



Draft BRE RO Order and Terms of the Related BRE Residual Reference Offer

Consultation Report

30 May 2019

Ref: MCD/05/19/046

1 INTRODUCTION

- 1.1 On 21 April 2019 the Telecommunications Regulatory Authority (the “**Authority**”) launched a consultation to seek stakeholders’ views on the Draft BRE RO Order and terms of the related BRE reference offer (the “**BRE RO**”).
- 1.2 The Draft BRE Order included the Authority’s proposed amendments to the services and to the underlying price and non-price terms in Batelco’s Current Reference Offer that should be provided by BRE under the BRE RO.
- 1.3 The deadline for responses to the consultation was 19 May 2019.
- 1.4 The Authority received responses from Batelco, VIVA, Zain, Kalaam and Etisalcom.
- 1.5 The comments received from Batelco, VIVA, Zain, Kalaam and Etisalcom are summarised in Annex 1 to this Consultation Report, as are the Authority’s responses to each comment.
- 1.6 The final draft of the BRE Order is appended as Annex 2 to this Consultation Report.
- 1.7 This Consultation Report reflects the views of the Authority on comments received in response to the Consultation Document. The Authority’s views as expressed in this Consultation Report are intended to provide an explanation of the Authority’s position on the comments received from the respondents.

List of acronyms and definitions

Authority	Telecommunications Regulatory Authority of the Kingdom of Bahrain and any successors thereof
Batelco / BRE	Bahrain Telecommunications Company B.S.C. For the purpose of this Consultation Report, whenever reference is made to Batelco / BRE, this refers to Batelco's retail business unit, which is separate from NetCo and other business units within the Batelco Group.
Batelco Group	Bahrain Telecommunications Company which has number of subsidiaries and affiliates in several countries, as well as operations in Bahrain.
Consultation Document	The document published on 21 April 2019 which included the Draft BRE RO and which solicited responses to a number of questions set out in the Consultation Document
Etisalcom	Etisalcom Bahrain W.L.L
Kalaam	Kalaam Telecom Bahrain BSC (c)
Licence	Has the same meaning as given to this term under Article 1 of the Telecommunications Law
NetCo	NBNetco B.S.C(c) - the new legal entity that will be formed through the legal separation of Batelco
Telecommunications Law / Law	The Telecommunications Law of the Kingdom of Bahrain, which was promulgated by Legislative Decree No. 48 in October 2002
VIVA	VIVA Bahrain B.S.C.
Zain	Zain Bahrain B.S.C.

Annex 1: Summary of responses received on the Consultation Document questions and the Authority's conclusions

	Summary of comment received	The Authority's view and conclusion
<p>Question 1: Do you support the Authority's proposed approach to the product set that should be included in the BRE RO? If not, please explain your views.</p>		
<p>Batelco</p>		
	<ol style="list-style-type: none"> 1. Generally, BRE agrees with the Authority's proposed approach in excluding from the BRE RO the products and services which will now and in future be supplied by NetCo. 2. However BRE is still of the view that the continued supply of some of these services, notably those it has previously requested to be withdrawn, places BRE at an unfair disadvantage to other MNOs in what should now be a level playing field. The separation of Batelco into two distinct entities with NetCo being responsible almost wholly for fixed infrastructure surely removes any previous advantage that BRE may or may not have had in the telecommunications market. It should only be fair then that any wholesale services it is required to continue providing mirror those of other MNOs. Any previous dominance and SMP determinations relied to a large extent on the ability of BRE to provide services as a vertically integrated operator – which will not be the case. 3. BRE therefore considers it is reasonable to request at this time, withdrawal of those products and services proposed in its initial RO submission. 	<ol style="list-style-type: none"> 1. Batelco's comments are noted. 2. Batelco does not provide any justification as to the unfair disadvantage it will derive from maintaining the affected products, especially considering the fact that it has argued that the demand for those services was very limited. It would therefore seem that the impact on Batelco's operation and competitiveness is minor. The Authority considers that as long as the relevant legal instrument remains applicable, the removal of ex ante obligations should only follow a market review. The Authority does acknowledge the need for a market review to be conducted in the shortest time possible. 3. The Authority refers Batelco to its response in the preceding paragraph.
<p>VIVA</p>		

	<ol style="list-style-type: none"> 1. VIVA agrees with the TRA's approach - the exception to this principle is that international connectivity needs to be urgently addressed, (see VIVA's answer to Question 12 below). 2. VIVA believes that there needs to be a seamless transition from supply by Batelco to supply by NetCo. If there is any delay, or issues, in NetCo providing the services, then the fallback should be that those services will be provided by Batelco. 	<ol style="list-style-type: none"> 1. VIVA's comment is noted. The Authority has addressed VIVA's comments in relation to international connectivity in its response to comments received on Question 12. 2. The Authority would like to point out that any failure by NetCo would be addressed in NetCo's Reference Offer.
Zain		
	<p>Zain is in agreement that the product set included in the BRE RO shall not include:</p> <ul style="list-style-type: none"> • the products and services that are included in the NetCo Reference Offer. This includes in particular infrastructure-based wholesale access products and services (whether fibre-based or copper-based connectivity); and • the supply agreements for certain legacy services that will not be provided by BRE (such as duct rental). 	Zain's comments are noted.
Kalaam		
	Kalaam is in agreement.	Kalaam's agreement is noted.
<p>Question 2: Do you agree that the following products and services listed in paragraph 7.11 of the Consultation Paper: ISI Link, CSI Link, Fixed Terminating Access, Mobile Terminating Access, Emergency Call Access Service, International Inbound Calls to Fixed, International Inbound Calls to Mobile, should be included in the BRE RO as regulated products and services? Do you agree that Batelco (BRE) should be required to continue to supply new provisioning of ISI Link and CSI Link services? If not, please explain your views.</p>		

