



هيئة تنظيم الاتصالات
Telecommunications Regulatory Authority
Kingdom of Bahrain - مملكة البحرين

Revenue Reporting Regulation (RRR)

A Consultation Document issued by the Telecommunications Regulatory Authority of the Kingdom of Bahrain

20 August 2015
Ref: TRA/LIC/SL/0715/069

Public version

Purpose: To consult on the Draft Revenue Reporting Regulation that sets out the manner by which gross annual turnover is to be accounted for and reported for the purposes of calculating the gross annual turnover-based licence fees.

The address for responses to this document is:

Telecommunications Regulatory Authority
PO Box 10353, Manama, Kingdom of Bahrain
RRR@tra.org.bh

The deadline for responses is **20 September 2015**

Legal Disclaimer

This Consultation is not a binding legal document and also does not contain legal, commercial, financial, technical or other advice. The Telecommunications Regulatory Authority is not bound by it, nor does it necessarily set out the Authority's final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by it of its functions and powers, and the carrying out by it of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the Authority. Inappropriate reliance ought not therefore to be placed on the contents of this document.

Revenue Reporting Regulation – Public Consultation
List of acronyms and definitions

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List of acronyms and definitions

List of acronyms and definitions

APM	Accounting Procedures Manual
BB	Broadband
BD	Bahraini Dinars
CAPEX	CAPital Expenditure
Bundled services	Grouping the sale of retail telecommunications products and/or services into a single contractual package
CDN	Content Delivery Network
Content	Audio-visual programming material, such as information or entertainment, which is to be conveyed over a telecommunications network
CPE	Customer Premises Equipment
DSL	Digital Subscriber Line
EU	European Union
GAT	Gross Annual Turnover
GCC countries	Gulf Cooperation Council countries
IFRS	International Financial Reporting Standards
IP	Internet Protocol
IPTV	Internet Protocol Television
ITU	International Telecommunication Union
Kbps	Kilobits per second
LLCO	Local Leased Circuit for OLO
LLU	Local Loop Unbundling
MB	Megabytes
Mbps	Megabits per second
NGN	Next Generation Network
NRA	National Regulator Agency
OLO	Other Licensed Operator
SHDSL	Symmetrical High-speed Digital Subscriber Line
SIM	Subscriber Identity Module
SMS	Short Message Service
TRA	Telecommunications Regulatory Authority of the Kingdom of Bahrain
Transit	Connection to, and use of, a telecom path
UC	Un-attributable Costs
VOD	Video On Demand
WACC	Weighted Average Cost of Capital
WBA	Wholesale Broadband Access
WDSL	Wholesale Digital Subscriber Line
WLR	Wholesale Line Rental

Revenue Reporting Regulation – Public Consultation
Part 1 – Invitation to public consultation

PART 1: Invitation to public consultation

Request for comments

1. The Telecommunications Regulatory Authority (the “Authority”) invites all interested parties to submit written comments with regard to the issues addressed in the consultation document.
2. The Authority particularly welcomes comments and responses to the specific numbered questions set out in the “Reasoning for the Draft Revenue Reporting Regulation”, supported by appropriate substantiation.
3. Responses should be sent to the Authority preferably by email (PDF format) or by fax or post (Comments submitted in printed format, especially by fax or post, must be accompanied by a CD-ROM or USB storage key containing the same comments in electronic format) to the attention of:

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

Email : RRR@tra.org.bh
Fax: +973 1753 2125

4. Responses should include:
 - a. the name of the company/institution/association etc.;
 - b. the name of the principal contact person;
 - c. full contact details (physical address, telephone number and e-mail address); and
 - d. in the case of responses from individual consumers, name and contact details.

Format of comments

5. In providing their comments, interested parties are kindly requested to use the following template. In particular, any comment should clearly specify the numbered questions it is referring to and indicate any attachment relevant to the specific comment.

