

CONSULTATION

TRA Draft Plan for 2005/2006

Telecommunications Regulatory Authority Draft Plan for 2005/2006

A Consultation Issued by the Telecommunications
Regulatory Authority
22nd March 2005

The address for responses to this document is:

The Director of Communications and Consumer Affairs,
Telecommunications Regulatory Authority (TRA)
PO Box 10353, Manama, Kingdom of Bahrain

Alternatively, e-mail responses may be sent to the Authority's e-mail address at consult@tra.org.bh

The deadline for responses is 5pm on 5 April 2005



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1 Introduction

The Telecommunications Regulatory Authority ("TRA") was established by Legislative Decree No. 48 of 2002 promulgating the Telecommunications Law. The TRA is an independent body and its duties and powers include, among other things, protecting the interests of subscribers and users and promoting effective and fair competition among existing and new licensed operators.

The Telecommunications Law ("the Law") sets the powers, and duties of the TRA. The National Telecommunications Plan ("NTP") issued by the Ministry of Transportation and approved by the Council of Ministers sets out the telecommunications policy for the Kingdom of Bahrain, in accordance with section 15 of the Telecommunications Law. The TRA is tasked with the realization of the National Telecommunications Plan.

In line with the TRA's transparent approach and in its efforts to meet industry and consumer demands, the TRA has decided to commence a public consultation on the TRA's planned activities and priority projects scheduled during the forthcoming year 2005-2006. This document sets out what the TRA considers to be areas that need to be dealt with, given the resources it has, and time constraints. This of course may be changed by major developments in the market requiring the immediate attention of the TRA such as excessive number of cases requiring regulatory action.

The plan includes only one-off projects, and major policy work. It does not include all the issues that the TRA has to deal with on daily basis e.g. license applications, complaint investigations, tariff approvals etc. It also does not deal with internal, but still major projects, such as training, procedures, etc.

All the areas/projects listed in the plan will go through the usual public consultation process the TRA undertakes before making its decisions. For each project, the TRA will decide the way forward after comments are received and whether, if any, regulatory action is required.

The TRA plans to consult on its future plans on annual basis, to ensure that its priorities best address industry and consumer needs and expectations. As the current NTP expires in January 2006 and a new one for 2006-2008 will be issued by the Ministry of Transportation in 2006, the TRA will include the priorities identified in the new NTP, in its plan for 2006-2007; thus ensuring that the policies of the Kingdom are correctly translated into actions by the TRA and the TRA's plans, and priorities are in line with the overall policy of the Kingdom of Bahrain.

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Document approval and issue

This consultation document is issued by the TRA in order to obtain feedback from the industry, consumers and other interested parties; so that the TRA can seek to best serve the community of telecommunications subscribers and operators in Bahrain keeping in mind the restrictions, in particular staffing levels, that the TRA has.

This consultation document will be publicly available through the TRA's website. Anybody who wishes to respond to it, may do so during the public consultation period. Responses must be received by the TRA no later than 5p.m on 5th April 2005.

Parties are urged to respond both in terms of the content of the plan, that is to say whether the projects correctly identify the needs of the industry and consumers or make new suggestions of projects that should be included. Respondents are also urged to provide their views on the prioritization of the projects i.e. which one they consider most urgent and which one the least urgent or in their view does not need to be carried out.

The TRA will seek in this case to publish the comments that it will receive as sent to it unless those responding expressly ask to have them withheld, in total or in part. If any party wishes to have the whole of its submission withheld it should state so at the beginning of it. If it wishes to have parts withheld, those parts should be put in a separate annex and should be clearly marked as such.

The address for responses to this Consultation is:
Telecommunications Regulatory Authority
PO Box 10353
Manama
Kingdom of Bahrain

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consult@tra.org.bh

Following consideration of the responses, the TRA will then issue the final Plan for 2005/2006.

The final plan will also take into account the recommendations of the TRA Development Review Panel, which provided input to the TRA on

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areas requiring improvement as per its study of the market and feedback from industry and consumers.

During the review for the 2006-2007 plan, the TRA will be examining if the current approach of consulting with the industry and consumers is useful, whether the targets for 2005-2006 have been met and to what extent the TRA has benefited from it.

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2 Context

The telecommunications market in Bahrain has been fully liberalized since 1st July 2004. Since its establishment in 2002, the TRA has issued a number of licenses for telecommunications services. The table below shows the total licenses issued for each type until 28th February 2005.