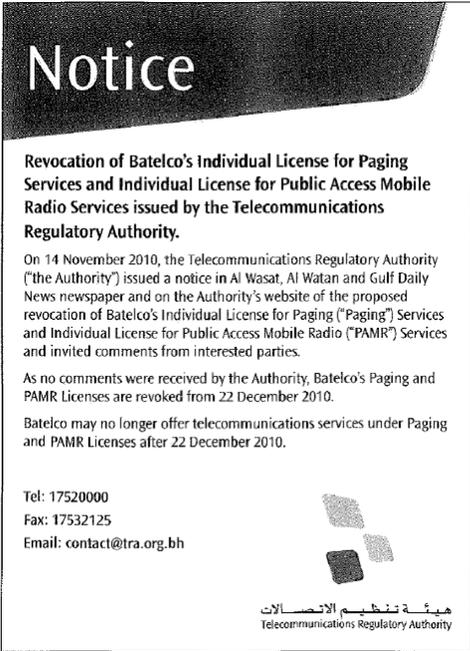
Batelco		
	<ol style="list-style-type: none"> 1. BRE disagrees with the Authority's reasoning at section 7.11 of the Consultation Paper in respect of ISI and CSI service links and wishes to clarify that these services, along with many others mentioned in the Consultation Paper are highly dependent upon the final NetCo service offering, in terms of price and non-price terms. 2. It is therefore imperative that BRE be given reasonable opportunity to first liaise with NetCo to determine whether any technical and/or commercial redesign may be required in order to continue offering these services to both existing and new customers, also taking into account accounting treatment of such links and secondly for BRE and OLOs to discuss and agree future updated interconnection arrangements before any additional regulatory measures are proposed. 3. BRE therefore remains of the view that continued supply of ISI and CSI link services should be limited solely to existing legacy customers on the current published fair and reasonable prices ordered by the Authority in its 2016 Reference Offer Order until such time as BRE is able to better determine the above. 	<ol style="list-style-type: none"> 1. The Authority appreciates Batelco's argument and as such agrees to maintain the provision of these services for existing customers under the same conditions. In respect of new customers, Batelco is given a two-month timeframe to liaise with NetCo and propose amended price and non-price terms to the Authority for its review.
VIVA		
	VIVA is in agreement.	VIVA's agreement is noted.
Zain		
	<ul style="list-style-type: none"> • ISI Link: Zain agrees that this is a regulated service and should continue to supply the new provision of this service. It is a connectivity product, and it is currently based on the 	Zain's comments are noted.

	<p>physical infrastructure of NetCo and not the BRE. Therefore, BRE should pay NetCo for this connectivity.</p> <ul style="list-style-type: none">• CSI Link: Zain agrees that this is a regulated service and should continue to supply the new provision of this service. This is a connectivity product, and it is currently based on the physical infrastructure of NetCo and not the BRE. Therefore, BRE should pay NetCo for this connectivity.• Fixed Terminating Access: Zain agrees that the BRE should continue offering this regulated service in the BRE RO as Batelco is designated to hold a Dominant position in the market of call termination services on its own fixed network.• Mobile Terminating Access: Zain agrees that the BRE should continue offering this regulated service in the BRE RO as Batelco is designated to hold a Dominant position in the wholesale market for termination services on its own mobile network.• Emergency Call Access Service: Zain agrees that BRE should continue offering this service in the BRE RO.• International Inbound Calls to Fixed: Zain agrees that BRE should continue offering this regulated service in the BRE RO as this is in accordance with the Regulation of Wholesale International Inbound Call Services and the Review of Call Termination Rates.• International Inbound Calls to Mobile: Zain agrees that the BRE should continue offering this regulated service in the BRE RO as this is in accordance with the Regulation of Wholesale International Inbound Call Services and the Review of Call Termination Rates.	
Kalaam		

	<ol style="list-style-type: none"> 1. Kalaam agrees that the products and services listed in para 7.11 of the Consultation paper should be included in the BRE RO. 2. With regards to the ISI links and CSI link, Kalaam is in the view that most of the operators have moved to the Next Generation Voice networks to enable voice interconnections and that the BRE should consider moving into IP interconnections which will optimize resources efficiently. 	Kalaam's comments are noted.
Question 3: Do you agree that the products and services listed in paragraph 6.2.1 and paragraph 7.1 of the Consultation Paper: Bitstream, Bitstream plus, LLCO, WLA (including Customer Access Tail (CAT) Service) and WDC, should not be included in the BRE RO, but that these services are to be provided by the SE? If not, please explain your views.		
Batelco		
	BRE agrees that at a minimum these services, along with WDSL, should be offered by NetCo and not BRE. BRE's comments in respect WDSL are included in the response to Question 11 below.	The Authority refers Batelco to its response to Question 11 below.
VIVA		
	VIVA is in agreement.	The Authority notes VIVA's agreement.
Zain		
	<ol style="list-style-type: none"> 1. Zain agrees that the following products and services should not be included in the BRE RO but to be provided by NetCo: <ol style="list-style-type: none"> a. Bitstream and Bitstream Plus; b. LLCO; 	The Authority notes Zain's comments.

	<ul style="list-style-type: none"> c. WLA (including Customer Access Tail (CAT) Service); and d. WDC. <p>2. Zain reiterates its position that the above-mentioned products should be consolidated into the following services in the NetCo Reference Offer:</p> <ul style="list-style-type: none"> a. Wholesale Bitstream Service (WBS); and b. Wholesale Data Connection Service (WDC). 	
Kalaam		
	Kalaam is in agreement.	The Authority notes Kalaam's agreement.
<p>Question 4: Do you agree that the following products and services listed in paragraph 7.4 of the Consultation Paper: Unbundled Metallic Path Service, Service Node Facilities Management, UMP Backhaul Service and UMP Specific Information Service, should not be included in the BRE as these services relate to local loop unbundling? If not, please explain your views.</p>		
Batelco		
	BRE is in agreement.	Batelco's agreement is noted.
VIVA		
	If NetCo is the owner of the copper local loop assets, then VIVA can see merit in these services being provided by NetCo under its Reference Offer. VIVA does, however, consider that local loop services must continue to be provided on a regulated basis. Therefore, to the extent that these services are not provided by NetCo, then they should	VIVA's agreement is noted.

	continue to be provided by BRE. Any withdrawal of these services should be subject to a market review.	
Zain		
	Zain agrees that following products and services related to local loop unbundling (“ LLU ”) should not be included in the BRE RO: <ul style="list-style-type: none"> • Unbundled Metallic Path Service; • Service Node Facilities Management; • UMP Backhaul Service; and • UMP Specific Information Service. 	Zain’s agreement is noted.
Kalaam		
	Kalaam is in agreement.	Kalaam’s agreement is noted.
<p>Question 5: Do you agree with the statements in paragraph 7.9 of the Consultation Paper, regarding service such as Calling Card Originating Access Service and/or the Paging Terminating Access Service that may already have been withdrawn by Batelco? Do you agree that such services therefore do not need to be included in the BRE RO, or do you consider this is incorrect and Batelco should be required to continue to make such services available? Please explain and substantiate your views.</p>		
Batelco		
	<p>1. BRE notes that (1) freephone originating access service was withdrawn by the Authority in the Reference Offer 2016 Order and (2) Paging Service was phased out in agreement with the Authority during 2007-2009 and Batelco’s Individual License for Paging services was officially revoked by the Authority on 22 December 2010 as per the following press notice:</p>	<p>1. The Authority acknowledges that:</p> <p>a. Freephone originating access was withdrawn in the Reference Offer 2016 Order with the following note: "however, noting that this wholesale product was never based on a dominance determination and remedy was never enforced by the Authority."</p>