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Consultation on the Draft Revenue Reporting Regulation		
[Name of the company/ institution/ association]	[Name of principal contact person, and position]	[Contact information i.e. email address, telephone number, fax number, postal address etc.]
[Enter number of question] Example: Q1	[Enter here the exact wording of the question referred to]	
Comment	[Enter here your comment on the question referred to above]	
Substantiation	[Enter here the substantiation in support of your comment]	
Attachment	[Enter here number and title of any attached document relevant to your comment]	

6. Responses should include:
- a. the name of the company/institution/association etc.;
 - b. the name of the principal contact person and his/her position;
 - c. full contact details (email address, telephone number, fax number, postal address etc.); and
 - d. in the case of responses from individual consumers, name and contact details.
7. The Authority expects the comments to follow the same order as the one set in the “Reasoning for the proposed Draft Revenue Reporting Regulation” and summarised in the list of questions.
8. The Authority also invites respondents to substantiate their responses. Any response submitted without any substantiation may not be considered. In case of disagreement with one of the approaches proposed by the Authority, the respondent is invited to provide an alternative to such approach together with detailed justifications.
9. In the interest of transparency, the Authority intends to make all submissions received, available to the public. The Authority will evaluate a request for confidentiality in line with relevant legal provisions and the Authority’s published guidance on the treatment of confidential and non-confidential information¹

¹ The Authority, *TRA Treatment of Confidential and Non-Confidential Information*, 10 September 2007 (ref: LAU/0907/160).

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Part 1 – Invitation to public consultation

10. Respondents are required to mark clearly any information included in their submission that 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 (soft copies and not scanned copies). If a part or a whole submission is marked confidential, reasons should be provided. The Authority may publish or refrain from publishing any document or submission at its sole discretion.

Structure of the consultation document

11. The consultation document consists of the following five (05) parts:
 - a. Invitation to public consultation (Part 1);
 - b. Introduction to the public consultation (Part 2);
 - c. Reasoning for the Draft Revenue Reporting Regulation (Part 3);
 - d. Draft Regulation No.[...] of 2015 (Part 4), and
 - e. Appendices, comprising the Proposed List of Licensed and Non-licensed Services and the Draft Revenue Reporting Declaration Form (Part 5).

Way forward

12. This consultation is open for public comments.
13. All relevant (substantiated) comments will be reviewed and the Authority may, at its sole discretion, integrate those acceptable to it in the finalized version of the new Revenue Reporting Regulation. Therefore, the Authority will not be bound to comply with any comment or opinion received and may not respond to comments or opinions individually.
14. Once the Authority has received and reviewed all the comments raised by respondents, it will issue a Consultation Report together with the final Regulation.
15. For generic information about the Authority's consultation processes, interested parties are invited to refer to the "Consultation Process Regulation" dated 10 August 2003 at the Authority's website²
16. For more clarification concerning this specific consultation process, interested parties are invited to contact RRR@tra.org.bh

² http://www.tra.bh/media/document/Consultation_Process_ERU_RN_001_v1.0%5B1%5D_PDF.pdf

Revenue Reporting Regulation – Public Consultation
Part 2 – Introduction to public consultation

PART 2: Introduction to the public consultation

17. The present public consultation gives the opportunity to interested parties to contribute to the on-going process of the Authority to improve the efficiency and consistency of the process for reporting revenue in order to calculate and pay the annual licence fees.
18. The Authority is in charge of regulation in the public telecommunications sector. It was established by Legislative Decree No. 48 of 2002 promulgating the Telecommunications Law (the “Telecommunications Law”). Since its establishment, the Authority has been working with government entities, consumers, operators and investors to develop the Kingdom into the region’s most modern telecommunications hub and to facilitate the growth of the telecommunications market.
19. The Authority carries out its duties independently and in a transparent and non-discriminatory manner. Its tasks include, inter alia, the introduction of competition in the telecommunications market, the promotion of effective and fair competition among licensed operators and the protection of the interests of subscribers and users of telecommunications services.
20. In particular, the Authority is empowered to set and collect licence Fees and fines, which are in turn used to fund its operations and activities. In accordance with Article 18 of the Telecommunications Law, the funding of the Authority is derived from application, initial and renewal fees charged for licences, annual turnover-based fees and fines collected from licensees.
21. Pursuant to Article 3(f) of the Telecommunications Law, the Authority is, except in emergency cases, required to give interested parties the opportunity to share their opinions on any planned measure that will have a material effect on a particular Telecommunications market.
22. In the present consultation document, the Authority outlines its positions with regard to a range of questions related to the way in which the annual licence fee is calculated, and the process whereby it is paid, and would like to collect views of interested parties on these issues.

