

REGULATION

Accounting Separation

ACCOUNTING SEPARATION REGULATION

A Regulation issued by the Telecommunications
Regulatory Authority

02 August 2004

REFERENCE

LAU RN 004

Purpose: Sets out requirements for accounting separation by licensees.



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Definitions and Interpretation

Any word, phrase or expression used in this regulation shall, unless the context requires otherwise or it is expressly defined herein have the same meaning as it has in the Legislative Decree No. 48 of 2002 Promulgating the Telecommunications Law (the “Telecommunications Law”) and the Accounting Separation Regulation and the terms below shall have the following meaning:

“**Accounting period**” shall be of one year ending on the calendar date to which the licensee normally makes up its financial accounts for statutory or publication purposes, unless the TRA advises the licensee of another Accounting period in writing.

“**Aggregate revenues from licensed activities**” means the gross annual turnover attributable to licensed services.

“**Applicable regulations**” means this Regulation that is published in accordance with the provisions of section 53 of the Telecommunications Law as may be amended from time to time.

“**Combined Accounting**” means the preparation of a single set of Regulatory Accounts in respect of two or more licensed activities under a written dispensation granted by the TRA.

“**Cost Causality**” means the attribution and allocation of costs (including transfer charges), assets and liabilities to Units in accordance with the activities, including revenue achievement, which cause the costs to be incurred and the assets to be acquired or liabilities to be incurred.

“**Determinations under this Regulation**” means written determinations issued by the TRA as it sees fit relating to the manner, form and timing of the production of Regulatory Accounts, together with the methodologies and other matters to be applied in their preparation.

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“Good practice principles related to financial reporting” means financial reporting that is relevant to the matters reported upon; is reliable, permits comparisons to be made, is understandable to users and complies with the concept of materiality. To be relevant, reporting must have the ability to influence the economic decisions of users and be provided in time to influence those decisions. To be reliable, the reporting must be able to be depended upon by users to represent what is purported to be represented or what might reasonably be expected to be represented; it must be free from deliberate or systematic bias or material error, and, it must be complete within the bounds of materiality.

“License obligations relating to the production of Regulatory accounts” means the term that is entered into all telecommunications licenses, which states: ‘The licensee shall present in written form Regulatory Accounts for the licensed telecommunications activities in accordance with the applicable regulations’.

“Licensed operator” means a person who is licensed to operate a telecommunications network or to provide a telecommunications service under Section 25 of the Telecommunications Law.

“Person” means any natural or artificial person or public authority.

“Regulatory Accounts” means financial information relating to licensed activities, together with associated notes and explanatory material, which is published to accord with the terms of this Regulation.

“FAC Regulatory Accounts” means financial information relating to licensed activities, together with associated notes and explanatory material, which is published to accord with the terms of this Regulation, in accordance with the Fully Allocated Cost methodology.

“LRAIC Regulatory Accounts” means financial information relating to licensed activities, together with associated notes and explanatory material, which is published to accord with the terms of this Regulation, in accordance with the Long Run Average Incremental Cost methodology.

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“Structural Separation” means the division of an integrated telecommunications business of a licensee into two or more separate legal entities so that each entity independently performs distinct licensed telecommunications activities and owns and has day-to-day control of the assets and operational capabilities, including employees, by means of which such activities are carried out.

“FAC Submission date” shall be 6 months after the Accounting Period by which Regulatory Accounts shall be submitted to the TRA by the licensee, unless the TRA advises the licensee of another Submission date in writing.

“LRAIC Submission date” shall be 9 months after the Accounting Period by which Regulatory Accounts shall be submitted to the TRA by the licensee, unless the TRA advises the licensee of another Submission date in writing.

“The licensed telecommunications activities” means activities carried out by a licensed operator under the terms of a license that is awarded to that licensed operator by the Telecommunications Regulatory Authority of the Kingdom of Bahrain.

“Transfer Charging System” means a documentary and accounting process whereby services or facilities supplied by one Unit to the business related to another Unit are charged to the receiving Unit as though the Units that are party to the supply transaction were under separate third-party ownership.