License Type	Licenses Issued
Individual Mobile Telecommunications License	2
International Telecommunications Facility License (IFL)	3
International Telecommunications Services License (ISL)	5
Individual National Fixed Services License	1
Very Small Apparatus Terminal (VSAT) License	7
Individual Paging Services License	1
Value Added Services (VAS) License	17
Individual Public Access Mobile Radio Service (PAMR) License	1
Internet Service Provider (ISP) License	8

As the telecoms industry in Bahrain has not yet completed its first year of full liberalization, it appears to the TRA that there are a number of regulatory and consumer issues that need to be addressed as a matter of urgency.

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3 Areas that the TRA is considering dealing with

The table below lists the projects under the three categories of Consumer Protection, Regulatory Framework and Policy. The TRA opted to group the projects together by relevant category for simplicity purposes, and so that the public has a better idea of the areas affected by each project. The order in which the projects appear in below is for listing purposes only and does not reflect their importance or priority.

Each project will be explained briefly in subsequent sections of the Plan.

a) Consumer Protection	b) Regulatory Framework	c) Regulatory Policy
1. Consumer Awareness	1. Access Framework (Regulation, RIO, RAO)	1. Telecommunications Spectrum Allocation & Management
2. Use of Bulk SMS, telemarketing, fax broadcasting etc.	2. Cost of Capital	2. Third Mobile Services License
3. Service Termination procedures for customers upon non payment	3. Retail Price Controls & Tariff Rebalancing	3. Satellite Services
4. Protection of Personal Data with Commercializing Directory Enquiry services	4. Quality of Service	4. Carrier Selection
5. Consumer Protection in cases of Prepaid Services	5. Liberalization of Directory Enquiry (DQ) Services	
	6. Framework for Interconnection / Access Dispute Resolution	
	7. Inter-operator Complaints Procedure	

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3a) Consumer Protection

1. Consumer Awareness

Directorate leading the project : Communications & Consumer Affairs

The TRA, in accordance with section 3(b) of the Telecommunications Law is tasked, among other things, with the protection of consumers. The TRA in all its decisions considers their impact on consumers. However, the TRA believes that it is equally important that consumers are aware of their rights under the new regime created by the law in order to make the right choices and get the best service.

The TRA thus considers that it should carryout a consumer awareness campaign, that will address and create awareness on consumer related issues such as: consumer rights, how to choose your operator, what are the ways of charging for services?, what to do when you have a complaint ?

2. Use of Bulk SMS, telemarketing, fax broadcasting etc.

Directorate leading the project : Communications & Consumer Affairs

The TRA has received many complaints from consumers on the issue of Bulk SMS, also there have been similar complains published in local newspapers. Currently operators/suppliers use SMS, telephone and fax broadcasts to market their products and services in Bahrain. There are no specific rules in place that protect consumer rights in these aspects. Some operators have a code of practice relating to consumer complaint escalation and resolution processes, but it doesn't deal with the issues such as those relating to sending and receiving unwanted bulk SMS/faxes and telemarketing to consumers in the Kingdom. The TRA thus considers that it should look into this area and examine what if anything needs to be done to ensure that consumers are properly protected in this area such as having the right to ask to be removed from a bulk SMS list, what time if any can unsolicited messages be sent etc.

3. Service Termination procedures for customers upon non payment

Directorate leading the project : Communications & Consumer Affairs

The TRA is aware of the procedures for cutting off customers for non payment that are applied by operators in the Kingdom. The TRA is also aware that procedures currently implemented may not ensure consumer protection or fair competition. Currently operators have implemented their own procedures for service termination upon non payment. The TRA aims to review and investigate these procedures in order to guarantee that consumers get their full rights, and at the same time ensuring that operators are still able to collect the amounts owed by customers for using their services and products.

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4. Protection of Personal Data with Commercializing Directory Enquiry services

Directorate leading the project : Communications & Consumer Affairs

As all sectors of telecommunications are now open to competition, there are parties that want to provide commercial Directory Enquiries (DQ) services to the public. The license terms cover the use of DQ services, in that DQ can be made available to other licensed operators in accordance with the terms set by the regulator. The TRA has not yet set these terms and will seek the views of the public in regards to protection of personal data when the new DQ operators, which may also be a telecommunications service provider or not, acquire the subscribers' information from the operators such as how are these protected, what if any use can be made other than providing DQ services etc.