PART 3: Reasoning for the proposed Revenue Reporting Regulation

1 Executive summary of main proposals

23. The funding of the Authority is derived in part from a percentage of the gross annual turnover (“GAT”) of each licensed operator, which shall not exceed 1% of the GAT (currently set at 0.8%) of the licensee attributable to the licensed services, payable in advance using the GAT for the previous calendar year and adjusted to reflect actual reported figures when the GAT for the current calendar year becomes available. Operators are required to make an annual submission to the Authority detailing their GAT, which the Authority then uses to invoice the operator for the appropriate annual licence fee.
24. The Authority has undertaken a review of the revenue reporting framework that is currently in existence with the aim of seeing how best it might be amended to ensure that it operates more effectively, both from the perspective of the Authority and of licensed operators.
25. In the course of its review, the Authority has identified a number of issues and shortcomings with regard to the current revenue reporting framework. These relate to a lack of clarity and consistency both in terms of what is being reported by licensed operators and in relation to the timescales within which annual revenues are reported to the Authority. In addition, the Authority has identified significant issues in relation to compliance with the current framework.
26. The proposals set out in this Consultation are designed to deal with the issues the Authority has identified with the current framework.
27. The key elements of the proposed new revenue reporting framework being put forward by the Authority in this are as follows:
 - a. The development of a standardised Revenue Reporting Declaration Form, which all licensed operators will be required to complete when submitting details of their GAT to the Authority;
 - b. The provision of guidance for operators on the method to be used in completing the Revenue Reporting Declaration Form, including guidance on the treatment, for revenue reporting purposes, of licensed and non-licensed revenues;
 - c. The introduction of a clear timetable for the submission of the annual Revenue Reporting Declaration and annual financial statements to the Authority by licensed operators and for the subsequent payment of annual licence fees by operators;
and
 - d. The introduction of measures to ensure compliance by licensed operators with the revised framework for revenue reporting.
28. The Authority’s proposed Revenue Reporting Declaration Form is appended to this Consultation at Annex B (contained in a separate Excel file). The guidance to licensees on the treatment of licensed and non-licensed revenues is set out in Section 4 and Annex A. Details of the proposed timetable and compliance measures are contained in Section 5.

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Part 3 – Reasoning for the proposed Regulation

2 Introduction

2.1 Context of the review

29. Article 18 of the Telecommunications Law³ provides that funding of operations and activities of the Authority shall be derived from, amongst other sources, a percentage of each individual licensee's⁴ GAT. The Telecommunications Law defines who can be considered to be a licensee (Article 26), in terms of their incorporation and operation in Bahrain.
30. The percentage of fees on which the licensee's payment is calculated is set out in the Schedule of Fees. The current Schedule of Fees was promulgated by the Authority in 2010 by Resolution No.3 of 2010. This is the latest Schedule of Fees. It was put in place following a tariff rebalancing process in which the Authority updated the Schedule of Fees with two particular effects:
- a. Reduction of the annual turnover-based Fee from 1% (the legal maximum) to 0.8% and
 - b. Increase of other Fees such as service licence application Fees, spectrum licensing Fees, Equipment approval Fees and Fees for assignment of numbers.
31. The Authority is currently in the process of consulting on a revised Schedule of Fees, which it intends will replace the existing (2010) Schedule.⁵ The Authority expects that the new Schedule of Fees will be in place later in 2015.
32. Given these provisions (and in particular the stipulation that GAT be used as the basis for applying the levy) the overall aim of the Authority is to address how the current revenue reporting regime might be amended to ensure that the annual revenue reporting process operates more effectively.
33. The Authority wishes to ensure that market players are provided with clear guidance about how and when to report annual revenues and, in particular, that the issue of what revenues are included and what are excluded for the purposes of calculating the annual licence fee is clarified and justified. The approach to revenue reporting aims to minimise the burden on operators and on the Authority, and key to this is standardising what is reported, and when it is reported.
34. The Authority has identified key issues to be addressed in the current system and process. These may be summarised as follows:
- a. Lack of clarity and hence consistency of what is contained in revenue reports;
 - b. Lack of consistency in the preparation of revenue reports increases the level of analysis the Authority is required to undertake;

³ The Telecommunications Law of the Kingdom of Bahrain, Legislative Decree No. 48 of 2002, promulgating the Telecommunications Law.

⁴ Fees for Class Licences are specified in accordance with the conditions of the licence, or by resolution issued by the Authority.

