

# Strategic and Retail Market Review

A public consultation document issued by the  
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## Comments

*From:*



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Mena Telecom welcomes the opportunity to contribute to the TRA's consultation on the proposed retail market definitions and remedies to promote competition in those markets where competition has not yet developed. The following comments are offered in good faith and they are intended to be a useful and constructive contribution to the debate: -

1. It is the view of Mena Telecom that the long-term interests of the consumer and the Kingdom can only be met if for at least the short-to-medium-term the TRA's priority is to nurture competition by working to create a truly "*level playing field*" within which all licensed telecommunications operators in the Kingdom can work and can expect a fair return on any investment made.
2. Mena Telecom recognises that TRA is genuinely trying to do this already, particularly with respect to consultation processes such as this one. However Batelco continues to enjoy enormous advantages over OLOs, and is able to control many aspects of our business and significantly limit our ability to provide consumers with real value for money.
3. The first significant concern Mena Telecom must raise at this point is TRA's comment (on Page 11 of the document) on the importance of maintaining a proper return for Batelco. The obvious questions being, why should a

“proper return” for Batelco be any more important than a proper return for any other telecommunications operator in the Kingdom? Batelco’s business has been built through a monopoly over a period of 75 years (sic) and due to very favourable circumstances its shareholders have consistently enjoyed exceptional returns at the expense of consumers. If OLOs are to be encouraged to invest in the Kingdom, particularly in infrastructure, then they too must have a fair chance of securing reasonable returns on their investment, and returns for Batelco should in no way take precedence. In Mena Telecom’s view, at no time should decisions made by TRA involve the need for returns to be secured by the incumbent taking precedence over other operators in the market. This would be unfair and run counter to the TRA’s duty to promote effective and fair competition.

4. In this document the TRA has presented three options for retail regulation in the short-to-medium-term. The initial question to be raised is whether there are other options which could have been included also? For instance, to ensure adequate returns, could one of the options have been to limit the number of operators in such a small market to create the conditions whereby a number of operators could achieve sufficient critical mass to seriously threaten Batelco’s dominant market position? Creating real and sustained competition for Batelco would be in consumers’ interests.
5. Commenting on the three options presented in the document; Mena Telecom’s first observation would be that to imply that once operators have begun to establish their operations in the Kingdom they no longer need protection from the incumbent, would appear to be a notion which is definitely not in consumers’ interests. Removing protective controls would favour the incumbent and is likely to result over time in OLOs simply disappearing from the market. Developed economies such as UK have kept regulation in place for many years to ensure that competition is nurtured and that new operators get the chance to succeed. Despite that the incumbent there is still dominant and OLOs struggle to achieve profitability.
6. It is Mena Telecom’s view that if TRA were to adopt Option A, this would have disastrous consequences for competition in the telecommunications sector. Ex post assessments of alleged anti-competitive behaviour would not help OLOs. This would favour dominant operators such as Batelco and Zain (formerly MTC-Vodafone) significantly. For OLOs trying to stop anti-competitive behaviour after the fact is both time consuming and expensive and would not be in consumers’ interests.
7. In Mena Telecom’s view Option C is probably a reasonable aspiration for TRA at this stage. However there is still likely to be a need for some control on the incumbent on the price reduction ceiling and timing e.g. not more than 10% reduction, say, every year. This is because an uncontrolled price change (reduction) by the incumbent would leave OLOs in a very critical situation i.e. it would make achieving profitability almost impossible and

hence make real investment, particularly in infrastructure, increasingly hard to justify.

8. Lack of access to international capacity at prices which are commensurate with industry norms is a major issue for OLOs like Mena Telecom. In our view in the Kingdom of Bahrain there is no shortage of international capacity. For a small country like Bahrain two (2) optical fibre submarine cable systems (i.e. FALCON and FOG) should provide more than enough capacity to cater for the needs of consumers and operators alike. The issue for OLOs is the ability to buy capacity on the basis of IRUs (Indefeasible Right of Usage) and, with respect to those IRUs, to develop our own corresponding relationships with other international operators. That way we might have a real chance to create sustained competition for Batelco and equally generate proper returns for ourselves.
9. Presently OLOs cannot obtain international capacity other than through Batelco directly, at prices which are closer to commercial rates for international leased circuits. This situation is uneconomic and favours Batelco. It remains a significant disadvantage for OLOs and in turn is not in the interests of consumers.
10. Whilst there may be a number of developments in the short-to-medium-term (within 1-3 years) intended to alleviate this problem and to allow OLOs access to international capacity through a number of different channels at a more realistic cost, in the view of Mena Telecom it remains highly questionable as to whether these developments will really level the playing field for OLOs. We might add that solutions are really required now and not 1 – 3 years from now.
11. In Mena Telecom's view, TRA must give priority at this stage to enabling access to international capacity at economic rates for OLOs. We believe that any delay in achieving this outcome will have a detrimental effect on real competition in the market which, again, we believe is not in the interests of consumers.
12. With respect to the idea of a unified licensing regime; Mena Telecom has a real concern here that this approach could favour other operators at our expense. As an example, Mena Telecom paid a significant sum for its NFWS licence. Including bid costs, the real cost to Mena Telecom of the NFWS licence was around [CI]. Additionally we now have the considerable cost of creating nationwide infrastructure from scratch. On that basis, if Batelco were to be allowed to offer a NFWS at no additional cost to them, it would be virtually impossible for Mena Telecom to compete, given costs ultimately have to be factored into pricing. If this situation happened, Mena Telecom would find it very difficult to justify any further infrastructure investment in Bahrain.