	 <p>Notice</p> <p>Revocation of Batelco's Individual License for Paging Services and Individual License for Public Access Mobile Radio Services issued by the Telecommunications Regulatory Authority.</p> <p>On 14 November 2010, the Telecommunications Regulatory Authority ("the Authority") issued a notice in Al Wasat, Al Watan and Gulf Daily News newspaper and on the Authority's website of the proposed revocation of Batelco's Individual License for Paging ("Paging") Services and Individual License for Public Access Mobile Radio ("PAMR") Services and invited comments from interested parties.</p> <p>As no comments were received by the Authority, Batelco's Paging and PAMR Licenses are revoked from 22 December 2010.</p> <p>Batelco may no longer offer telecommunications services under Paging and PAMR Licenses after 22 December 2010.</p> <p>Tel: 17520000 Fax: 17532125 Email: contact@tra.org.bh</p> <p>هيئة تنظيم الاتصالات Telecommunications Regulatory Authority</p> <p>2. BRE considers it would be unfair and unreasonable to potentially reintroduce and/or re-regulate these services following such long periods of time and does not see any market demand giving rise to this.</p>	<p>(p.223). Therefore the Reference Offer was a sufficient legal instrument to withdraw this product because the product was not based on a dominance determination which is the case of the other products that BRE is suggesting to withdraw. Therefore this example cannot be used as a precedent to withdraw regulated products.</p> <p>b. Paging service: the Authority acknowledges Batelco's comments.</p> <p>2. The Authority agrees that these products be withdrawn from the BRE RO.</p>
VIVA		
	<p>VIVA considers that these services should continue to be provided under the BRE RO. As suggested above, any withdrawal should be subject to a market review.</p>	<p>The Authority refers VIVA to its comments in answer to Batelco's arguments above.</p>
Zain		

	<p>Zain agrees that the below services do not need to be included in the BRE:</p> <ul style="list-style-type: none"> • Calling Card Originating Access Service: As this service was withdrawn by Batelco pursuant to the issuance of the Final Order on the Reference Offer of Batelco dated 18 August 2016; and • Paging Terminating Access Service: As Batelco's individual licence for paging services and Public Access Mobile Radio (PAMR) services was revoked in 2010. 	Zain's agreement is noted.
Kalaam		
	Kalaam is in agreement.	Kalaam's agreement is noted.
<p>Question 6: Please indicate if you consider any products or services are incorrectly omitted as regulated services from the BRE RO. Please provide a high level product specification and explain why you believe such products should be included as a regulated product / service in the BRE RO.</p>		
Batelco		
	No material comments.	Batelco's comment is noted.
VIVA		
	VIVA does not consider that any products or services are incorrectly omitted.	VIVA's comment is noted.
Zain		

	<p>International Connectivity: despite the Authority position in paragraph 7.16 of the Consultation Paper, (i) International Falcon Connection Service (“IFC”) has been incorrectly marked as a non-regulated service in Annex B (Schedule 3 - Pricing); and the International GBI Connection Service (“IGC”) is not included in Annex B (Schedule 3 - Pricing). Zain’s position with regards to the IFC and IGC is detailed in its response to Question 12.</p>	<p>The Authority wishes to clarify that the annexes provided in the draft BRE RO were not final and not reflective of the final position.</p>
<p>Kalaam</p>		
	<p>Kalaam believes that the Authority has included all the relevant products and services in the BRE RO.</p>	<p>Kalaam’s comment is noted.</p>
<p>Question 7: Do you agree with the Authority’s proposals as set out in paragraph 7.6 of the Consultation Paper to reject Batelco’s request to withdraw the following services, and therefore the Authority’s proposal that Batelco should continue to treat the following products as regulated:</p> <ul style="list-style-type: none"> • PSTN Transit Service; • Inter-Operator Transit Access Service; • National Collect Call Service; • Inbound International Collect Call Access Service; • Directory Listing Service; and • Wholesale International Outbound Switched Service (Wholesale IDD). <p>If not, please explain why? Please substantiate your position and provide your views on the current and future demand for these products and services.</p>		
<p>Batelco</p>		
	<p>1. In its RO submission, BRE provided supporting justification for withdrawal of these products, save for Wholesale 100 which BRE did not suggest to withdraw, simply to offer on a commercial basis following the Authority’s non-dominance determination in 2013.</p>	<p>The Authority agrees to remove Wholesale IDD from the list of regulated services. All other services, however, remain subject to existing ex ante obligations until such time as a market review is conducted which varies any applicable determinations.</p>

	<p>2. These services have either (1) very minimal demand from other operators and do not generate much, if any, amount of traffic and/or revenue such as PSTN Transit, Directory Listing and National and Inbound International Call Collect services, or (2) suitable and diverse alternatives already exist in the market without having to transit BRE's network, such as for Inter-operator Transit Access Service.</p>	
VIVA		
	VIVA is in agreement.	VIVA's agreement is noted.
Zain		
	<p>Zain is of the view that such services are to be negotiated between BRE and the OLO on commercial terms as some products could qualify not to be a regulated service. Nonetheless, Zain agrees with the Authority's proposal as set out in paragraphs 6.7, 7.7 and 7.8 of the Consultation Paper, where this shall not be concluded at this stage on the request by Batelco to withdraw certain further products from the BRE RO, but to rather follow the conclusion of a market review in the future.</p>	Zain's comment is noted.
Kalaam		
	Kalaam is in agreement.	Kalaam's comment is noted.
<p>Question 8: Do you agree with the Authority's proposal as set out in paragraph 6.7, 7.7 and 7.8 of the Consultation Paper not to decide at this stage on the request by Batelco to withdraw certain further products from the BRE RO, but to rather follow the conclusion of a market review in the future? If not, please explain for which products and services withdrawal would already be necessary in the BRE RO? Please provide any views you might have regarding current and future demand for these services.</p>		

