunications services between the Kingdom of Bahrain and other countries;

“**Internet**” means an integrated computer network through which machines used by users are connected to each other by means of the TCP/IP family of protocols;

“**Licensed area**” means the territory of the Kingdom of Bahrain;

“**Licensed services**” means all telecommunications services described in section 3.1;

“**Public voice services**” means real time, two way voice calls provided between members of the public;

“**Structural separation**” means the division of an integrated telecommunications business of a licensee into two or more separate legal entities so that each entity independently performs distinct licensed telecommunications activities and owns and has day-to-day control of the assets and operational capabilities, including employees, by means of which such activities are carried out;

“**Value added services**” means enhanced or value added telecommunications data and/or voice services (other than public voice services) that act on the format, content, code or protocol of information in order to provide the user with additional or different information or that involve subscriber interaction with stored information, including computer and data processing services, data information and exchange services, credit card verification services but excluding those transmission services to or over the internet that require an internet service provider license; and

3. LICENSED SERVICES

- 3.1 The licensee is authorised on a non-exclusive basis to provide value added services in the licensed area; provided, however, the licensee may not offer public voice services, nor may it actively facilitate by the use of a telecommunications network the offer by a third party of such a service, unless and until such time as it is granted the relevant license in accordance with the Telecommunications Law, in which case such service must be provided in accordance with the terms of that license.
- 3.2 The licensee may, with the prior written approval of the Regulator, provide any of the licensed service through an affiliate or sub-contract the provision of any licensed services to another person; provided, however, that the licensee shall continue to be fully liable for any obligation arising in relation to the provision of such licensed service. The Regulator may revoke its approval at any time by providing reasonable advance notice to the licensee in writing. The prior written approval of the Regulator shall not be required if such affiliate is and remains wholly-owned by the licensee, provided always that the Regulator shall be notified of such arrangement.

4. TELECOMMUNICATIONS FACILITIES AND NETWORKS

4.1 The licensee shall have the right, for the purpose of providing licensed services, to access the telecommunications facilities of public telecommunications operators in accordance with section 57(e) of the Telecommunications Law and the terms of any license granted to any such operator pursuant to section 25 of the Telecommunications Law.

5. PROVISION OF DIRECTORY INFORMATION SERVICES

5.1 The licensee may provide any licensed operator access to the licensee's directory information on request, in such form on reasonable and fair terms as may be determined by the Regulator, provided that:

- (a) the licensed operator undertakes to use the information only to provide directory information services or for the routing of calls;
- (b) the licensed operator undertakes that it will not give its subscribers directory information services in respect of any subscriber who has requested the licensee not to provide such information in relation to such subscriber;
- (c) the licensed operator provides access to the licensee to its own directory information on a similar basis or if the licensed operator is not yet fully operational, provides reasonable undertakings to provide such information; and
- (d) the provision by the licensee to the licensed operator of the information is not unlawful.

6. RELATIONS WITH SUBSCRIBERS

6.1 Without derogating from section 55 and section 56 of the Telecommunications Law, the licensee shall publish a code of practice on subscriber affairs approved in writing by the Regulator, giving guidance to the licensee's subscribers in respect of any disputes and complaints relating to the provision by the licensee of the licensed services.

- 6.2 The licensee shall prepare an initial draft of the code of practice on subscriber affairs and submit it for review by the Regulator within three (3) months of the effective date.
- 6.3 The code of practice on subscriber affairs shall contain guidelines on the following issues:
- (a) complaints;
 - (b) dispute settlement;
 - (c) location of customer service departments;
 - (d) quality of service;
 - (e) provision of ancillary services;
 - (f) other matters dealt with in the terms of service of the standard subscriber agreement referred to in section 5.5; and
 - (g) guidelines on service termination.
- 6.4 After approval of the code of practice by the Regulator, the licensee shall report to the Regulator on an annual basis (within one (1) month of the end of the licensee's accounting period) on the performance of the licensee in meeting the guidelines set out in the code of practice on subscriber affairs, and on the progress made in implementing the guidelines.
- 6.5 Within three (3) months of the effective date, the licensee shall submit to the Regulator for its review a form of standard agreement containing the terms for the provision of licensed services to subscribers (the "**standard subscriber agreement**"). The licensee may submit a different standard subscriber agreement for use by similarly situated subscribers of a specific category, provided that all such categories shall be objectively justified and do not result in undue discrimination. The Regulator shall be objectively justified and do not result in undue discrimination. The Regulator may raise objections and require the introduction of such modifications as the Regulator deems necessary. If no objections are raised or modifications required by

the Regulator within thirty (30) days of the submission of such form, such form may be used by the licensee.