“Unit” means a delineated and logically separate business stream or cohesive collection of activities whether separately licensed or otherwise within the undertaking of a Person that is not subject to structural separation and for which Regulatory Accounts must be prepared.

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1. General obligations related to separate Regulatory Accounting

1.1 Licensed operators shall prepare the following:

(a) FAC Regulatory Accounts (for the Accounting Period by the FAC Submission Date) that fulfil License obligations relating to the production of Regulatory Accounts, good practice principles relating to financial reporting and comply with the further provisions of this Regulation; and

(b) LRAIC Regulatory Accounts (for the Accounting Period by the LRAIC Submission Date) that fulfil License obligations relating to the production of Regulatory Accounts, good practice principles relating to financial reporting and comply with the further provisions of this Regulation; and

(c) An accounting procedures manual which requires prior written TRA approval. Such manual should set out the procedures by which separated accounts will be prepared by the licensee including detailed listing of accounting policies and the allocation methodology (including allocation of indirectly attributable costs). This shall be submitted to the TRA for approval within 60 days of publication of the Regulation for those operators already granted a licence and within 90 days for any operator being granted a new licence by the TRA, and annually thereafter, containing written explanation of the changes and the reasons for such changes from the previous submitted manual. The TRA will acknowledge receipt of such a manual within 5 working days and where deemed appropriate provide written approval of such manual within 45 working days of receipt. Where the procedures within the manual do not meet the requirements of the TRA, the Licensed operators shall make amendments as necessary to satisfy the TRA.

1.2 The TRA shall issue Determinations under this Regulation as it deems appropriate.

1.3 An auditor that is approved by the TRA shall audit all Regulatory Accounts, at the expense of the Licensee. The auditor shall express an opinion as to whether the Regulatory Accounts are properly prepared, within the bounds of materiality, in accordance with the procedures manual that has been approved by the TRA. The TRA will review the audit standard within two years of the regulation coming into force with a view to establishing whether the audit standard provides the necessary level of assurance that is required.

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- 1.4 Persons that are granted more than one telecommunications licenses by the TRA shall prepare separate Regulatory Accounts in the manner described in section 1.1 for each Unit, unless a dispensation to this requirement is granted by the TRA, in accordance with section 9. Section 9 provides criteria, procedure and other provisions relating to such dispensation.
- 2. Requirements applicable to Persons that are granted multiple telecommunications licenses**
- 2.1 Persons that hold multiple licenses must so organise their business operations as to permit the clear identification of Units. Each of these Units shall account separately as provided in section 1.1.
- 2.2 To the extent that Units enter into transactions or otherwise do business with each other they shall implement a Transfer Charging System. Licensees shall show such transfer charges separately in Regulatory Accounts and disclose details of transactions that are equivalent to such transfers that have been entered into with third party licensees.
- 2.3 To the extent that Units share common costs, the common costs shall for the purpose of producing Regulatory Accounts be allocated to Units, services and products based on a transparent attribution and apportionment methodology:
- (a) The transparent attribution and apportionment methodology shall be based on cost causality. Allocations under the methodology must be objective and specifically not intended to advantage the Person that hold multiple licenses, or any other licensee, relative to the generality of licensees or customers; and
 - (b) The attribution and apportionment methodology must yield consistency of treatment between accounting periods. Should for objective reasons the basis of attribution or apportionment be changed, any material impact upon information provided must be noted in the Regulatory Accounts and comparative data re-stated according to the revised basis of attribution or apportionment.
- 2.4 The Regulatory Accounts must explicitly state differences, if any, between the extent of costs that are attributed and apportioned by licensees and the extent of costs that have been approved by the TRA for the purpose of determining charges, tariffs and similar matters, this may be done in the form of notes to the Regulatory statements.

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3. Requirement applicable to Persons to whom a single license has been granted and who have not been determined by the TRA to have significant market power (SMP) in defined markets

Such Persons shall prepare Regulatory Accounts that encompass and reflect in aggregate all activities carried out under the license.

4. Requirement applicable to Persons that supply products or services in a market or markets in which they are determined to have SMP

Notwithstanding other provisions within this Regulation such Persons shall account separately for services and products supplied in a market or markets in which they are determined to have SMP.

