A public consultation document issued by the Telecommunications Regulatory Authority of the Kingdom of Bahrain

Consultation regarding the Arab Memorandum of Understanding on the Regulation of the International Mobile Roaming

20 April 2009

The address for responding to this document is:

   General Director
   Telecommunications Regulatory Authority
   P.O. Box 10353, Manama, Kingdom of Bahrain

Alternatively, responses may be sent to TRA by email to consult@tra.org.bh

The deadline for responses is 4pm on 10 May 2009

Purpose: To seek the views of the interested parties on the proposed measures related to implementation of regulation of the international mobile roaming in the Arab Region
Instructions for submitting a response

The Telecommunications Regulatory Authority (“TRA”) invites comments on this consultation document from all interested parties.

Comments should be submitted by 4pm on 10 May 2009.

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General Director
Telecommunications Regulatory Authority
P.O. Box 10353, Manama, Kingdom of Bahrain

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Responses should include:

- brief statement explaining the interest of a party submitting comments in relation to the draft Memorandum of Understanding;

- in the case of responses from corporate persons:
  - the name of the company/institution/association, etc;
  - the name of the principal contact person; and
  - full contact details (physical address, telephone number, fax number and email address);

- in the case of responses from individual consumers, name and contact details.

In the interests of transparency, TRA will make all submissions received available to the public, subject to the confidentiality of the information received. TRA will evaluate requests for confidentiality in line with relevant legal provisions and TRA’s published guidance on the treatment of confidential and non-confidential information1.

Respondents are required to clearly mark any information included in their submissions, which is considered confidential. Where such confidential information is included, respondents are required to provide both a confidential and a non-confidential version of their submission. If a submission is marked confidential in part or in its entirety, reasons for this should be provided. TRA may publish or refrain from publishing any document or submission at its sole discretion.

Responses to this consultative document will be an input into the TRA’s position in the discussions and/or negotiations with other regulatory authorities on the proposed Memorandum of Understanding.

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1. Background

In 2005 the Arab Telecommunications and Information Council of Ministers requested the Arab Regulators’ Network (“AREGNET”) to look into the possibilities to regulate international mobile roaming. Since then AREGNET has conducted several studies, discussed with stakeholders and reported back AREGNET’s proposals to the Council of Ministers. This body of work has resulted in:

1) Adoption of AREGNET Recommendation of 8 April 2007 on the international mobile roaming rates applied among Arab countries, which included measures regarding:
   a. Transparency of roaming tariffs for the benefit of users;
   b. Regulation of wholesale and retail tariffs for roaming in order to protect users from unduly high prices.

2) Arab Telecommunications and Information Council of Ministers adopting the Resolution No. 219 of 4 June 2008, which:
   a. Supported the AREGNET’s Recommendation;
   b. Approved the measures related to transparency of roaming tariffs;
   c. Welcomed the suggested application of the tariff regulation accepted by some of the Arab countries;
   d. Invited the Arab countries, having reservations regarding the recommended tariff regulation, to endeavour to find a mechanism that would allow them to apply the recommended regulation.

3) Decision of the AREGNET General Meeting, held in June 2008, to:
   a. Require implementation of the transparency measures by the end of 2008;
   b. Encourage the implementation of price regulation according to the Recommendation referred to above. It was agreed that for the moment such price regulation might not be enforced in all the Arab countries, but will be encouraged and followed-up by AREGNET;
   c. Request the Permanent Secretary of AREGNET and the AREGNET Working Group on Roaming (coordinated by Bahrain) to coordinate the implementation of the measures referred to above.

International mobile roaming rates have also been a subject of the discussions of the Ministerial Committee for Post, Telecommunications and Information Technology of the Arabian Gulf Cooperation Council (“GCC”). The most recent Resolutions in this regard, adopted at the 17th Meeting of the Ministerial Committee held on 28 May 2008, *inter alia* requested the Members of GCC to:

1) Comply with the Recommendation of AREGNET referred to above;

2) Apply the special regulation for intra-GCC roaming, whereby intra-GCC roaming charges should not exceed international call rates by more than 15 percent.