- 6.6 Any modifications to such agreement also are subject to the foregoing provisions. In addition, the Regulator may subsequently order the introduction of any modification to such agreement after it becomes aware of any fact or circumstance which requires such modification in order to safeguard the interests of subscribers.

7. NUMBERING

- 7.1 The Regulator shall, at the request of the licensee from time to time and in accordance with the national numbering plan, allocate to it:

- (a) such quantity of codes and numbers as it may reasonably require; and
- (b) such specific codes and numbers as it may request for such purposes (related to the activities of the licensee) as the Regulator may approve and which the Regulator is satisfied are not required for other purposes.

- 7.2 The licensee shall prepare a numbering plan for the codes and numbers allocated to it by the Regulator in accordance with the national numbering plan for written approval by the Regulator. The licensee shall furnish details of its numbering plan to the Regulator and keep the Regulator informed of material changes to its numbering plan as they occur. If the licensee's numbering plan is not consistent with the national numbering plan, the Regulator may direct the licensee to adopt and furnish the Regulator for its written approval a new numbering plan or to take such other reasonable remedial action which does not cause undue inconvenience to the licensee's subscribers, as may be necessary to ensure consistency.

- 7.3 The licensee shall not use codes and numbers other than those allocated to it from the national numbering plan.

- 7.4 The licensee may, where necessary and with the Regulator's prior written approval, levy reasonable tariffs in relation to allocation of codes and numbers to its subscribers, but shall not be entitled to transfer or sell codes and numbers to other

licensed operators other than in accordance with the national numbering plan and following written approval from the Regulator.

- 7.5 Where required for the efficient use of codes and numbers, the Regulator may require the licensee to return individual codes and numbers or blocks of codes and numbers.

8. INTERFERENCE AND TECHNICAL STANDARDS

- 8.1 The licensee shall comply with relevant regulations and technical specifications issued by the Regulator in order to ensure that the provision of the licensed services and the telecommunications facilities of the licensee do not unduly interfere with telecommunications services and telecommunications networks provided by other licensed operators.

9. PRIVACY AND CONFIDENTIALITY

- 9.1 The licensee shall use all reasonable endeavours to ensure the privacy and confidentiality of information and business secrets obtained in the course of its business from any person to whom it provides the licensed services by establishing and implementing reasonable procedures for maintaining privacy and confidentiality of such information subject to any requirement under law.
- 9.2 The licensee shall maintain sufficient information on its privacy and confidentiality procedures to satisfy the Regulator, at its reasonable request, that the requirements of section 8.1 are being met.
- 9.3 The licensee shall not use or allow to be used any apparatus which is capable of recording, monitoring, or intruding into calls unless it complies with applicable law.

10. ANTI-COMPETITIVE PRACTICES

- 10.1 Without derogating from section 65 of the Telecommunications Law, the licensee shall not, alone or together with others, engage in or continue or knowingly acquiesce in any anti-competitive practices and, in particular, the licensee shall:
- (a) not engage in anti-competitive cross-subsidisation;
 - (b) if applicable, as determined by the Regulator, not abuse its dominant position;

- (c) if it has significant market power, not enter into exclusive arrangements with third parties for the location of its facilities that are required to provide any of the licensed services;
- (d) not enter into any agreements, arrangements or undertakings with any person, including any supplier of services that compete with any of the licensed services, which have as their objective or cause the fixing of prices or other restraint on competition;
- (e) not use information obtained from competitors if the objective or effect of such use is anti-competitive;
- (f) make available to other licensed operators on a timely basis technical information about essential facilities and other commercially relevant information that is necessary for them to provide telecommunications services; and
- (g) not (whether in respect of the tariffs or other terms applied or otherwise) show undue discrimination against particular persons or persons of any class or description as respects the provision of any licensed service.

11. ACCOUNTING REQUIREMENTS

- 11.1 The licensee shall present in written form regulatory accounts for the licensed telecommunications activities in accordance with the applicable regulations.
- 11.2 The Regulator may require the licensee to submit other accounting information it may require in order to effectively supervise and enforce the terms of this license and the provisions of the Telecommunications Law.
- 11.3 If the licensee fails to comply with its obligations under sub-sections 1 and 2 above or if the accounting system presented by the licensee fails to achieve the objectives set forth in these subsections and the Regulator deems it necessary and appropriate in accordance with the provisions of section 3(c) of the Telecommunications Law, it may order the licensee to implement structural separation within a period to be determined by the Regulator.

