

**STC-Bahrain Response to TRA Bahrain Public Consultation
on
Retail Tariff Notification Guidelines**

LAU/0509/120

**Manamah
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STC-Bahrain Response to TRA Bahrain Public Consultation on Retail Tariff Notification Retail Tariff Notification Guidelines

Introduction:

STC-Bahrain duly received TRA's Public Consultation No. LAU/0509/120 dated 31 May 2009 on "Retail Tariff Notification Framework". STC- Bahrain is providing its response herein addressing the issues and questions raised by TRA.

Whilst appreciates that TRA has not designated any mobile operator as SMP given that mobile market is sufficient competitive and no specific retail tariff regulations applies to mobile operators, STC- Bahrain expects that TRA will proceed with gradual deregulation of the traditional fixed retail markets As competition intensifies in these markets.

STC- Bahrain recognizes and welcomes TRA efforts that emphasize consumer protection from potentially exploitative behaviour, and promote competition by avoiding: undue price discrimination, excessive pricing, margin squeezing, predatory pricing and abusive bundling. In applying this retail tariff complex framework, TRA should take into consideration comprehensible efforts to promote profitable investments (SMP operator protection) and also enable operators introducing innovative services.

Following is the STC- Bahrain Response to TRA Public Consultation mentioned above. STC- Bahrain stands ready to provide further clarifications on any of its comments as needed.

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No.	Subject	Question	STC-Bahrain Response
Q 1	INTRODUCTION	Do you agree with the proposed approach outlined above, in terms of when tariffs should be notified under the Regulation by SMP operators and the treatment of tariffs subject to a rebalancing plan? Please elaborate.	<p>In general, STC- Bahrain welcomes TRA objectives to protect consumers and provide sufficient safeguards to support the development of competition in the retail markets in which TRA has determined that there is insufficient competition.</p> <p>It is remarked that, while retail tariff notification framework applies to retail telecommunications services which are provided by an SMP operator, it did not distinguish between the different categories of retail services that the SMP operator provides, i.e. Basic services, VAS services and promotions.</p> <p>As impact of various categories of services (on the market) varies according to the financial terms and time for introduction, different notification periods could be considered accordingly. The notification periods could be a maximum of (15) days for the Basic service, (10) days for VAS service and (5) days for the promotions (Temporary Tariff Change). This is mainly to avoid hindering SMP operators' ability to timely market their services, which could result in significant revenue losses. Various notification rules should not be applied to the temporary tariff changes (promotions) as they are not permanent and mainly used for enhancing the customer experience and wellbeing as well as fostering the competition.</p> <p>In the other hand, as the term “rebalancing” refers to moving the prices more closely in line with the cost of providing the service, the rebalancing plan should, however, contain quantitative criteria to calculate the appropriate ceiling level for each of the rebalanced tariffs over certain number of years. STC- Bahrain would recommend a simpler cost verification to be applied as long as the tariff is part of a rebalancing plan.</p> <p>As it is competitive by default and mostly not regulated at the retail level, STC- Bahrain appreciates TRA exemption of mobile retail services from any tariff controls.</p>

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No.	Subject	Question	STC-Bahrain Response
Q 2	PRICE DISCRIMINATION	Do you agree with the proposed test for the no undue discrimination notification rule? Is it clear how to calculate tariffs and costs for the purposes of performing this test? Are the requirements to pass the test clear? Please elaborate. If you have suggestions and comments regarding these questions please be as specific as possible.	<p>STC-Bahrain generally agrees with the “no undue discrimination rule” as it is definitely required to prevent an operator with SMP from behaving in an anti-competitive manner.</p> <p>Although TRA provided some examples and justifications to clarify the need for having such a test and despite of how clear are the method of calculating tariffs and costs for the purposes of performing this test, STC-Bahrain believes that the proposed test is a complicated one since it requires providing excessive cost data and calculations to pass the test.</p> <p>Given that the main objective of the test is to prove that no undue discrimination, STC-Bahrain considers the following measures are satisfactory for performing the test:</p> <ul style="list-style-type: none"> - Tariff data. - Cost data for the current year only using <u>either</u> FAC <u>or</u> LRAIC (<i>this is according to SMP operator’s costing method for retail services</i>). - Price ratio between the notified tariff and the products / services offered in the same market and under same/similar conditions (<i>current year only</i>). - Other information (<i>if relevant</i>). <p>The reason of including only the abovementioned information is: it can give enough measures that represent a comparison tool between the price and cost variation ratios, and also simplify the requirements negatively affecting “time-to-the-market” ability of SMPs as well as avoiding the restrictive regulation that may hamper the competition growth.</p> <p>As Bahrain’s telecom market is in a “Developing competition” (i.e. neither early nor fully matured), it is recommended that TRA increasingly relax the tariff regulation to be in accordance with the best practices.</p>