5. Requirement applicable to Persons to whom multiple licenses have been granted relating to the separation of Units for accounting purposes

5.1 Except as otherwise provided in this Regulation, a Unit shall comprise all activities carried out under a single license.

5.2 Activities carried out under the National Fixed Services License granted to licensees with multiple licenses or declared to be dominant or have Significant Market Power (SMP) in a market licensed under a National Fixed Service License shall comprise four Units as follows:

(a) Core network services unit

A core network service provides a range of interconnection services internally within the licensee and externally in order to allow the customer of one licensee to communicate with customers of the same or another licensee, or to access services provided by another licensee. These services include the switching and conveyance of communications traffic.

(b) Local access network services unit

A local access network service provides connections to the core network. For accounting separation purposes the local access network services will recognise all customer-dedicated components of the network, including line cards and ports at concentrators and exchanges. All other network elements represent the core network.

(c) Retail unit

A retail business encompasses the sale of basic data and voice services to end-users, together with leased lines, payphones, the provision of directory information, telex and telegraph services.

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(d) Other activities unit

This classification shall encompass all other activities beyond those described in section 5.2(a), (b) and (c) above that may be carried out under a National Fixed License.

6. Requirement applicable to Persons to whom multiple licenses have been granted relating to attribution and allocation of revenues, costs, assets and liabilities to services and products within Units

6.1 Revenue from the supply of licensed services or products shall be attributed to those services and products and thereby to Units. Revenue arising other than from the supply of licensed services/products shall also be apportioned to services and products. Where such revenue is material the provisions of section 6.4 shall apply.

6.2. The costs of licensees shall be grouped into three categories and allocated as indicated hereunder:

6.2.1. Direct and directly attributable costs

Direct costs are those that unambiguously relate to an individual service or product and shall accordingly be so attributed and thereby to the Units, if applicable.

6.2.2. Indirectly attributable costs

These are costs that shall be allocated to a service or product and thereby to Units, if applicable, through a relationship to other costs or other factors linked to the relevant service/product. The allocation is not arbitrary and notes to the Regulatory Accounts must explain how such indirectly attributable costs have been allocated.

6.2.3 Un-attributable costs

These are costs that cannot fit into either of the above categories. The TRA requires this category to represent less than 10% of overall costs.

By definition the costs cannot be allocated on a non-arbitrary basis.

Un-attributable costs shall be allocated by an Equal Proportionate Mark-up method, whereby un-attributable costs are allocated to services or products and thereby to Units, if applicable, in proportion to the sum of the directly attributable cost, plus indirectly attributable costs that have been allocated to a service or product.

6.2.4 Disallowed costs

Where the TRA has disallowed certain of the costs of licensees, for price regulation purposes or otherwise, when preparing Regulatory Accounts a reconciliation shall be supplied between the attribution or allocation of all costs and the attribution or allocation of allowed costs.

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- 6.3 Capital employed in Units, or where a licensee has SMP in relation to the provision of individual services or products, shall be identified and allocated as follows:
- 6.3.1 Plant and equipment that is directly used in the provision of products or services shall be allocated to Units on a basis that is objectively rational, and where required, under section 4 to products and services.
 - 6.3.2 Tangible assets that are used by more than one product/service or Unit shall be allocated on a relative utilisation basis.
 - 6.3.3 Tangible assets used for support activities shall to the extent possible be allocated on the basis described in 6.3.1. Where such allocation is not possible the basis described in 6.3.2. shall be applied.
 - 6.3.4 Intangible assets shall be allocated to Units, and where required under section 4, to products and services on a basis that is objectively rational given the circumstances under which the intangible asset came to be recognised.
 - 6.3.5 Financial assets shall be allocated in the manner described in section 6.3.4. except to the extent that the TRA specifically agrees that no objectively rational basis of apportionment can be identified, in which event the financial asset shall be isolated for reporting purposes within Regulatory Accounts.
 - 6.3.6 Working capital, which is defined as current assets and current liabilities, including the current portion of loans or similar instruments, shall be disaggregated into its component elements, including assets and liabilities that arise under transfer charging systems. The disaggregated assets and liabilities shall be allocated to Units and, where required under section 4, to the products and services which give rise to the asset or liability.
- 6.4 In circumstance in which a Person, to whom the provisions of section 6 other than 6.3.5 applies, considers that an objectively rational basis of apportionment cannot be established, such Person may apply to the TRA in writing for a ruling as to the basis of apportionment to be applied.
- 6.5 Such application shall be made in the aggregate of such circumstances in order that the TRA may assess the materiality of arbitrary apportionments. In considering such an application the TRA may request such further information of the applicant as it deems necessary.