⁵ See TRA Consultation Document at: <http://www.tra.org.bh/media/document/Public%20Consultation%20-%20Review%20of%20the%20Schedule%20of%20Fees.pdf>

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- c. Timings provided for under the current system require operators to produce revenue reports that can be analysed and processed by the Authority within less than a month after the financial year-end;
 - d. Submissions to the Authority, of both the audited accounts and the revenue reporting schedules, are often delayed, with a knock-on effect on the whole process;
 - e. Not all operators have a financial year-end of 31 December, which affects the possible submission of audited accounts by end-Q1 the following year.
35. The proposals set out by the Authority in this consultation have been formulated to deal with the issues that have arisen with the current revenue reporting process to ensure that the process operates more efficiently from the perspective of both the Authority and of licensed operators.

2.2 Legal basis

36. The Telecommunications Law authorises the Authority to set out the fees payable by licensees. The relevant provisions can be summarized as given below.
37. According to Article 18(a) of the Telecommunications Law, sources of funding of the Authority shall include:
- a. Application, initial and renewal Fees charged for Licences;
 - b. Annual Fees based on the GAT of Licensees resulting from activities under the Licence. The Fees shall not exceed one percent (1%) of such gross annual turnover;
 - c. Fees charged by the Authority for any services that it provides; and
 - d. Fines collected by the Authority from Licensees on the basis of the Licences granted to them.
38. In the same spirit, Article 3(c)(6) of the Telecommunications Law empowers the Authority to:
- a. Set and collect application, initial, annual and renewal Fees for Licences;
 - b. Collect fines and fees under any Licence, where appropriate; and
 - c. Collect any fees for services provided by the Authority.
39. The following Articles also deal with the Authority's power to determine certain categories of Fees:
- a. Article 27(a) of the Telecommunications Law foresees an Application Fee to be determined by the Authority for the application for a Telecommunications Licence;
 - b. Article 38(c) of the Telecommunications Law foresees a Fee to be determined by the Authority for the approval of Telecommunications Equipment; and
 - c. Article 44(a) of the Telecommunications Law foresees an Application Fee to be determined by the Authority for the application for a Frequency Licence.
40. In addition:

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- a. Article 3(c)(1) covers all Fees that the Authority is empowered to collect according to the Telecommunications Law, for example Article 3 (c)(6) thereof; and
- b. According to Article 18 (a)(2), Article 27(a), Article 38(c) or Article 44(a), the Authority shall determine the Fees as referred to above by means of a Resolution.

2.3 Entry into force of the new Regulation

41. The Authority plans to issue the final Revenue Reporting Regulation in 2015 so as to start applying it from 1st January 2016.

3 Guidance in defining licensed and non-licensed activities

3.1 General principles in defining licensed and non-licensed activities

42. In common with most other countries, the Telecommunications Law and licences in Bahrain do not provide an explicit basis for identifying turnover associated with licensed and non-licensed products and services. International examples reveal different approaches to defining licensed and non-licensed activities, and the differences generally reflect differences in the underlying legislative structure.
43. The key issue is to do with whether a broad definition is adopted (for example, as in Qatar and Australia) where the revenue generated by the telecommunications industry as a whole is to be considered in setting the licence fee, or whether (as, for example, in the EU and New Zealand) the definition is derived from the provision of telecommunications services over an electronic network, and revenue therefore excludes types of products and services that are not specifically considered to be electronic communications.
44. The Authority is with the opinion that licensed activities are those associated with the conveyance and/or routing of messages, sound, visual images or signals on telecommunications networks. This is in line with the definition of the term ‘telecommunications’ contained in the Telecommunications Law. It is also in line with international best practice, as recommended by the International Telecommunication Union (ITU).⁶
45. The implementation of this proposal would still require however, that a licensed operator would report its total GAT, including “non-licensed” turnover. Each licensed operator’s annual revenue declaration would begin with confirmation of its GAT as per its annual audited financial statements.
46. Each operator will be obliged to provide a breakdown of its GAT, identifying turnover associated with retail and wholesale, fixed and mobile networks and services. Under the proposed revenue reporting process, the onus will be on the licensed operator to itemise and provide a justification for the exclusion of any non-licensed revenues from its declared GAT figure. As such, the revenue reporting process will be “top-down” in nature, with the licensed operator required to provide details of and justifications for the difference between the GAT figure it reports from its financial statements and the GAT figure it reports as eligible turnover for the purposes of calculating its licence fee. Any difference between these two sets of figures must be specifically itemised and justified.