Batelco		
	<ol style="list-style-type: none"> 1. Whilst BRE would agree that regular market reviews are needed to determine when markets should no longer be subject to ex-ante regulation, BRE considers these types of reviews should be focused on and limited to markets which are heavily saturated with a high level of consumer demand for services and this does not appear to be the case for these services. 2. BRE's comments above in respect of the separation measures being more than adequate regulatory remedies now to satisfy any prior significant market power or dominance determinations Batelco may have had in the past and which BRE now strongly believe should be removed at the earliest opportunity, should also be read here. 3. In the past, the Authority has determined withdrawal of products and services using the Reference Offer process and noting that BRE has also provided supporting evidence to the Authority in response to a recent Article 53 Information Request on these services, BRE kindly requests the Authority to consider the review and withdrawal of these services from the BRE RO under this Reference Offer assessment process. 	<ol style="list-style-type: none"> 1. Batelco's comments are noted. The Authority will place emphasis on those markets which it believes that competition is limited. 2. The Authority agrees that market reviews should be carried out at the earliest opportunity. 3. The Authority disagrees with Batelco that previous Reference Offer Orders point to precedence for the removal of ex ante obligations without undertaking the market review process. The Reference Offer process followed in the freephone case is not applicable for the reasons mentioned in the Authority's answer to comments received from Batelco in relation to Question 5.
VIVA		
	<p>VIVA is in agreement; although VIVA does not consider there is urgency around the proposed market review and feel it may be delayed until later into 2020.</p> <p>With regards to fibre broadband, and since the Bitstream is a regulated product under the NetCo Reference Offer, VIVA believes it should be</p>	<p>VIVA's agreement is noted.</p>

	considered as an implicit confirmation by the Authority that fibre broadband access is a relevant market. The same applies at the retail level and the Authority should regulate such market to avoid current predatory pricing behaviour from BRE.	
Zain		
	Zain agrees with the Authority's proposal as set out in paragraphs 6.7, 7.7 and 7.8 of the Consultation Paper, where this shall not be concluded at this stage on the request by Batelco to withdraw certain further products from the BRE RO, but to rather follow the conclusion of a market review in the future.	Zain's agreement is noted.
Kalaam		
	Kalaam is in agreement.	Kalaam's agreement is noted.
Question 9: Do you agree with the Authority's proposal as set out in paragraph 7.7 (with reference to paragraph 7.6.5) of the Consultation Paper not to approve withdrawal of the "Directory Listing Service", as this product continues to be a regulated service? If not, please explain why?		
Batelco		
	BRE refers to its response above to Question 8 here and reiterates that suitable alternatives exist in the market and that it does not see a pressing need to continue to regulate this service which despite its continued existence, does not generate any revenue year on year.	Please refer to the Authority's immediately preceding answer to Batelco's comments.
VIVA		
	VIVA believes that the service should be maintained.	VIVA's comment is noted.

Zain		
	Zain agrees with the Authority's proposal as set out in paragraphs 6.7, 7.7 and 7.8 of the Consultation Paper not to decide at this stage on the request by Batelco to withdraw the "Directory Listing Service" from the BRE RO, but to rather follow the conclusion of a market review in the future.	Zain's agreement is noted.
Kalaam		
	Kalaam is in agreement.	Kalaam's agreement is noted.
<p>Question 10: Do you agree with the Authority's proposal as set out in paragraph 7.10 of the Consultation Paper regarding the relevant items of the Facilities Access Service which should be excluded from the definition of "Facility" in Schedule 8 (Dictionary)? If not, please explain? Do you consider that any additional items listed in the definition of "Facility" need to be removed from the BRE RO and should instead be included in the SB's Reference Offer? If so, please explain your views, and how access to these services should be provided? In the event that you consider specific items of the Facilities Access Service should remain in the BRE RO, please also state whether you believe that the prices for such services should be regulated, or made available by BRE on commercial (unregulated) terms. Please substantiate your views.</p>		
Batelco		
	No material comments.	Batelco's comment is noted.
VIVA		
		1. VIVA's comment is noted.

	<ol style="list-style-type: none"> 1. VIVA agrees that duct rental services should be provided by NetCo, not BRE. Indeed, equivalence is at the heart of the new industry structure and BRE must have no superior right to fixed network infrastructure. If Batelco wishes to run its dark fibre down ducts (or use any of the other infrastructure referred to in paragraph 7.10), then NetCo must provide that access to that duct and other infrastructure to BRE, and provide that access on the same terms to OLOs which should be reflected in the NetCo Reference Offer. 2. VIVA believes that Article 57(e) of the Law requires the Authority to consider whether there is an essential need for duct access. Until this analysis has been completed by the Authority, the Authority cannot reject duct access as a service to be provided by NetCo. 	<ol style="list-style-type: none"> 2. VIVA's comments in relation to Article 57(e) of the Law are not relevant to this consultation and have been addressed as part of the NetCo RO consultation process.
Zain		
	<p>Zain agrees with the Authority's proposal as set out in paragraph 7.10 of the Consultation Paper regarding the relevant items of the Facilities Access Service which should be excluded from the definition of "Facility" in Schedule 8 (Dictionary).</p>	<p>Zain's agreement is noted.</p>
Kalaam		
	<ol style="list-style-type: none"> 1. Kalaam agrees to the Authority's views on the exclusion of certain items from the definition of "Facility" in Schedule 8 of the BRE RO. 2. The Facility Access Services should be covered in the NetCo Reference Offer and these prices should be regulated by NetCo. 	<p>Kalaam's comments are noted.</p>

Question 11: Do you agree that Wholesale DSL should continue to be provided by BRE (as indicated in paragraphs 7.12 to paragraph 14 (inclusive))? If not, please explain why.

Batelco

1. BRE strongly disagrees that Wholesale DSL (WDSL) should continue to be provided by BRE. WDSL was developed as a pure resale service to OLOs to satisfy a now outdated dominance and SMP determination from 2014 and BRE no longer owns nor has any type of preferential access to the fixed infrastructure which it would previously have relied upon to be able to offer WDSL to OLOs at the prices and on the commercial terms currently in existence.
2. Moving forward BRE will be fully dependent upon obtaining a Bitstream service from NetCo for each DSL package it provides and will need to factor in separate marketing and supporting activities on top of this, which will more than likely significantly increase not only the cost but also the terms of providing WDSL packages. BRE does not see the rationale of continuing to regulate provision of this service to OLOs when BRE is now meant to operate and compete with OLOs on a level playing field. OLOs are easily able to replicate DSL offerings to customers in the same way that BRE and others will provision their own services.
3. In its 2016 RO Order, the Authority stated that *“Business WDSL is in the decline phase of its product life cycle. The volume of the Business WDSL subscriptions has been declining over the last 2-3 years as wholesale customers switch to Bitstream”*. Now, more than 3 years on from the Authority’s last determination in this regard, BRE considers it unreasonable and discriminatory to continue to require BRE to offer this type of service to OLOs that have access to NetCo on the same terms and levels that BRE does.

