

ORDER

Interim Interconnection Order No. 3

INTERIM INTERCONNECTION ORDER NO. 3

An Order issued by the Telecommunications
Regulatory Authority

14 March 2004

REFERENCE

LAU DC 280

Purpose: Sets out provisions for interim interconnection between Batelco and MTC Vodafone Bahrain.



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Regulatory
Authority

Interim Interconnection Order No. 3

INTERIM INTERCONNECTION

1. Definitions and Interpretation

- 1.1 Any word, phrase or expression used in this Order 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 “Law”).
- 1.2 “Interconnect” shall have a meaning that corresponds to the meaning of interconnection, as defined in the Law.

2. Background

- 2.1 Section 1.1 of the national plan for telecommunications envisages, among other things, the liberalisation of telecommunications services in the Kingdom of Bahrain.
- 2.2 On April 22, 2003, the TRA granted a mobile telecommunications license to MTCV Vodafone (Bahrain) B.S.C. (c). (“MTCV”).
- 2.3 As Batelco provided service pursuant to Section 80 of the Law, the TRA granted various licenses to the Bahrain Telecommunications Company B.S.C. (“Batelco”) on June 21, 2003.
- 2.4 Section 65 of the Law deals with, among other things, the promotion of competition in telecommunications in the Kingdom of Bahrain.
- 2.5 The relevant license conditions of each of Batelco and MTCV (each a “Party” and together “the Parties”) compel them to refrain from engaging in anti-competitive practices.
- 2.6 On March 15, 2003, the TRA published a consultation paper on Dominance in Interconnection Markets and received comments from interested parties.
- 2.7 On August 9, 2003, the TRA determined that Batelco has a dominant position in relation to all relevant telecommunications markets for purposes of interconnection.
- 2.8 Section 3(c)(1) of the Law grants the Authority (the “TRA”) the power to make such orders as may be necessary for the implementation of the Law, including orders in relation to interconnection.
- 2.9 Section 3(c)(13) of the Law grants the TRA the power to encourage, regulate and facilitate adequate interconnection arrangements.
- 2.10 Section 57 of the Law deals with, among other things, interconnection and provides in Section 57(g) that the TRA may resolve disputes related to interconnection within one month of the commencement of negotiations between the relevant parties.

Interim Interconnection Order No. 3

- 2.11 Since approximately June 9, 2003, Batelco and MTCV have been in discussions, negotiating and liaising in connection with interconnection matters.
- 2.12 On November 8, 2003, the TRA received the reference interconnection offer (the “RIO”) from Batelco pursuant to Section 57(b) and (d) of the Law, which RIO is currently under review by the TRA (the “Review”).
- 2.13 If the TRA does not approve all the terms and condition of the RIO, upon completion of the Review, the TRA may issue an order specifying the terms and tariffs of the RIO pursuant to Section 57(b) of the Law. The TRA is currently in the process of reviewing the RIO and may specify such terms and tariffs by means of a subsequent order.
- 2.14 On 29 November 2003 the TRA issued an interim interconnection order (“Order No. 1”) in which, among other things, Batelco and MTCV were ordered to act in good faith to facilitate and implement interconnection and take all action reasonably necessary to do so in an effective manner that encourages efficient and sustainable competition.
- 2.15 On 10 and 11 December 2003, respectively, each of the Parties referred a dispute to the TRA pursuant to Section 57(g) of the Law related to their ongoing interconnection negotiations. In addition, each of the Parties requested the TRA, on an urgent basis, to intervene and determine interim interconnection terms and rates between them.
- 2.16 Each of the Parties submitted detailed written comments to the TRA in relation to interim interconnection terms and rates and had the opportunity to comment on the other Party’s comments. At the request of the Parties, the TRA met with them on 14 December 2003 to facilitate the finalization of interim interconnection terms and rates between the Parties that will regulate the terms and rates on which they will interconnect until the completion of the TRA’s review (“Review”) of the RIO.
- 2.17 On 15 December 2003 the Parties provided the TRA with a form of interim interconnection agreement which included the terms and rates upon which the Parties were able to reach agreement, together with an indication of the terms and rates on which agreement could not be reached. Such form and comments form the basis of Annex A attached hereto.
- 2.18 The TRA took the comments and submissions of the Parties into account in drafting the interim interconnection order No. 2 (“Order No. 2”) as well as the price information received at that time from the Parties. In recognition of (a) the fact that the TRA’s review of the pricing information and the RIO are still ongoing and (b) the urgent basis on which the TRA had been requested by the Parties to act, Annex A to Order No. 2 contemplated a monthly review period to consider any further price information received by the TRA and/or refinement in the TRA’s analysis of the available price information and other relevant facts, which may have resulted in an amendment to the rates in Order No. 2 from the date of such amendment.

Interim Interconnection Order No. 3

2.19 This Interim Interconnection Order No. 3 (“Order” or “Order No. 3”) is issued on the basis that Order No. 2 expires at midnight on Sunday 14th March and that the Parties have failed to enter into an interim commercial agreement pending the TRA’s Review and the Parties entering into a commercial Interconnection Agreement. The TRA has had referred to it a dispute, pursuant to section 57(g) of the Law between the Parties regarding interconnection, and issues this Order with a view to resolving such dispute.

3. Status of this Order

3.1 This Order is intended to supplement the framework within which Batelco and MTCV shall conduct themselves in connection with interconnection matters pending the finalization of the Review and the current negotiations between the parties. This Order does not in any manner restrict the parties from agreeing an interconnection agreement between them that complies with applicable law.

3.2 If the TRA issues a subsequent order upon completion of the Review or otherwise, some or all of the terms of this Order may be superseded by such subsequent order.

3.3 Unless expressly otherwise provided herein, this Order shall become effective on March 15th, 2004 (the “Effective Date”) and shall remain in force until the earlier to occur of:

- (a) The entering into of an interconnection agreement between Batelco and MTCV pursuant to the RIO; or
- (b) One (1) month following any TRA approval of the RIO, during which month the Parties shall enter into a commercial interconnection agreement; or
- (c) A date specified in a subsequent order by the TRA; or
- (d) The termination of this Order pursuant to the terms of Annex A hereto, including, without limitation, clause 2.1 thereof in relation to the monthly renewal period.

3.4 This Order repeals and replaces Order No. 2.

3.5 While the TRA intends to publish this Order in accordance with its customary practice, commercially sensitive parts of this Order shall be excluded from any version hereof that comes into the public domain.

3.6 This Order does not affect the continuous validity of the Call Forwarding Agreement, reference LAU DC 183 of 31st December 2003.

4. Order

4.1 With effect from the Effective Date, and without limiting (a) any other obligation of Batelco or MTCV under applicable law and their respective licenses and (b) any interconnection agreement between Batelco and MTCV that complies with applicable law, Batelco and MTCV shall interconnect with each other in accordance with the

Interim Interconnection Order No. 3

terms and rates set forth in Annex A hereto and otherwise act in good faith to facilitate and implement interconnection and take all action reasonably necessary to do so in an effective manner that encourages efficient and sustainable competition.

- 4.2 Batelco and MTCV shall each provide the TRA with written progress reports by both fax and email of their respective compliance with this Order on or before 5 PM on March 29, 2004 and every two weeks thereafter. Such written report shall include the following detail:
- (a) Details of issues arising from compliance with this Order ;
 - (b) Suggestions for amending the rates in Annex A together with supporting information for such request; and
 - (c) Other relevant information each Party wants to bring to the attention of the TRA.