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Streamlining the process related to the planning, building, maintenance and protection of telecommunications networks infrastructure within the public road networks

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A Report issued by the Telecommunications Regulatory Authority

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Purpose: Report on the responses received to the consultation on streamlining the process related to the planning, building, maintenance and protection of telecommunications networks infrastructure within the public road networks.



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1. Introduction

- 1.1 The Telecommunications Regulatory Authority of the Kingdom of Bahrain (“TRA”) issued on 8 May 2007 a public consultation document titled “Streamlining the processes related to the planning, building, maintenance and protection of telecommunications network infrastructure within the public road network” (the “Consultation”).
- 1.2 The consultation sought stakeholders’ views on the possible ways forward for streamlining the administrative processes related to the interface of the telecommunications industry with other public infrastructure providers within the Central Planning Unit (the “CPU”) model, in order to ensure that all licensed telecommunications infrastructure providers have access to the assigned public telecommunications corridor with equal opportunity and impartial treatment.
- 1.3 In the consultation document TRA asked stakeholders to respond to the following questions in particular and further welcomed any suggestions and/or questions beyond the questions raised:

(Q1) Do you consider the requirements proposed in the consultation document for construction and/or maintenance of telecommunications networks in public property as appropriate?

(Q2) Do you consider that any additional requirements should be added?

(Q3) How, in your opinion, should a decision be made on who should be granted rights to access public property in case of scarcity? What criteria and procedures should be employed?

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(Q4) Which of the options proposed in the consultation document for adjusting the framework of construction and/or maintenance of telecommunications networks in public property do you consider to be the most appropriate solution to the issues identified in the same document? What are the reasons for this?

(Q5) Which of the options proposed in the consultation document for adjusting the framework of construction and/or maintenance of telecommunications networks in public property do you consider inappropriate for solving the issues identified in the same document? What are the reasons for this?

(Q6) Do you consider that more detailed regulation is necessary with regard to the issues identified in the consultation document? If so, what form should it take, what issues should it cover and what specific provisions should it include?

(Q7) Do you consider that any transitional arrangements should be put in place in order to ensure a smooth transformation of the system? If so, what should their form and content be?

1.4 TRA received five (5) responses to the consultation from the following:

- Bahrain Telecommunications Company (Batelco);
- Bahrain Operators Forum (BOF);
- Menatelecom (Mena);
- MTC Vodafone Bahrain (currently Zain); and
- 2Connect Bahrain.

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- 1.5 MTC Vodafone Bahrain requested TRA to consider its response as confidential. TRA intends to respect its request, as it was received before TRA issued the guidance paper titled “TRA Treatment on Confidential and Non-Confidential Information” in September 2007.
- 1.6 This report summarizes the responses TRA has received and outlines the final TRA conclusion.

2. Summary of Responses to the Consultation

Issues to Resolve

As a result of previous discussions with various stakeholders concerning the deployment of telecommunications infrastructure by several licensed operators, it became apparent to TRA that it was important to adjust the current framework for granting permission to dig on public property as well as organize the allocation of space within the assigned telecommunications Rights of Way (the “RoW”) in public roads.

TRA suggested a list of requirements that should be adhered to in designing the new framework for granting permissions and providing access to the telecommunications RoW in order to ensure fair and non-discriminatory treatment to all licensed operators.

TRA requested respondents to provide their responses to the following questions in an attempt to address the outlined requirements:

(Q1) Do you consider the requirements proposed for construction and/or maintenance of telecommunications networks in public property as appropriate?

(Q2) Do you consider that any additional requirements should be added?

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(Q3) How, in your opinion, should a decision be made on who should be granted rights to access public property in case of scarcity? What criteria and procedures should be employed?

The responses to (Q1) can be summarised as follows:

- Four (4) respondents expressed their support and agreement in relation to the requirements outlined by TRA.
- One (1) respondent rejected all requirements outlined by TRA.
- Although two of the respondents confirmed their support for the proposed requirements, they still felt that the requirements had not addressed the following points of concern:
 - The criteria for fair and non-discriminatory treatment;
 - The exact nature of the role that TRA anticipates granting to the appointed body;
 - How the appointed body will go about making the information available and indeed the type of information to be made available;
 - The type of the system to be designed, how to determine the resources and how the system will actually work.
- One (1) respondent suggested that TRA take the responsibility of directly supervising and operating the process of granting permissions and access to telecommunications RoW, in order to ensure that the process is conducted in a fair and transparent manner.