12. REQUIREMENT TO PROVIDE INFORMATION AND INSPECTION

- 12.1 Without derogating from section 53 and 77 of the Telecommunications Law, the licensee is required to maintain such information as will enable the Regulator to carry out its functions under the Telecommunications Law in such manner as the Regulator may from time to time request. The Regulator shall have the right to request the licensee to submit periodic reports, statistics and other data as well as request additional information in order to effectively supervise and enforce the terms of this license, the provisions of the Telecommunications Law and the regulations issued thereunder.
- 12.2 The licensee shall notify the Regulator in writing before it provides any new kind of licensed service.

13. LICENSE FEES

- 13.1 The initial license fee for the period from the effective date until the end of the calendar year in which the license is awarded shall be BD 2,000.000, unless the license applicant is already a Value Added Services licensee in which case the initial license fee for the same period shall be BD 1,000.000.
- 13.2 The annual license fee for each subsequent year shall be one (1)% of the gross annual turnover of the licensee attributable to the licensed services, payable in advance using the gross annual turnover of the previous year and adjusted for any change when the gross annual turnover for the current year becomes available.
- 13.3 The applicable license fee shall be paid to the Regulator in Bahraini dinars:
- (a) on or before the date that is thirty days after the effective date, for the period from the effective year until the end of the calendar year during which the licensed is awarded; and
 - (b) annually in advance no later than 31 January of each calendar year thereafter.

14. DURATION AND RENEWAL

- 14.1 This license shall be valid for a term of fifteen (15) years from the effective date.

14.2 Upon expiration of the current license term the licensee may apply to the Regulator pursuant to section 33 of the Telecommunications Law for an additional term of ten (10) years.

15. MODIFICATION, REVOCATION AND TERMINATION

15.1 The license may be modified and revoked in accordance with section 34 and section 35 of the Telecommunications Law. The Regulator may, in particular, revoke the license if the licensee is dissolved, or enters into liquidation, bankruptcy or equivalent proceedings or makes a general assignment for the benefit of creditors.

15.2 The license shall terminate automatically upon the expiry of its term if it is not renewed in accordance with section 14.2 above.

16. FORCE MAJEURE

16.1 If the licensee is prevented from performing any of its obligations under this license because of force majeure the licensee shall notify the Regulator of the obligations it is prevented from performing as soon as practicable after it becomes aware or reasonably should become aware of such force majeure.

16.2 The Regulator shall suspend the obligations referred to under section 16.1 and the licensee will not be liable to perform those obligations, for so long as the force majeure continues, only if and to the extent that the inability to perform could not have been prevented by taking steps specifically required under the law or this license or other reasonable precautions and the inability cannot reasonably be circumvented by the licensee at its expense through the use of alternate sources, work-around plans or other means.

17. DISPUTE RESOLUTION

17.1 All disputes between the licensee and the Regulator arising out of this license shall be resolved in accordance with the provisions of Chapter 16 of the Telecommunications Law.

17.2 The courts of the Kingdom of Bahrain shall have jurisdiction over disputes between the licensee and other licensees in connection with telecommunications activities

which they are licensed to conduct, provided, however, that a party to such dispute may require the dispute to be referred to arbitration, in which case, unless the parties agree otherwise and provided that such agreement is not contrary to Chapter 7 of the Civil and Commercial Procedural Law of 1971, the provisions of sections 67 to 71 of the Telecommunications Law shall apply *mutatis mutandis*.

18. NOTICES

18.1 All notices to be sent by the Licensee to the Regulator shall be satisfied if sent by Registered mail with acknowledgement of delivery to the following addresses:

P. O. Box 10353, Manama, Kingdom of Bahrain.

18.2 All notices to be sent by the Regulator to the Licensee shall be satisfied if sent by registered mail with acknowledgement of delivery to the address in Section 1.3.

18.3 The Regulator may change the address in section 18.1 provided it shall make announcement to such effect in the official gazette, or by any other manner that ensures that such change is brought to the knowledge of the Licensee, at least fifteen (15) days before such change takes effect.

18.4 The Licensee may change the address provided in Section 1.3 provided it notifies the regulator by registered mail with acknowledgement of delivery at least fifteen (15) days before such change takes effect.

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