⁶ ITU, Methodology for the collection of revenue and investment data on telecommunications, 17.02.14, available at: http://www.itu.int/dms_pub/itu-d/opb/ind/D-IND-ITC_IND_HBK-2011-C2-PDF-E.pdf

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Q1. Do you agree with the proposed general approach? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.

3.2 Approach to defining non-licensed activity

47. The Authority's proposed approach is that the starting point for the calculation of annual licence fee should be to take into consideration all licensed operator's GAT as eligible turnover, unless there is justification for excluding any part of it on the grounds that it is not derived from a licensed activity. In this respect, particular issues arise in four specific areas, which can be summarised as follows:

- a. Geographic scope;
- b. Revenues from the standalone sale of non-licensed products and services
- c. Revenues from the sale of non-licensed products and services as part of service bundles;
- d. Wholesale revenue.

3.2.1 Geographic scope

48. The Authority proposes that the basis for reporting revenues is that it refers to GAT arising from the provision of telecommunications services or the operation of a telecommunications network within Bahrain. The Authority considers it necessary that at least some part of the provision of the service must take place in Bahrain. Thus for example, either of origination or termination must take place in Bahrain, but it is not necessary that both origination and termination are so offered.

49. The ownership of the licensed operator is immaterial for the purposes of calculating the annual licence fee – it is the location where the telecommunications service is provided that is important. So, for example, a Bahraini-owned company which had invested in mobile networks in several countries would only count its GAT in respect of services provided in Bahrain for revenue reporting purposes. Similarly, a foreign-owned company that is part of an international group but holds a licence in Bahrain would only count its turnover generated from services provided in Bahrain. The licensed operator must be able to demonstrate to the Authority that its revenue reporting process recognizes that its GAT figure refers to turnover generated in Bahrain.

3.2.2 Revenues from the standalone sale of non-licensed products and services

Revenues from the standalone sale of customer equipment

50. The Authority considers that revenues derived from the standalone sale of customer equipment are non-licensed revenues.

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Revenues from the standalone sale of audio-visual content

51. The approach proposed by the Authority derives its definition of telecommunications activities from the definition of the term ‘telecommunications’ in the Telecommunications Law. Accordingly, telecommunication activities are those associated with the conveyance and/or routing of signals. In the Authority’s view, this focuses on the transmission of, for example, voice, data, short message service (SMS), or any other content, but does not include broadcasting (as defined in the Telecommunications Law), and does not include the creation of content. So, for example, the creation or the purchase on a wholesale basis of audio-visual programming content (e.g. information or entertainment content) would not be considered as a licensed activity, but the transmission of such content over a telecommunications network (e.g. via IPTV) would be considered as licensed for the purposes of revenue reporting.
52. In reporting for audio-visual content, the Authority envisages that operators would report all retail revenues earned from IPTV services sold on a standalone basis and would claim a deduction for costs relating to audio-visual content either created by the operator itself or purchased on a wholesale basis from a content provider.

Installation revenues

53. The Authority is of the view that revenues earned by operators from installation services provided on-site to residential and business customers are non-licensed revenues. Such installation work would typically encompass the dispatch of a technician to the customer’s residence or premises to undertake cabling and/or wiring and the installing of a network connection and/or customer premises equipment (CPE). Installation work of this kind would be undertaken either to enable a new customer connection to be put in place or else to facilitate the upgrading of an existing connection.
54. Revenues derived from installation work need to be distinguished from revenues associated with service activation. The Authority’s view is that revenues earned from service activation, including e-provisioning, form part of an operator’s licensed services and must be declared as such for revenue reporting purposes.

3.2.3 Revenues from the sale of non-licensed products and services as part of service bundles

55. Telecommunications products are increasingly sold as bundles. This may include the sale of network services and equipment (for example, a mobile contract which includes a handset), and may include services such as installation or the provision of value added services as part of the provision of a larger telecommunications network or service. In these cases, the bundle may include licensed and non-licensed products and services.
56. The selling of products and services as bundles by telecoms operators does not, of itself, constitute a problem from a revenue reporting perspective. If all the elements within the bundle in question are licensed telecommunications services, then whether they are sold separately or offered as a bundle is largely irrelevant when it comes to reporting annual revenues to the Authority for the purposes of the payment of the annual turnover-based

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charge.⁷ There is no need, and so, there should be no requirement placed on licensed operators to identify separately the revenues that accrue from such sales.