The responses to (Q2) can be summarised as follows:

- One (1) respondent suggested the establishment of a new body intended to control all road access, not only for

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telecommunications infrastructure, but also for electricity, water and other public infrastructure providers. The respondent felt that if the new body could not be established now, then a long-term view is essential, given the potential for deregulation in electricity and water services, etc.

- One (1) respondent felt that if the option of “integrating the interface into the CPU itself” were selected, then adequate safeguards should be put in place so as to ensure impartial decision-making by CPU for all the utilities and industries involved.
- One (1) respondent suggested adding new requirements to gradually enable all telecommunications operators to interface directly with the CPU model. According to this respondent, this could be done in the medium to long term.
- One (1) respondent suggested adding a fifth option to the already proposed four options, allowing each telecommunications operator to instantly and directly interface with the CPU business model as equal partners with the same rights and obligations.

The responses to (Q3) can be summarised as follows:

- One (1) respondent suggested setting up a committee with various representatives from all stakeholders that would decide which operator should be given access in case of scarcity, in line with the justifications offered by the operators.
- One (1) respondent suggested granting access to public property in case of scarcity on a first-come-first-served basis or allowing joint access to operators on the basis of a commercial agreement.
- One (1) respondent considered that priority of access in case of scarcity should be given to the operator who has the majority of customers in a relevant area. Other operators

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could consider duct rental or other means of network deployment, e.g., wireless networks.

Possible Options and their Assessment

TRA has identified and assessed four (4) options as possible ways of adjusting the current framework for granting permission to access public properties. The options identified are as follows:

- Batelco Under Supervision, whereby the existing system would be kept in place, with adequate safeguards to ensure equal treatment.
- Co-Regulation, whereby the telecommunications industry would jointly establish and run a technical interface.
- Independent Organization, whereby the technical interface would be assigned to an engineering office from outside the industry.
- Integration within CPU, whereby the telecommunications interface would be integrated within CPU itself.

TRA indicated in the consultation document that the most viable short-to-medium-term solution would be the establishment of a co-regulation system to interface with the CPU model. This interface could be self-managed by the industry under TRA's supervision.

TRA also indicated in the consultation document that the feasibility of this option could only be finally assessed after the responses to the consultation have been analyzed.

TRA invited respondents to provide their views on the following questions:

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(Q4) Which of the options proposed for adjusting the framework of construction and/or maintenance of telecommunications networks in public property do you consider to be the most appropriate solution to the issues identified? What are the reasons for this?

(Q5) Which of the options proposed for adjusting the framework of construction and/or maintenance of telecommunications networks in public property do you consider inappropriate for solving the issues identified in the Document? What are the reasons for this?

The responses to (Q4) can be summarised as follows:

- One (1) respondent considered option 1, i.e., Batelco under supervision, as the most appropriate short-term option, provided that additional seats were granted for the appropriately licensed telecommunications operators at the interface office to ensure that all consultations are processed in a fair and non-discriminatory manner. The respondent said that one of the benefits of adopting this option would be the prevention of replicating the costly set-up that already exists.

Furthermore, the respondent suggested staging the changeover in three phases. The first phase would be the establishment of a separate office within the current incumbent operator with representatives from other operators and TRA in order to administer the consultation process and flow. In the second phase, the office would be completely separated from the incumbent and run on an independent basis. In the third and final phase, each operator would interface directly with the CPU model.

- One (1) respondent strongly supported the idea of co-regulation, as this would enable the telecommunications industry to look after its own interests in the most efficient and timely manner.

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- Two (2) respondents preferred the option of integrating the interface into the CPU as a long-term solution, as they felt that this option would yield advantages not only to the telecommunications industry but to the infrastructure provisioning industry as a whole. One respondent also indicated that if the option of integration within CPU could not be instantly implemented, then the option of Batelco under supervision would be the next best option in the short term, provided that safeguards were put in place to ensure fair and non-discriminatory treatment.
- One (1) respondent did not consider any of the proposed options by TRA as appropriate, indicating that none of the proposed options would provide sufficient assurances to telecommunications operators that their requirements would be dealt with in a timely and professional manner.