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- 7 Requirement relating to costing methodologies to Persons that are subject to the provisions of section 4.**
- 7.1 Such Persons shall produce both FAC Regulatory Accounts and LRAIC Regulatory Accounts that reflect the Long Run Average Incremental Costs (LRAIC) associated with services and products.
- 7.2 Such Persons shall submit to the TRA, within 90 days of the coming into force of this Regulation, or within 90 days of the Person becoming subject to the terms of section 4, detailed proposals for the production of LRAIC Regulatory Accounts that reflect LRAIC, and annually thereafter, containing written explanation of the changes and the reasons for such changes from the previous submitted manual. The proposals shall encompass details of the standards and methodologies to be employed in the identification of LRAIC, including the application of Current Cost Accounting asset valuations, the timescale for implementation of necessary systems and procedures and the date by which LRAIC Regulatory Accounts will be made available to the TRA
- (a) For an existing Person subject to provisions of section 4, such date of Regulatory Accounts being available shall be the LRAIC Submission date, unless such a Person has obtained prior written approval from the Regulator for a time extension.
- (b) Persons that become subject to provisions of section 4, after the regulation comes into force, will need to produce LRAIC Regulatory Accounts that reflect LRAIC within one year of the Person becoming subject to the terms of section 4, and thereafter by the LRAIC submission date, unless such a Person has obtained prior written approval from the Regulator for a time extension.
- 7.3 In the event that the date proposed for production of LRAIC-based Regulatory Accounts by a licensee does not encompass its full year trading for the year 2003, that licensee shall include within the proposals referenced in section 7.1, the production of Regulatory Accounts for the proportion of the year to December 2003, but shall include adjustments to reflect Current Cost Accounting for the full year 2003. These adjustments reflecting full year accounts shall be verified by the auditor as being a reasonable reflection of full year accounts.
- 7.4 Proposals submitted under the terms of sections 7.1 and 7.2 shall be considered by the TRA. The TRA shall approve proposals or order amendments to the proposals within forty-five (45) working days of receipt of properly prepared proposals and the receipt of such additional information as the TRA deems necessary.
- 7.5 Relevant Persons shall comply with written instructions from the TRA to apply adjusting efficiency factors to data derived from actions required by sections 7.1 and 7.2. The TRA shall notify relevant Persons of such factors in writing and application of the factors shall be reflected in Regulatory Accounts.

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7.6 Relevant Persons shall comply with written instructions from the TRA to apply Stand-Alone Costing to services and products in circumstances where the TRA considers this to be an appropriate means of investigation of the pricing of services and products. Persons are not required to maintain separate costing systems to facilitate this obligation but are required to order their internal accounting systems in such a way as to not preclude their ability to meet this obligation.

8 Provisions relating to prices and associated terms of trading within Transfer Charging Systems to Persons that are subject to section 4.

8.1 Charges for services or products that are supplied by means of transfers between Units under the control of the same Person shall be made at the same price and on the same commercial terms, including payment terms, as a comparable supply to e.g. comparable third party licensees.

8.2 Where relevant, charges shall be made as provided by Determinations relating to Interconnection and Access services published by TRA from time to time.

9. Provision relating to dispensation which may be granted to Persons holding multiple telecommunications licenses

9.1 Persons that are granted multiple telecommunications licenses may apply to the TRA in writing for a dispensation from the obligation within section 1.4. The dispensation may permit the preparation of Regulatory Accounts for all, or some of the licensed activities in aggregate. The TRA shall consider each application and publish its decision within thirty (30) working days of receipt of the application and once all such further information that the TRA determines at its absolute discretion is necessary to its consideration of the application. The TRA may grant such a dispensation where:

(a) the aggregate revenues from licensed telecommunications activities of the applicant have not for any period of one month up to the date of the application exceeded an annualised level of BD 12 (twelve) million, or;

(b) the applicant is not determined by the TRA in relation to any of its licensed activities to have significant market power.