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No.	Subject	Question	STC-Bahrain Response
Q 3	EXCESSIVE PRICING	Do you agree with the proposed test for the excessive pricing notification rule? Is it clear how to calculate tariffs and costs for the purposes of performing this test? Are the requirements to pass the test clear? Please elaborate. If you have suggestions and comments regarding these questions please be as specific as possible.	<p>STC- Bahrain generally agrees with the “no excessive pricing rule” as it is definitely required to prevent an operator with SMP from potentially exploitative behavior that detracts from the economic wellbeing of consumers.</p> <p>Given that the main objective of the test is to prove that no excessive pricing, STC-Bahrain considers the following measures are satisfactory for performing the test:</p> <ul style="list-style-type: none"> - Tariff data. - Cost data for the current year only using <u>either</u> FAC <u>or</u> LRAIC (<i>this is according to SMP operator’s costing method for retail services</i>). - Price differential between price of notified tariff and similar products / services provided in competitive markets in other jurisdictions (<i>current year only</i>). <p>The reason of including only the abovementioned information is: the international benchmark (especially for new services) can give enough evidence that notified tariff doesn’t represent excessive pricing, and also simplify the requirements negatively affecting “time-to-the-market” ability of SMPs as well as avoiding the restrictive regulation that may hamper the competition growth.</p> <p>In addition, as TRA reserves the right to examine any new (or amended) tariff on an ex-post basis under Article 65 of the Telecommunications Law if, at a later stage, there is reason to believe that it may be excessive, STC-Bahrain believes that both cost data and calculations for the current year are fairly enough to pass the test, and TRA can intervene with SMP operator to adjust the prices if discovers it is considerably excessive.</p>

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No.	Subject	Question	STC-Bahrain Response
Q 4	MARGIN SQUEEZING	Do you agree with the proposed test for the margin squeezing notification rule? Is it clear how to calculate tariffs and costs for the purposes of performing this test? Are the requirements to pass the test clear? Please elaborate. If you have suggestions and comments regarding these questions please be as specific as possible.	<p>STC-Bahrain agrees with the proposed test for the margin squeezing notification rule to guarantee there is sufficient margin between the wholesale (or upstream market) prices and the retail (or downstream market) prices to allow for competitors to offer their services profitably.</p> <p>STC-Bahrain recognizes that there is no clear remedy if the notified tariff fails the margin squeeze test because the price has been set at a ceiling level defined in a rebalancing plan. Solving the issue of price ceiling level in the rebalancing plan (by putting quantitative criteria to calculate the appropriate level) is mandatory to preclude the potential failure in downstream markets, taking into account that this test is one of (if not the most) important test to prevent an operator with SMP from potentially exploitative behavior.</p> <p>STC-Bahrain also feels that appropriate wholesale regulation will remedy the potential failure in downstream markets, encourage competition and may be sufficient to remove existing SMP.</p>
Q 5	PREDATORY PRICING	Do you agree with the proposed test for the predatory pricing notification rule? Is it clear how to calculate tariffs and costs for the purposes of performing this test? Are the requirements to pass the test clear? Please elaborate. If you have suggestions and comments regarding these questions please be as specific as possible.	<p>STC- Bahrain does not agree with the proposed test for the predatory pricing notification rule, as it is possible to apply the margin squeeze test instead.</p> <p>TRA states clearly in the guidelines that “when a wholesale input provided by the vertically integrated company is available at a regulated price to other non-integrated operators, enabling them to compete at the retail level, it should be sufficient for the tariff to pass the “no margin squeezing” test. Under this configuration, if the tariff is compliant with the no margin squeezing test (i.e. retail prices allow the recovery of downstream costs, including retail costs), then as the regulated price of the wholesale input is expected to reflect the associated cost of provision, the “no predatory pricing” test is also expected to be met.”</p> <p>As such, STC- Bahrain recommends removing this test and applying the “margin squeeze test” where applicable.</p>