The responses to (Q5) can be summarised as follows:

- One (1) respondent considered all options, except the option of Batelco under supervision, as inappropriate, since all other options would only replicate the current set-up, which has proved successful.
- One (1) respondent considered the option of Batelco under supervision as unworkable and therefore felt that it should be discarded, given that it is not in the incumbent's interest to offer assistance to other operators in a competitive framework.
- One (1) respondent considered the option of co-regulation to be the most inappropriate, as there is currently no telecommunications industry forum sufficiently established to undertake the task of setting up and operating a technical interface.
- One (1) respondent considered all four proposed options as inappropriate, and option 4, i.e., integration within CPU, as the most inappropriate, because this option would require a lengthy implementation process and would cause a major

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conflict of interest, as CPU would not be entirely independent and there would be a high risk of excessive bureaucracy.

Suggested Way Forward

TRA requested respondents to provide their views on the following questions in order to determine what further arrangements would be necessary in order to move to the implementation stage of any adopted option:

(Q6) Do you consider that more detailed regulation is necessary with regard to the issues identified? If so, what form should it take, what issues should it cover and what specific provisions should it include?

(Q7) Do you consider that any transitional arrangements should be put in place in order to ensure a smooth transformation of the system? If so, what should their form and content be?

The responses to (Q6) can be summarised as follows:

- Most of the respondents indicated the need for further detailed documents (possibly including a regulation) in order to enforce the adopted option in a smooth manner. The suggested requirements can be summarized as follows:
 - A regulation stating TRA's decision on the adopted option;
 - A code of practice governing the administrative and technical aspects;
 - A set of criteria regarding granting access to rights of way in case of scarcity;
 - A timetable for implementing the adopted option;
 - Detailed and clear operational processes;
 - Clear specified roles and responsibilities of all involved parties within the new set-up.

The responses to (Q7) can be summarised as follows:

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- Most of the respondents suggested setting up a transformation plan to ensure the smooth and efficient adoption of the new framework.
- Some of the respondents suggested that TRA assist in and supervise the implementation of any new adopted solution.
- One (1) respondent felt that there would be no need for any transitional period, if his proposal, i.e. that all operators interface directly with the CPU model, were adopted.

3. Conclusions

- 3.1. TRA recognizes the importance of adjusting the current framework for granting permission to access the assigned telecommunications RoW and organizing its allocation in order to provide fair and non-discriminatory access to all appropriately licensed operators. This understanding has been strengthened after analyzing all received responses, the majority of which have supported TRA's suggestion that the current framework needs to be changed.
- 3.2. All respondents emphasized the importance of issuing detailed regulations and technical documents following any change to the current framework, in order to ensure the smooth and efficient implementation of any new set-up.
- 3.3. It was apparent from the responses received that there was no decisive agreement on or preference for any particular option out of the four options put forward in the consultation. Each respondent had different views and preferences. From the responses received, however, it appears to TRA that the industry is not prepared to implement the model of co-regulation. The "Batelco Under Supervision" model is also not regarded as feasible and there is an evident lack of incentive to implement such a model on the part of Batelco. At the same time there is a high degree of uncertainty among the other competitive operators that such a model would guarantee equality and fairness for all market players.
- 3.4. In view of the responses received and TRA's ongoing dialogue with various bodies, including operators, governmental bodies and

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public infrastructure providers, it has been concluded by TRA that the most efficient and practical solution at this stage is the establishment of a Telecommunications Technical Office by TRA that will take on the responsibility of interfacing with the CPU model and ensure adherence by all operators to the conditions stipulated by the Guidelines for Telecommunications Infrastructure Deployment which shall be issued by TRA.

- 3.5. TRA is planning to issue a document titled “Guidelines for Telecommunications Infrastructure Deployment” to lay down the framework for setting-up the proposed Telecommunications Technical Office as well as the general and specific conditions and specifications governing the design, deployment, operation and protection of access networks on public and private property. The draft version of the document has already been published for public consultation.
- 3.6. TRA shall continue to work closely with all stakeholders to ensure that the implementation of the proposed changes and new set-up will not cause hindrance to any ongoing or future telecommunications and public infrastructure projects.

“End of Report”