1. The Authority wishes to confirm that WDSL shall continue to be provided by Batelco.
2. While the Authority appreciates that Batelco will require a wholesale input from NetCo, Batelco will still be required to provide this regulated product.
3. The Authority will carry out market reviews as soon as possible.

VIVA		
	Batelco should continue to provide the Wholesale DSL service.	VIVA's comment is noted.
Zain		
	Zain agrees that the Wholesale DSL should continue to be provided by BRE as indicated in the Consultation Paper. This is also in line with Zain's position stated in response to the public consultations on the NetCo Reference Offer Order and NetCo's License. Nonetheless, Zain emphasises that the Wholesale DSL service provided by the BRE is based on the Bitstream service provided by the NetCo as an input connectivity product. Hence, the BRE should pay NetCo for any activated Wholesale DSL service.	Zain's comment is noted.
Kalaam		
	Kalaam considers that the Wholesale DSL product should fall under NetCo as there is no current benchmarking on a wholesale offering to OLO's against Batelco Retail offering.	WSDSL will continue to be provided by BRE.
<p>Question 12: Do you agree with the Authority's position in relation to International Connectivity in paragraphs 7.15 to 7.19 (inclusive) of the Consultation Paper, and in particular, in relation to the continued supply of the IFC and IGC Service? If not, please explain why. The Authority is also interested in:</p> <ul style="list-style-type: none"> • Understanding stakeholders' views on whether the BRE or the SE is best placed to supply the IFC and IGC Services pending the outcome of its market review. Please state a preference and supporting rationale; and • Comments on whether the relevant service descriptions are fit for purpose. 		
Batelco		

	<ol style="list-style-type: none"> 1. Following recent developments resulting from the separation process, BRE proposes to continue managing the provision of international access services through its global arm. 2. As discussed on a number of previous occasions, demand for these services has been very limited despite 10 years of ex ante regulation and sufficient alternative options exist in the market, namely Tata, GCCIA and KFC, which are not subject to the same form of ex-ante regulation that is currently applied to BRE’s international facilities and gateways. BRE highlights that no market failure to supply access to international gateways in the Kingdom exists today and in any event, the Authority and telecommunications industry have adequate access to the safeguard provided by Article 65 of the Telecommunications Law. BRE therefore considers it reasonable and in line with international market trends for the IFC and IGC to be offered on a commercial basis to OLOs and asks the Authority to re-consider its position in this regard. 	<ol style="list-style-type: none"> 1. The Authority wishes to point out that Batelco is the only entity within the Batelco Group to hold an IFL to provide these services. 2. The Authority refers Batelco to paragraph 39 of NTP4: “Although it appears that there is a reasonable degree of choice and capacity on international routes, there is evidence that licensees other than the Incumbent Operator are having difficulty accessing cable landing stations directly and are experiencing unreasonably high costs to obtain international connectivity.” NTP4 required the Authority, amongst other things, to “conduct a review of the effectiveness of current regulation relating to the ability of licensed operators to access international capacity at cable landing stations in Bahrain. As part of this, the Authority shall adopt effective interim measures to minimise the anti-competitive impacts of any bottlenecks.” The Authority has undertaken a review of the entire supply chain of international connectivity in order to assess the effectiveness of current regulation to enable licensed operators to access international connectivity at cable landing stations in Bahrain. Following that review, the Authority is now carrying out a “Review of the International Connectivity Market(s)”, including access to connectivity at cable landing stations. Such a market review, which is a formal part of the Authority’s regulatory framework, will allow the Authority to assess in detail the level of competition in relevant markets and the extent of any bottlenecks which may limit effective and sustainable competition. Subject to the findings of the Review, the Authority will then propose necessary measures to remedy those bottlenecks. In the meantime, however, Batelco will be bound by the terms of the BRE Order to provide IFC service.
VIVA		

	<p>1. VIVA does not agree with the Authority that the IFC service (and the IGC service) must continue to be supplied on the terms set out in BRE RO. The BRE RO is inadequate, especially in relation to the exorbitant cross connect and colocation charges applied by Batelco, but also in the absence of an effective dark fibre product.</p> <p>Cross-connect and colocation</p> <p>2. The main constraint impacting competition in the access to international cables is related to the exorbitant cross connect and colocation charges applied by Batelco, which is controlling most of cables landing stations in the Kingdom. In this regard, VIVA understands that, in application of the Government policy in the NTP4, the Authority is reviewing the international connectivity supply chain to remove anti-competitive impact of any bottleneck.</p> <p>VIVA does not understand why the Authority is still stating in the consultation document that: <i>“The Authority is proposing to commence a market review of the entire supply chain for international connectivity later this year”</i>. VIVA’s arguments in respect of this have been set out in its response to the NetCo Reference Offer. In its 1st Interim Decision related to GBI CLS access dispute, the Authority stated that:</p> <p><i>“The Authority reiterates that this decision is an interim one, pending the Authority’s review of the entire supply chain of international capacity, including the provision of cross-border dark fibre, in line with Government’s Policy as enshrined in the 4th National Telecommunications Plan.</i></p> <p>In its 2nd Interim Decision related to GBI CLS access dispute No. 6 of 2017, the Authority extended the 1st Interim decision by six-month period and stated that:</p> <p><i>“The Authority notes that this decision is made without prejudice to the outcome of its review of the entire supply chain of international capacity, including the provision of cross border</i></p>	<p>1. The terms of the IFC service are being reviewed as part of the market review on international connectivity.</p> <p>On cross connect and colocation</p> <p>2. The Authority has now commenced a review of the market for international connectivity services. Should this review result in the Authority finding that any licensee has a position of dominance in a relevant (wholesale) market, it will impose appropriate remedies on the dominant operator. In the meantime, the BRE RO requires Batelco to continue to provide the IFC service, and to comply with the GBI decision.</p> <p>The Authority believes it to be inappropriate to comment on VIVA’s comments on the GBI dispute which is still <i>sub-judice</i>.</p> <p>The GBI decision is still subject to appeal and the Authority considers it prudent not to take any action at this stage that might pre-judge the outcome of such review.</p> <p>On dark fibre:</p> <p>3. The Authority is currently performing a market review to identify the bottlenecks and propose appropriate remedies.</p> <p>Services should be provided under the NetCo Reference Offer</p> <p>4. The Authority will assess which remedies are required as a result of the international connectivity market review. If found relevant an amendment of the price / non-price terms of the relevant international connect products may be enforced as a result of the market review. The Authority wishes to point that until such time as the market review is finalised Batelco will continue to provide the international cross-connect service.</p>
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dark fiber, as required under the Government's Fourth National Telecommunications Plan, though the Authority may have regard to any relevant findings made in such a review".