5. Consumer Protection with Prepaid Service Providers

Directorate leading the project : Communications & Consumer Affairs

Prepaid services to customers such as those provided through the use of prepaid cards under the Value Added Services ("VAS") license are a given in all telecommunications markets. Once the service is operational there will be a combination of used, partially used and expired prepaid cards in the market having already collected the money from consumers in advance. In some cases these services are tied up together with considerable capital investment (e.g. prepaid cards by infrastructure based mobile operators) however there are cases where no such major investment is required. Although there is nothing wrong with this, on the contrary is a factor which allows the new providers to offer lower prices to consumers, experience from other jurisdictions show that there were cases when the provider either went bankrupt or even worst defrauded customers, and the consumers lost the monetary value of their prepaid services.

The TRA's main concern is to examine what, if any, steps should be taken to ensure that the players offering different prepaid services to consumers protect their money and rights in the event of termination of service whilst still holding funds received from customers for services not provided to them.

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3b) Regulatory Framework

1. Access Framework (Regulation, RIO, RAO)

Directorate leading the project : Economic Regulation

An effective Access Framework is of particular importance in a newly open market, as new operators may not be able to offer services without Access and Interconnection products. This project involves the establishment of an effective and robust access regulatory framework which enables licensed operators to obtain access to telecommunications networks and telecommunications facilities in line with the provisions of the Telecommunications Law.

The first part of the project involves the establishment of a Regulation pursuant to the Telecommunications Law which imposes certain obligations on dominant operators and which has already started. In particular, dominant operators are required to make available a reference access offer subject to TRA approval.

2. Cost of Capital

Directorate leading the project : Economic Regulation

In order to properly regulate the telecommunications market, in particular circumstances, it is necessary for the TRA to have information relating to the cost of provision of services by licensed operators that are in a dominant position or have significant market power.

Cost of capital is simply one of the many costs that are incurred by any business. It is less immediately visible and tangible than costs such as wages and operating expenses, but nevertheless exists. In normal circumstances a business must seek to make a return on the capital that is actively employed by the business that is equal to the recurring cost of that capital. This ensures that investors in the business can be properly compensated for the risk that they take for supplying capital to the business. A return that is greater than the cost of capital represents super-profit and is usually associated with some form of monopoly structure in the market, which is not in the best interests of consumers.

The TRA previously undertook this exercise and it resulted in a determination dated August 2003. That determination indicated that Batelco's Weighted Average Cost of Capital ("WACC") should be reviewed within 2 years This project involves the review of Batelco's WACC.

3. Retail Price Controls & Tariff Rebalancing

Directorate leading the project : Economic Regulation

The transition from a monopoly to a competitive market entails, in addition to various other changes, possible changes to the tariffs of the incumbent operator. The reason for this is that in a monopoly the operator has the

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freedom of providing some services below cost, and subsidizing them with huge profits from other services. While the cross subsidizing approach between the services that run below cost and services that are offered with very high margins of profit, may be commercially viable for the operator in a monopoly environment, it is not permitted in a competitive market where each service should be accounted for and cost separately from other services offered by the same operator.

In all newly competitive markets, the old monopoly operator, needs to go through a tariff rebalancing exercise in order to recalculate the costs and tariffs of services offered taking into account that cross subsidisation of services is no longer allowed in a competitive market.

Tariff Rebalancing in conjunction with Retail Price Control may be needed to protect consumers in markets where competition is not yet effective.

This project relates to the development and implementation of tariff rebalancing regime, encompassing among other things examination of issues such as retail price controls, protection of vulnerable groups etc.

4. Quality of Service

Directorate leading the project : Market Operations

The TRA recognises that the range of telecommunication services that can be provided is wide and growing. The characteristics of these services differ depending on the technology used and the type of service being delivered. Although competition in the market is the main tool that will ensure that the quality of services improves over time or that price reflects quality, the TRA aims to establish a common framework for the measurement, reporting and where necessary improvement of service levels that can apply to all types of service, both current and future, without the need for the underlying framework to be modified.

In order to achieve this consistent approach, the Authority had collected comments through a public consultation on quality of service measurement and with this project it intends to review the comments received from the previously mentioned consultation and the information it had collected since then, look at the changes that took place in the market and determine the most suitable approach to be taken in the aspect of Quality of Service.