57. Licensed operators will be required to report revenues accrued from licensed and non-licensed services as part of their total GAT. Revenue accruing from non-licensed services will then be deducted from the total GAT before calculating the licence fee.

Revenues from the sale of customer equipment as part of service bundles

58. The Authority has considered alternative means of assessing the value of elements in a bundle, and proposes that the method used by licensed operators should be the input cost of the non-licensed element. This means that the licensee would add no margin to the input cost, aside, where relevant, from duty delivery paid. This approach is illustrated in Table 1 below for a mobile contract including a down payment of BD 50, and a monthly payment of BD 30. The calculation takes the total annual revenue from the mobile contract, subtracts the handset input cost, and the remainder is revenue accruing from licensed activities, and so included in revenue on which the licence fee will be paid.

Table 1: Calculating the value of non-licensed products with no observable price

<i>Deposit + monthly fee</i>	Down payment BD 50
	Monthly fee BD 30
Value of bundle (1 year) <i>(BD50 + BD 30 x 12)</i>	BD 410
Declared input cost of handset	BD 320
Annual income relating to licensed activities <i>Bundle minus cost of handset</i>	BD 90

⁷ There are other reasons, from a competition perspective, as to why regulators might wish to ensure that prices charged for different elements of a bundled offering are transparent but that is a separate issue to revenue reporting and so is not dealt with further in this discussion.

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59. The Authority shall reserve the right to request copies of invoices to substantiate the input cost used, and operators should be able to demonstrate the proof of cost of devices upon request.
60. The Authority has considered how best to ensure that there is a standard approach to when revenue is captured. The Authority proposes that the transaction price (for example, a down-payment for entering a mobile contract and the monthly payments for network services) should be allocated on the basis of the relative standalone selling prices of each item. This is in line with IFRS 15, and means that the amount and timing of revenue recognition is the same, regardless of payment terms.⁸

Revenues from the sale of audio-visual content as part of service bundles

61. Similarly to the case of customer equipment, the Authority proposes that revenues derived from the sale of audio-visual content as part of service bundles is deducted based on the input cost of the non-licensed element. This means that operators would report all retail revenues earned from IPTV services sold as part of a service bundle and would claim a deduction for costs relating to audio-visual content either created by the operator itself or purchased on a wholesale basis from a content provider.

3.2.4 Wholesale revenue reporting

62. By definition, GAT includes the licensee's wholesale and retail revenues.
63. The Authority, however does not consider that self-supply should be included as part of the wholesale revenue. The wholesale revenue considered to form part of the GAT for the purposes of calculating the annual licence fee would consist of wholesale sales to other operators⁹.
64. The Authority has considered how to deal with national and international transfer charging. The Authority proposes that any revenue from pure transit services, where there is no origination or termination in Bahrain (and where that traffic is not conveyed or transited over any network based in Bahrain), would not form part of the operator's GAT in Bahrain. Such a service would not be provided domestically to any party within Bahrain and would not touch any Bahraini domestic network. The TRA notes that such a service is generally invoiced by an external operator, i.e. an operator which is not present or licensed in Bahrain.
65. However, transit services that encompass origination and/or termination of traffic (either voice- or IP-based) within Bahrain and other associated revenues, such as those derived from facilitating the interoperability of services and network operations and maintenance, would form part of the operator's GAT in Bahrain. The TRA expects that all traffic originating in Bahrain and/or provided to Bahraini communications providers will be contracted and billed by a Bahrain-licensed operator.

⁸ Licensed operators in Bahrain are required to comply with the International Financial Reporting Standards (IFRS) when preparing their annual accounts. For further details on the use of IFRS in Bahrain, see: <http://www.ifrs.org/Use-around-the-world/Documents/Jurisdiction-profiles/Bahrain-IFRS-Profile.pdf>

⁹ For the avoidance of doubt, self-supply does not include revenues generated from related party transactions.

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Q2. Do you agree with the proposed approach to defining licensed and non-licensed activities? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.