In its Letter to VIVA of April 27th, 2017 the Authority stated that:

"The Authority considers that the six-month extension of time will provide the Authority with sufficient time in which to complete its further investigation and the preparation of a Final Decision taking into account the outcome of the review of the entire supply chain of international connectivity, which is to commence shortly".

"The Authority considers that the outcome and recommendations of the Review are likely to be highly relevant to its Final Decision on the GBI related complaints. Therefore, while the Authority has progressed its investigation of the GBI related complaints, it does not consider it appropriate to issue a Final Decision until it has had the opportunity to consider the recommendations of the Review".

In its 3rd Interim Decision No. 8 of 2017, the Authority extended its 1st Interim decision by another period of six month and stated that:

"The review of the entire supply chain of international capacity ("the Review"), including the provision of cross-border dark fibre, is a requirement of the Government's Fourth National Telecommunications Plan.

The Authority has commenced the Review and intends to finalise it in early 2018".

In its 4th Interim Decision No 3 of 2018, the Authority extended its 1st Interim decision by a two-month period and stated that:

"The review of the entire supply chain of international capacity ("the Review"), including the provision of cross-border dark fibre, is a requirement of the Government's Fourth National

Telecommunications Plan the Authority considers that the outcome and recommendations of the Review are likely to be highly relevant to its Final Decision on the GBI related complaints.

The Authority has almost finalized its Review”.

In October 21st, 2018 the Authority issued its Final Draft Decision on the GBI dispute, but there was no mention of the Authority review of the supply chain of international capacity, while it has already advised on May 8th, 2018, that *“The Authority has almost finalized its Review”*

Hence, since the Authority has declared a year ago that it has finalized the review of the International connectivity supply chain, VIVA do not see any reason for the Authority not to regulate the cross connection service and the colocation service under the ongoing SE Reference Offer to ensure end to end connection to the GBI and Flag submarine cables from the Access Seekers’ PoP collocated in the SE LS up to the international water-border. This will ensure competition in the provision of capacities between the landing parties and cable owners and allow regional competitiveness of licensees.

In VIVA’s submissions on the SE’s draft reference offer, VIVA also provided benchmark information from Singapore, which strongly suggested significant overcharging currently for these services.

VIVA presented a comparison of the respective prices as follows:

	Batelco RIO³	SingTel RIO
IFC Link	BHD 142 per link per month	BHD 4.4 per link per m from 53.14/link/annun
Co-location space	BHD 350 per rack per month	BHD 82.13 per month (space)

The IFC Link charges in Singapore are 3% of Batelco's charges. The co-location space charges in Singapore are 23.5% of Batelco's charges.

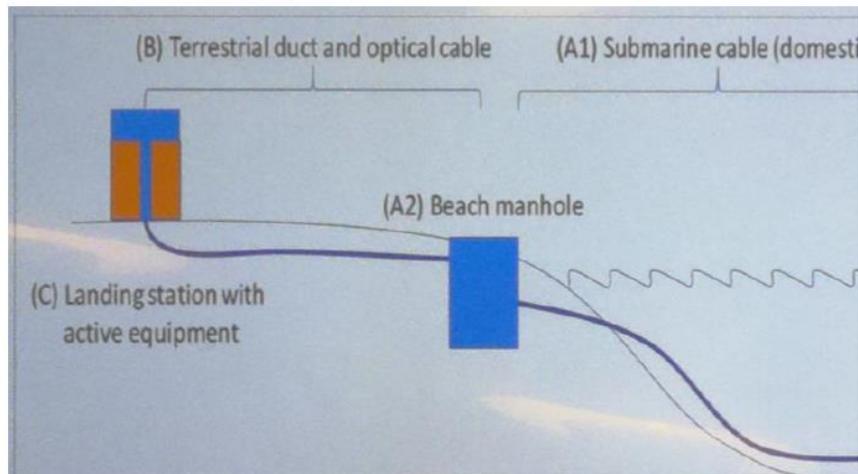
Dark fibre

3. As confirmed in the NTP4, OLOs are experiencing bottlenecks in accessing the CLS in Bahrain except for Batelco.

VIVA requests the Authority, in line with the NTP4 directives, to take the appropriate measures "to minimise the anti-competitive impacts of any bottlenecks" "for the efficient functioning of the relevant markets". VIVA believe that the implementation of this policy directive should ensure that the end-to-end access (including the cross connection) to GBI and Falcon CLS (as bottlenecks confirmed in the Government policy) is provided by the SE under its licence and hence that the relevant service should be part of the final SE RO.

The future review of the supply chain of international capacity should not be a constraint for including access to CLS in NetCo Reference Offer. The end-to-end access should include:

- a. Domestic submarine cable up to the landing station;
- b. the seamless cross-connection with the submarine cable; and
- c. the colocation at the landing station and reflected in the following diagram.



Dark fibre access is required by Access Seekers in a number of different contexts, which VIVA has set out in previous submissions. In the context of cable landing stations, major business customers require standalone services and diverse routes for contingency purposes. Carriers also require resilient routes and mega capacities to access international networks and services. This must be addressed through a fit-for-purpose dark fibre service under the reference offer.

Services should be provided under the NetCo Reference Offer

4. Accordingly, VIVA considers that the cross-connect and colocation services, and dark fibre services, must be provided by NetCo and not by Batelco. VIVA has previously submitted that NetCo should operate the Cable Landing Stations where OLOs are experiencing bottlenecks, such as GBI and Falcon.