Based on the above, the AREGNET Working Group on International Roaming, has prepared the text of the Memorandum of Understanding to be signed by Arab regulators, which TRA is hereby consulting on. The purpose of this Memorandum of Implementation is to ensure smooth implementation of the decisions referred to above.
2. Proposed measures

In order to avoid potentially harmful effects and market distortions at a national level it is important to ensure that the implementation of international roaming tariff regulation is achieved in a coordinated, coherent and reciprocal way. Since the final prices charged to users are dependent upon both – the tariffs charged by a visited operator and the mark-ups added by a home operator - implementation of the international roaming regulation by one National Regulatory Authority (“NRA”) in the absence of a reciprocal implementation by the other NRA could lead to operators loosing revenues without benefits being transferred to their own users.

As a consequence of the reasons outlined above it is proposed to implement the roaming regulation via the Memorandum of Understanding, which along with the substantive commitments would also include a clear organisational framework for the implementation thereof together with appropriate checks and balances that ensure effective and fair outcomes for all the participating countries.

The Memorandum of Understanding follows the decisions referred to in the Background section as it:

1) Requires all the participating parties to implement transparency measures;

2) Encourages tariff regulation, but allows opting-in and out of it in order to accommodate different levels of preparedness of various countries.

The Memorandum of Understanding is structured as follows:

1) The main body of the Memorandum of Understanding, which includes general provisions, applicable to all the parties, including the ones related to:
   a. Establishment of the website on roaming tariffs.
      One of the possible options, envisaged by the Memorandum of Understanding, to satisfy this requirement, is to cooperate with third parties already operating similar websites (such as the one operated by the GSM Association under www.gsmaw.org). If the parties to the Memorandum of Understanding are not satisfied with such a website, the Memorandum of Understanding will allow for the establishment of an independent one;
   b. Providing information on tariffs via SMS to users whilst roaming.
   c. Signing, committing to, entry into force of, withdrawal from the Memorandum of Understanding and other similar rules.

2) Annex I to the Memorandum of Understanding, outlining the mechanism for implementation of it. This Annex is also applicable to all the parties. It envisages that implementation will be administered by the following bodies:
   i. The Plenary of the Parties, having the supreme authority in this regard;
   ii. The Roaming Committee, established by the Plenary and tasked with the operational coordination and supervision of the implementation of the Memorandum of Understanding.

In order to achieve the smooth integration of the Memorandum of Understanding with the existing system of regional coordination of policy and regulatory activities,
the Memorandum of Understanding sets out the rules by which information regarding its implementation is provided to and activities are coordinated with the League of the Arab States, GCC and AREGNET. Furthermore, the Memorandum of Understanding allows delegation of functions related to the implementation of it to the bodies of AREGNET.

Whilst the Memorandum of Understanding does not establish the budget for its implementation it does however provide that, where necessary, such a budget may be established by the Plenary upon the recommendation from the Roaming Committee. The Plenary may also decide on the level of contribution by parties to this budget. Such a budget might be necessary to cover the expenses related to the operation of a website on the Memorandum of Understanding and/or website on tariffs (these may or may not be one and the same), fund the monitoring and/or benchmarking of tariffs for roaming and development of the roaming markets, fund experts to conduct studies and provide analysis etc.;

3) Annex II to the Memorandum of Understanding on the Regulation of Tariffs for International Mobile Roaming Services.

This Annex aims to consolidate the provisions related to the tariff regulation. According to the decisions of the League of the Arab States and AREGNET, NRAs may decide to commit to these provisions at a later stage compared to the commitment to the provisions of the main body of the Memorandum of Understanding. This Annex includes:

a. Substantive rules on tariff regulation, including the formulae applicable to the calculation of the maximum wholesale and retail tariffs;

b. Rules, allowing gradual joining the framework of tariff regulation by the parties to the Memorandum of Understanding;

c. Procedural rules ensuring reciprocal and fair implementation of the tariff regulation.

4) Additional Protocol to the Memorandum of Understanding on the Regulation of the International Mobile Roaming within GCC.

The purpose of this Additional Protocol is to implement the decisions of GCC which mandate stricter regulation within GCC compared to that recommended by AREGNET and supported by the League of Arab States. The Additional Protocol is drafted in a way as to ensure that the general framework established by the Agreement could be used for the purposes of intra-GCC regulation to the full extent, amending only the substantive rules and only to the extent necessary. This Additional Protocol will be applicable only to the GCC regulatory bodies.

3. Additional information

The presentation on the Implementation of the AREGNET Recommendation on the International Roaming Rates applied among Arab Countries, published together with this consultation, provides further background information on the measures proposed.