9.2 The dispensation may not be granted for a period exceeding two years.

9.3 In circumstances where a Person that is granted multiple telecommunications licenses does not fulfil the criteria to receive a dispensation within the terms of section 9.1, it may apply in writing to the TRA for a dispensation to account for two or more of its licensed activities on a combined basis (“Combined Accounting”). The grant of such a dispensation shall be at the discretion of the TRA. The TRA may exercise its discretion in this regard where:

(a) licensed activities put forward for consideration for Combined Accounting with other licensed activities are negligible in revenue

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and market share terms and in the opinion of the TRA are likely to remain so for a period of at least two years;

- (b) Combined Accounting will not materially prejudice the ability of the TRA to carry out its obligations under the Law;
- (c) in none of the licensed activities that are proposed for Combined Accounting is a licensee determined to have significant market power; and
- (d) the period of dispensation sought does not exceed two years.

9.4 The TRA may withdraw any dispensation made under sections 9.1 or 9.3 and make a separate Order for the preparation of Regulatory Accounts in circumstances where:

- (a) The TRA becomes aware that the circumstances of the Person to whom a dispensation was granted have changed, such that were it to apply in prevailing circumstances for a dispensation under section 9.1 or 9.3 it would not be eligible for such dispensation;
- (b) The Person has been found to be in breach of the Telecoms Law, Section 65 (a), (b) or (c) or Licence conditions in relation to Section 23 of the National Fixed Services licence and all such provisions contained in other telecommunications licences granted by the TRA;
- (c) The TRA has given at least 21(twenty-one) days notice to the holder of the dispensation of its intention to withdraw the dispensation.

9.5 A Person to whom any dispensation has been granted under the terms of section 9.1 and 9.3 may 45 (forty-five) days before expiry of the dispensation apply to the TRA, with a request to be granted a further dispensation should the conditions stated in relation to sections 9.1 and 9.3 continue to be met.

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10 Requirement relating to the form and lodgement of Regulatory Accounts

- 10.1 All Persons that are subject to this Regulation shall supply Regulatory Accounts, that comprise a profit and loss statement which details the composition of revenues, transfer charges, transactions with other licensed operators, operating costs and margins, together with a balance sheet that differentiates between fixed assets, investment, current assets and current liabilities, including assets and liabilities that arise from transfer charges.
- 10.2 The material described in 10.1 shall be supplemented with (at a minimum):
- 10.2.1. A brief statement of the accounting policies applied;
 - 10.2.2. A summary of transfer charges between identified Units and service and product classifications, where applicable;
 - 10.2.3. A statement of costs disallowed by the TRA;
 - 10.2.4. A statement reflecting the application or implementation of adjustments under section 7.4;
 - 10.2.5. A reconciliation between aggregated Regulatory Accounts and published Financial Accounts;
 - 10.2.6. An audit certificate as required by the Accounting Regulation; and
 - 10.2.7 A statement by the CEO of the licensee that there is no additional information that should be brought to the attention of the TRA in relation to the submitted accounts.

11. Further information requirements and the publication of material

- 11.1 The provisions of this Regulation and any Determination(s) issued under its terms shall not limit the rights of the TRA under the Telecommunications Law to require licensees to provide information whether in accounting format or otherwise nor its right to require on a case by case basis further disaggregation of costs or revenues or for the licensee to account for by way of example, product, service, unit, in a particular way, subject to the TRA giving reasons for such a decision.
- 11.2 The TRA may issue guidelines in due course in respect of the detail of the regulatory accounts.
- 11.3 The regulatory accounts will be treated as confidential and not published by the TRA, until such time when a consultation on market information requirements has been conducted and agreement reached on the necessity of making such material available to the public or unless the TRA considers it appropriate for the proper exercise of its functions. The accounting procedures manual will be made public by the TRA.