VIVA has also submitted that cross connection and colocation services should be provided under the NetCo Reference Offer to ensure end to end connection to the GBI and Flag submarine cables from the Access Seekers' PoP collocated in the NetCo landing station up to the international water-border. This will

	<p>ensure competition in the provision of capacities between the landing parties and cable owners and allow regional competitiveness of OLOs.</p> <p>The service descriptions should reflect the following:</p> <ul style="list-style-type: none"> ○ Mandated open access to the cable landing stations (CLS); ○ Ensure that the cross-connection in these CLS covers the E2E link connectivity from the OLO's PoP to the territorial water boundary of Bahrain to interconnect with the submarine cable provider; ○ Mandate the dark fibre product is supplied for all CLS backhauling and for cross border until the territorial water, as directed in the NTP4; ○ Ensure the cross connection is supplied on a cost-basis to eliminate any risk of price squeeze practice; and ○ Publish the output and recommendations of the Review of the supply chain of international capacity, including the provision of cross border dark fibre and submit them for consultation. 	
Zain		
	<p>In the 2013 Dominance Determination in the wholesale market for the supply of international capacity from locations within Bahrain, the determination outcome was conditional upon access being available to Batelco ducts (and associated facilities required to utilize ducts for the purposes of providing international capacity), domestic wholesale leased lines, and the IFC service on fair, reasonable, and non-discriminatory terms.</p> <p>However, the Authority in 2015 has halted all access to ducts rental service and accordingly Batelco's non-dominance in the identified market is no longer valid.</p>	<p>The Authority will assess which remedies are required as a result of the international connectivity market review. If found relevant an amendment of the price / non-price terms of the relevant international connect products may be enforced as a result of the market review.</p>

	<p>In respect of Zain’s position in its response to the public consultation on the NetCo Reference Offer (where the Authority proposed not to take any action until it conducts a market review of the entire supply chain for international connectivity later this year), this position is against the clear government policy set out in the NTP4 on international connectivity, which specifically requires the Authority to adopt effective interim measures to minimize the anti-competitive impacts of any bottlenecks in the international connectivity while conducting a market study.</p> <p>In the past three years the Authority has not conducted such study nor put in place an interim solution. Therefore, we urge the Authority to immediately apply an interim solution while conducting the study at a later time.</p> <p>Based on the fact that the bottlenecks are only related to the international submarine cables namely GBI and Falcon (as multiple operators have access to GCCIA and KFCA routes), Zain advocates the following interim solution:</p> <ul style="list-style-type: none"> - SE to be granted an IFL only - Falcon & GBI Landing Party Agreements (“LPA”) to be under SE - BRE to be granted an IFL & ISL - GCCIA, KFCA & FOG to be fully managed and operated by BRE - Capacity Purchase Agreement (“CPA”) on GBI & Falcon to be with BRE - SE to be mandated to provide international cross-connect service (“ICCS”) which reflects the actual cost of a cross connect which is an intra building cable and not capacity based. <p>Accordingly, IFC and IGC services should be omitted from BRE’s RO.</p>	
<p>Kalaam</p>		

	<p>Kalaam firmly believes that the access to international cable systems such as FALCON, FOG, GBI etc. should be under NetCo and should be covered in the NetCo Reference Offer. The regulation should cover the cross connect to these cable systems and hosting in the cable landing stations.</p> <p>Kalaam disagrees with the Authority's view as mentioned in para 7.16 that "no operator is dominant in the market for wholesale international services". Batelco currently has the cable landing rights for three of the main cable systems landing into the country which are – FALCON, FOG and GBI. Although the access to these cable systems are regulated, the cross connect are not regulated and are in the control of Batelco Retail.</p> <p>Kalaam therefore requests the Authority to consider adding the international cable access in the NetCo Reference Offer which should include the cross connects as well.</p>	<p>Please refer to the Authority's preceding response.</p>
<p>Question 13: Please provide comments on any other areas of concern you have regarding the product or services set or any of the services descriptions included in the draft BRE RO.</p>		
<p>Batelco</p>		
	<p>No material comments other than those already mentioned above.</p>	<p>Batelco's comment is noted.</p>
<p>VIVA</p>		
	<p>VIVA have no further comments.</p>	<p>VIVA's comment is noted.</p>
<p>Zain</p>		

	<p>Batelco's current reference offer available on its official website still includes other products that have not been referred to in this Consultation Paper, despite the fact that such products have been withdrawn by Batelco, which include the following:</p> <ul style="list-style-type: none"> • Schedule 1 1-9 (International Batelco Inbound Connection and Termination Service to Another Operator's Mobile Telephones); and • Schedule 1 2-4 (Dial-Up Internet Access Service). 	Zain's comments are noted. The products which Zain notes as having been withdrawn are not included in the BRE Order.
Kalaam		
	No comments.	Kalaam's comment is noted.
NON PRICE TERMS		
Question 14: Do you consider that the non-price terms, including Main Body Terms, Supply Terms and definitions in the Dictionary, are fit for purpose and meet the reasonable requirements of Licensed Operators?		
Batelco		
	BRE considers the existing Reference Offer documentation to be fit for purpose.	Batelco's comment is noted.
VIVA		
	VIVA notes the Authority's approach that only minimal, as required, changes be made to the Batelco reference offer. VIVA generally agrees with this approach, but notes that the Authority is currently undergoing	VIVA's comment is noted.

	<p>a thorough overhaul of the NetCo Reference Offer, making a number of key improvements and updates (to the service levels, and so on). Given these improvements and updates are also warranted in the BRE RO, which was the original template for the NetCo Reference Offer, VIVA suggests that the Authority considers making the same changes to this document where applicable.</p>	
<p>Zain</p>		
	<p>Paragraphs 2.3 and 2.4 of the Supply Terms make references to Reference Access Offer which should be omitted.</p> <p>With regards to paragraph 9.1(b) of the Supply Terms, the liability on the access seeker to pay or repaid the damage to the equipment must be limited to the damage that is as a result of the negligence and misuse by the access seeker. Whereby any damage to the equipment that is not caused by the access seeker should be the responsibility of the access provider.</p> <p>Zain does not agree with paragraph 9.2 (a) and (b) of the Supply Terms. Zain is of the view that the BRE should be responsible for removing its own Equipment, as the access seeker sends a cessation/termination request and the BRE is accordingly is notified and schedules the Equipment removal.</p> <p>In relation to paragraph 13 of the Supply Terms, Zain is of the view that there are no merits in a complete suspension or termination of a specific service. In the event of a breach that is due to a single circuit or service then that single circuit should be suspended, whereas in the cases that there is a material breach by the operator to the Supply Terms such as non-payment, then the suspension right should be applicable to all services. The circumstances and scenarios listed in the Supply Terms that permits the suspension/termination must be based on the Authority's approval.</p>	<p>The Authority disagrees that reference to the Reference Access Offer is mistaken. With regards to other proposed changes to the Supply Terms, the Authority wishes to clarify that the exercise of the publication of the BRE RO is merely to reflect the new regulatory structure following the legal separation of Batelco. The changes proposed by Zain to the Supply Terms will be addressed as part of the next reference offer review.</p>