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No.	Subject	Question	STC- Bahrain Response
Q 6	ABUSIVE BUNDLING (OR TYING) OF SERVICES	Do you agree with the proposed test for the no abusive bundling notification rule? Is it clear how to calculate tariffs and costs for the purposes of performing this test? Are the requirements to pass the test clear? Please elaborate. If you have suggestions and comments regarding these questions please be as specific as possible.	<p>STC- Bahrain appreciates TRA efforts to encourage services innovation through bundled offerings.</p> <p>As bundling is mainly led by end-users demand for new and innovative services, enhancing their flexibility in services selection and providing a better customer experience as well as benefits of generally lower prices within the bundled offers, it is recommended to relax the strict rules controlling the tariff of bundling services particularly the mixed-bundled ones to avoid duplicating the burdens that services tariffs can go through, i.e. as stand-alone in a time and as bundles in the other time. STC-Bahrain thinks that, this will stimulate innovative and varied sales offers to attract customers and positively grow the telecom market.</p> <p>STC-Bahrain also noticed that, while addressing the cases of pure and mix bundling offered by the integrated operator, TRA did not elaborate on the possibility of bundled offerings as an outcome of separate operators that reach wholesale agreements, on commercial terms enabling them to offer bundled services.</p> <p>As mentioned earlier, that STC-Bahrain does not generally agree with the proposed predatory pricing test to assess the bundled services as it is possible to apply the margin squeeze test instead. It is also recommended to use the margin squeeze test in this case.</p> <p>Although it is supposed to be used internally by TRA, it is noticed that, the decision tree diagram is bit complex compared with the two scenarios described in the guidelines separating the two bundling possibilities in a clear way. The tree diagram could be taken out accordingly.</p>

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No.	Subject	Question	STC- Bahrain Response
Q 7	OTHER TARIFF ISSUES	<p>Pease indicate and explain what you believe would be an appropriate value threshold for the notification of specific negotiated agreements with large corporate customers. Please provide a justification (in the form of bill distribution for example). Do you agree with TRA’s proposal for dealing with specific installation charges for leased line services?</p>	<p>STC-Bahrain agrees that the large corporate customers should be dealt with in a different way when the business needs require exclusive agreements to provide extra-volume retail services taking into consideration the reasonably applicable “volume discount”, “term discount” or any other price/non-price conditions.</p> <p>To encourage both operators and business customers prospering their investments, STC-Bahrain would, however, propose that such negotiated agreements be signed between the concerned parties with minimal Ex-post regulatory burdens.</p> <p>While generally agrees with TRA proposal for dealing with specific installation charges for leased line services aiming to relax the notification rules as these charges may be case specific, STC-Bahrain suggests that TRA applies Ex-post regulation to this specific charge rather than the proposed burdensome requirements.</p>
Q8	MEASURING PRICES AND COSTS	<p>Do you agree with the above guidance on the measurement of tariffs and costs? Please elaborate. Do you agree with the proposed sensitivity analysis outlined above? Please elaborate.</p>	<p>While generally agrees with TRA proposal to apply some notification tests to promote the competition and attain customer protection goals, STC-Bahrain does not agree with the further guidance on measuring of tariffs and costs. It is STC-Bahrain’s opinion that, it is fairly enough to apply the notification tests (<i>taking into consideration the view points though by STC-Bahrain as mentioned above</i>). This is in order to make the tariff notification process rationally practical, and reasonably applicable by the SMP operators.</p> <p>STC- Bahrain feels that the further measurements are somehow complicated and burdens the SMP operators' ability to timely respond to the competition as they should pass many filters before implementing their new or changed tariffs .</p>

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No.	Subject	Question	STC- Bahrain Response <i>(Continued)</i>
			<p>Taking for example the SMP operator's need to implement some temporary tariffs (this could be to enhance the customer experience, test the market or stimulate sales of some services), TRA has put the same complicated pricing rules that are applied to the permanent or long term tariffs.</p> <p>STC-Bahrain will appreciate also if TRA gives the liberty to SMP operators to decide on the methods they use for calculating cost of retail services in order to pass the tariff notification tests (i.e. either LRIC, LRAIC, LRAIC+ or FAC) as they all almost lead to the same test results.</p> <p>In the other hand, STC-Bahrain does not agree with the proposed sensitivity analysis as it is an internal issue decided by the operators in preparing the business case study associated with the service pricing. Since TRA did not also demonstrate the need to perform such an analysis, it better to relax the requirement imposed to the operators to release their new or changed tariffs.</p>