5. Liberalization of DQ Services

Directorate leading the project : Licensing

Currently only the incumbent operator (Batelco) has all the necessary information to offer a full DQ service. Under the licenses granted to other operators a number of them are also obliged to provide their customers with DQ services. This can be done by Batelco selling them the service or by establishing competing services. At the same time as with all telecommunications services in Bahrain, the Directory Services will also be open for competition where new players can enter the market and provide DQ

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services to consumers. This project will investigate the process for liberalization of DQ services, and in conjunction with project 3a.4 (Protection of Personal Data with Commercializing DQ services), is intended to cover both introducing competition in DQ Services and consumer protection aspects of this service whilst at the same time seeks to ensure the security and accuracy of the database used so that consumers can have access to correct information whilst at the same time allowing competing operators to add value to their DQ services by making them more responsive to customer needs.

6. Framework for Interconnection/Access Dispute Resolution

Directorate leading the project : Legal Affairs

The TRA is the authority responsible for resolving disputes between licensed operators in interconnection and access cases in accordance with section 57 of the Telecommunications Law. The Law provides that when operators are not able to reach agreements between themselves, they can ask the TRA to intervene and set the terms for them. The TRA has already received such a request from operators in 2004 in relation to failure to agree on interconnection terms. The TRA went through the dispute resolution process and ultimately issued its decision on the matter.

During this exercise the TRA identified the need for a formal framework to be in place to address future dispute resolution requests in order to make the process more efficient and effective. This project is intended to result in a procedure for inter-operator disputes that are referred to the TRA for resolution, in particular pursuant to in relation to interconnection and/or access. At the same time it will seek to examine alternative means of resolving this to speed the process as well as to deal with excessive demand placed on its resources (human and financial) that these disputes place on it.

7. Inter-operator Complaints Procedure

Directorate leading the project : Legal Affairs

The Telecommunications Law, provides that operators can lodge their complains against other operators in the Kingdom with the TRA. The TRA has the power to investigate these complaints and take the appropriate action. As the market is now fully liberalized and many players continue to enter the market, the TRA is aware that there is a need for a formal procedure relating to dealing with inter-operator complaints.

The project will examine the procedure and process for dealing with complaints (i.e. by potential licensees/subscribers against licensees, licensees against licensees, and licensees against non-licensees), but excluding 'consumer' complaints. It will examine among other things what of the following are needed and in what format:

- (a) internal TRA procedures for dealing with complaints, including deadlines, process, potential outcomes;
- (b) procedures that licensees and the TRA should follow in dealing with complaints raised by and against them.

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3c) Regulatory Policy

1. Spectrum Allocation & Management

Directorate leading the Project : Licensing

The licensing of the use of telecommunications spectrum is one of the most important scarce resources in the field of telecommunications for which the TRA is responsible. In conjunction with the Directorate of Wireless Licensing & Frequency Monitoring of the Ministry of Transportation the TRA assigns and allocates telecommunications spectrum in the Kingdom. The TRA intends to assess the current telecommunications spectrum issues and develop the framework and relevant regulations for the use of telecommunications services spectrum in the Kingdom of Bahrain including aspects such as frequency band allocations for certain types of services, allocation methods, special licenses where appropriate etc.

2. Third Mobile Telecommunications License

Directorate leading the Project : Licensing

The exclusivity period for the two mobile operators in the Kingdom of Bahrain ends in April 2005. This project is intended to evaluate the competitive environment and analyze the mobile services market resulting in a decision on whether it would be appropriate to grant a third license or not. The public consultation that will be carried out will examine the market situation after 2 years of competition, and seek the comments of industry and the public on the viability of introducing a third mobile operator to the market. The TRA will also examine the possibility of further mobiles licenses in the form of Mobile Virtual Network Operators (MVNO) and or infrastructure based operators using GSM or other types of technology.

3. Satellite Services

Directorate leading project : Market Operations

This project is intended to seek the view of the public on the policies relating to the use deployment of satellite telecommunications services to offer satellite services to end consumers in the Kingdom of Bahrain.

The TRA will examine issues such as the provision of such services and the obligations of both the satellite operators and satellite service providers in Bahrain, the inter-relation with the obligation of other authorities in the Kingdom such as the Ministry of Transportation and the impact of international treaties that the Kingdom is a signatory to.

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4. Carrier Selection

Directorate leading the project : Market Operations

In conjunction with the Carrier Pre Selection (CPS) regulation, the TRA seeks to adopt a carrier select service (CS) which allows the users the choice when deciding to place a national or international long distance call, on a call by call basis. Unlike the existing Regulation where users have to pre select a defined long distance carrier for their entire national or / and international calls, with an option to override / deselect to return to their providing operator on call by call basis.

This project is intended to seek the views of the public and the industry on introducing carrier selection service as an additional service based extensively on the rules already devised for CPS.