Kalaam		
	Kalaam agrees that the non-price terms fit the reasonable requirements of the Licensed Operators.	Kalaam's comment is noted.
Question 15: Do you agree with the Authority's proposed approach in paragraph 8.5 of this Consultation Paper regarding the Joint Working Manual, namely, that while changes may be needed to the Batelco Joint Working Manual, this could be addressed in due course and after approval and publication of the BRE RO? Please provide your views on the necessity and extent of any changes needed to the Joint Working Manual as well as the proposed timing for these.		
Batelco		
	BRE does not consider there to be a need for the Joint Working Manual requirement to remain in existence for BRE noting that the majority of key fixed infrastructure products and services have been transferred to the NetCo where a new Joint Working Manual will be developed with OLOs in the industry including BRE.	The Authority maintains that the Joint Working Manual should be reviewed by Batelco in due course.
VIVA		
	Yes, VIVA agrees that changes could be addressed in due course. The new NetCo Joint Working Manual, to be developed as contemplated in the NetCo Reference Offer consultation paper, should then be the basis of the manual for Batelco.	The Authority refers VIVA to its preceding comment.
Zain		
	Zain agrees that the Joint Working Manual is an obsolete document that requires major changes. Commenting on such cannot be accommodated in this response. Therefore, Zain recommend	The Authority refers Zain to its preceding comment.

	conducting a separate consultation process with meetings between the technical teams if needed to address the changes required to the BRE's Joint Working Manual. This consultation process can take place in third or fourth quarter of this year and after the approval and publication of the BRE RO.	
Kalaam		
	Kalaam agrees the Authority's proposed approach in para 8.5 of this Consultation Paper regarding the Joint Working Manual.	The Authority refers Kalaam to its preceding comment.
Question 16: Which additional technical revisions and/or amendments such as removing references to fixed network infrastructure, fibre, duct and related fixed infrastructure terms to the non-price terms of the BRE RO do you consider to be necessary in order to ensure consistency between the SE and BRE product sets? Please explain why.		
Batelco		
	No material comments.	Noted.
VIVA		
	VIVA does not consider any other changes are required.	VIVA's comment is noted.
Zain		
	There are references to the Reference Access Offer and Article 57(e) of the Telecommunications Law throughout various parts of Main Body Terms, Supply Terms and definitions in the Dictionary where we are of the view that this should be omitted. The regulated services in the BRE's	The Authority disagrees with Zain's comments.

	RO should be limited to Interconnection Services and therefore only referring to Article 57(b) of the Telecommunications Law.	
Kalaam		
	No comments.	Noted.
PRICE TERMS		
Question 17: Do you agree with the Authority's proposed acceptance in paragraph 7.11.5 of the Consultation Paper regarding the lower rates for Emergency Call Access Service included in section 1-7 of the revised Schedule 3 - Pricing?		
Batelco		
	No material comments.	Noted.
VIVA		
	VIVA are in agreement.	VIVA's agreement is noted.
Zain		
	Zain is in agreement.	Zain's agreement is noted.
Kalaam		

	Kalaam is in agreement.	Kalaam's agreement is noted.
<p>Question 18: Do you agree that the products and services listed in paragraph 9.3 of the Consultation Paper, other than CPS, should be provided on a commercial basis (SMS Terminating Access Service, International Private Leased Circuit Service, Speaking Clock Service, International Operator Assisted Call Service, Directory Assistance Service, Facilities Access Service excluding duct rental, Wholesale IDD Service, Freephone Originating Access Service, and MMS Delivery Service)? If not, please explain and substantiate your position?</p>		
<p>Batelco</p>		
	<p>BRE agrees with this approach as supported in its RO submission. However, BRE strongly urges the Authority to re-consider its proposal regarding CPS and facilitate BRE's approach to offering this on a commercial basis - noting there is already effective competition for voice calls to and from fixed networks (as supported by the reasoning in the 2015 Strategic Market Review published by the Authority) and many more substitutes have become widely available to OLOs since CPS was launched in May 2005.</p>	<p>The Authority wishes to point that CPS remains regulated through the 2012 CPS Regulation.</p>
<p>VIVA</p>		
	<p>VIVA agrees; however, with respect to the Facilities Access Service, VIVA emphasises the need for cross connect and colocation services, and dark fibre services, to be provided under the NetCo Reference Offer.</p>	<p>Please refer to the Authority's answer to Question 12 regarding cross connect and colocation and dark fibre service.</p>
<p>Zain</p>		
	<p>Zain agrees that the products and services listed in paragraph 9.3 of the Consultation Paper, other than CPS and Directory Assistance Service which are subject to <i>ex ante</i> regulation, are to be provided by the BRE on a commercial basis.</p>	<p>Zain's agreement is noted.</p>

Kalaam		
	Kalaam is in agreement.	Kalaam's agreement is noted.
Question 19: Do you have any other comments not considered specifically above that you wish to make? If so, please order your comments according to sections in the Consultation Paper or specific aspect of the draft BRE RO.		
Batelco		
	BRE has no further comments.	Noted.
VIVA		
	VIVA has no further comments.	Noted.
Zain		
	Zain has no further comments.	Noted.
Kalaam		
	Kalaam has no further comments.	Noted.
Etisalcom		

	<p>Etisalcom overall agrees with the Authority's proposals in the consultation document. However, Etisalcom would like to highlight the following points:</p> <ul style="list-style-type: none"> - There should be no overlap of services between BRE and NetCo. After reviewing the NetCo Reference Offer and BRE RO, it seems WLA services will no longer be offered and will come under the domain of WDC services which will be offered by the NetCo Reference Offer. Etisalcom want to confirm that all existing WLA services (currently offered by Batelco) will be transferred to WDC as well which will be offered by NetCo and not BRE after the separation. - Services mentioned in the BRE RO (especially wholesale DSL) should only be provided to licensed operators in Bahrain and not directly to end customers. BRE should not offer these services to retail and enterprise customers or even international telecom operators (not registered in Bahrain) at the pricing mentioned in the RO, so that there is room for Licensed Operators such as Etisalcom to compete in the market. <p>Etisalcom would like the Authority to clarify the above.</p>	<p>The Authority wishes to confirm that there is no overlap of services between Batelco and NetCo. WLA services for existing customers will continue to be offered by Batelco. That is to say that Batelco will not provide WLA services to new customers. Going forward, WLA services will be replaced by WDC which will be provided by NetCo. The Authority would like to clarify that wholesale DSL will be provided to licensed operators but Batelco is not restricted to provide DSL services to existing and new retail customers.</p>
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