13. Mena Telecom is not necessarily against the concept of a unified licensing regime, if fact we would acknowledge that potentially there are merits. However if considered appropriate, TRA must find a way to level the playing field for operators, i.e. to introduce it in a way that is fair to all operators and which does not favour one over another. That might involve compensating those operators who have spent significant sums on the acquisition of licences.
14. In the consultation document TRA indicates that it is minded to remove all retail regulatory requirements on the pricing of mobile telephony. In Mena Telecom's view, for TRA to do this at this stage, it would significantly favour Batelco and Zain at the expense of OLOs. Increasingly the mobile phone is becoming the network access device of choice for consumers making international telephone calls. With regulation removed, in the short term Batelco and Zain would be able to undercut highly price sensitive products such as pre-paid calling cards, which would then disappear. These are important generators of cash for OLOs and to lose such revenue potentially could have a seriously detrimental impact on the interests of consumers in the longer term.
15. TRA is suggesting that it does not intend to begin the formal process of issuing a third mobile network operator's licence at this stage. Furthermore, it suggests that it is minded to allow the provision of services within an MVNO model. In Mena Telecom's view an MVNO model, whilst having certain merits, will not result in the introduction of the innovative mobile products and services likely to appear in future years. Nor will it result in real competition in the mobile sector as MVNO operators would be nothing more than air-time resellers for Batelco and Zain and would have little or no scope to do anything creative with their products.
16. In Mena Telecom's view, given that we are currently rolling out a nationwide WiMAX network, TRA has an opportunity to facilitate the introduction of more real competition in the mobile sector. The incremental cost for Mena Telecom to add a 3G or GSM access layer to our WiMAX network is such that it could provide a genuine third mobile operation which in the longer term would result in greater innovation and offer consumers more choice. This we believe would be in consumers' interests.
17. With regard to the establishment of a regime that is open to new technologies; in Mena Telecom's view it is crucial that this regime considers the convergence of mobile and fixed wireless networks such as WiMAX. This means that the license should allow services which can be economically offered through advanced technology such as WiMAX, rather having individual licences for each service.
18. In Mena Telecom's view it would be in the longer terms interests of consumers if full mobility (i.e. the ability to hand-off from cell to cell) under the National Fixed Wireless Service (NFWS) licences was allowed.

19. TRA suggests it is minded to relax the formal tariff approval process to a notification process. If by this it means that price controls will be relaxed on Batelco then, in the longer term, this would not appear to be in consumers' interests and OLOs could struggle for survival. Batelco has been very effective so far at using media coverage to apply leverage on TRA when it is seeking to secure approvals for tariff reductions, which favour Batelco over OLOs. This is achieved by circulating pricing proposals to the press before approval is given by TRA. Public pressure then inevitably results in Batelco remaining in full control of its commercial agenda. A relaxation of the existing approval process would exacerbate the situation and simply allow Batelco to use the media to its further advantage.
20. In considering local loop unbundling (LLU); Mena Telecom would ask TRA to be mindful that this is a disruptive technology which has the potential to cause confusion in the mind of the consumer and limit the take-up of services until such time as it is clear which technology will truly meet their needs. In Mena Telecom's view NFWS (WiMAX) operators should be allowed sufficient time to get their services up and running and for consumers to gain some real experience and understanding of these services before LLU is introduced. In our view it will take at least two (2) years for WiMAX to establish itself in the market and for NFWS operators to start generating revenues of sufficient scale to compensate them for the considerable investment being made in infrastructure now.
21. Mena Telecom is sympathetic to TRA's statement that it believes it should concentrate regulatory action at the network/wholesale level. Certainly it is at this level that both Batelco and Zain are effectively throttling the market. As an example; Zain's termination charges for international traffic are extremely high, even when compared with Batelco e.g. Batelco terminates international traffic to mobile at a rate of [CI] while Zain charges [CI]. Their charges do not appear to be based on real cost plus a fair margin. The result limits real competition on inbound traffic streams into Bahrain, and is not in consumers' interests in the longer term.
22. In summary TRA has an enormously important role to play in nurturing competition, which ultimately is in the best interests of the consumer. This role is likely to be required for many years. Steps must be taken to limit the enormous advantages still enjoyed by Batelco, if real competition is to flourish. Taking the brakes off Batelco, and, to a lesser extent, Zain would be bad for competition. The nature of the telecommunications business means that barriers to entry will always tend to be high simply because it requires infrastructure scale to be established and that requires investment. If Batelco controls access to infrastructure, other operators simply become resellers of Batelco's network and services and such control not only limits competition, it also limits innovation and creativity. However TRA must also ensure that it achieves balance between nurturing competition and creating the right conditions for investment in telecommunications infrastructure.