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4 Implementation issues

4.1 Timing and process

66. The Authority wishes to improve the revenue reporting process, in order to ensure consistency amongst licensees in terms of what is reported and when, to maximise financial certainty for licensees and the Authority, and to address efficiency issues with the current practice.
67. The Authority proposes to maintain the structure of the current process, such that licensees will be invoiced in advance for the upcoming calendar year, and will be invoiced to adjust for the previous calendar year. This structure is in line with Telecommunications Law and licence requirements.
68. The Authority also wishes to ensure that the Revenue Reporting Declaration Form is completed in full accordance with this Revenue Reporting Regulation. To this end, licensed operators will be required, when submitting their annual Revenue Reporting Declaration, to accompany this with an Auditor's Opinion to the effect that the Auditor has reviewed the Revenue Reporting Declaration and confirms that the revenue declared has been prepared in accordance with the Authority's Revenue Reporting Regulation.
69. The Auditor's Opinion should therefore contain the following statement of affirmation:

"The Auditor has reviewed the revenue declaration and confirms that the revenue declared has been properly prepared in accordance with the Revenue Reporting Regulation within the bounds of materiality and Generally Accepted Accounting Practices (GAAP)".

70. The Authority proposes to include a requirement that the Chief Executive Officer (CEO) of the licensed operator should furnish a statement confirming the preparation and content of the Revenue Reporting Declaration Form. For example, this could include:

X is required by the Revenue Reporting Regulation of X Month 2015 to produce a Revenue Report that meet good practice principles relating to financial reporting and comply with the detailed provisions of the Revenue Reporting Regulation.

X confirms that the YYYY Revenue Report has been prepared in accordance with the provisions of the Revenue Reporting Regulation and is reconciled to the YYYY annual financial statements of X.

X confirms that there is no additional information (other than that included in the YYYY Revenue Report) that should be brought to the attention of the TRA in relation to the YYYY Revenue Report.

SIGNATURE CEO"

71. The Authority proposes to streamline the dates by which licensed operators are required to make annual submissions to it in the area of revenue reporting. In particular, the Authority proposes that the Revenue Reporting Declaration (and accompanying Auditor's Opinion and CEO statement) and the licensed operator's audited financial statements for the previous

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financial year should be submitted to it on the same date, i.e. on 1st April each year. While it is up to the licensees to establish their own financial year, the Authority requires that where the financial year does not end on the 31st December, then separate regulatory accounts audited by independent auditors need to be submitted with the accounting period for the regulatory accounts ending on the 31st December.

72. The Authority also proposes to streamline the process by which it invoices operators for the licence fee. Following the receipt of the annual Revenue Reporting Declaration Form from operators on 1st April, the Authority will, in Q2 each year, issue a consolidated invoice containing the requested advance payment and the adjustment payment or credit.
73. In light of the above, the Authority proposes a schedule for the reporting of annual revenue and the payment of fees as follows:

Table 2: Proposed schedule for reporting and payment of fees

Date	Action
1 April	Licensed operator submits completed Revenue Reporting Declaration Form, following TRA template as set out in Annex B, accompanied by Auditor’s Opinion, CEO statement and audited financial statements for the previous calendar year.
Q2	TRA issues consolidated invoice for advance and adjustment amounts.

Q3. Do you agree with the proposed approach to the timing and process of submitting the Revenue Reporting Declaration Form and audited financials? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.

4.2 Compliance

74. It is of the utmost importance from the Authority’s perspective that the revised revenue reporting framework operates in an efficient and effective manner. The Authority is confident that its Revenue Reporting Regulation will be sufficiently clear to licensed operators to ensure that this happens but it is also of the view that the Revenue Reporting Regulation needs to be buttressed by a number of compliance measures to ensure that the process operates smoothly, in particular in relation to the timelines the Authority lays down for the submission of Revenue Reporting Declaration Forms and annual financial statements by licensed operators.
75. The Authority has considered administrative measures to encourage compliance by licensed operators with the revenue reporting process. In this regard, the Authority proposes to put in place a different invoicing regime for operators who fail to meet the 1st April deadline for the submission of their annual Revenue Reporting Declaration Form and accompanying

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Auditor's Opinion and annual audited financial statements from that used to invoice compliant licensed operators.

76. Operators who are non-compliant in this regard will be invoiced by the Authority on the basis of the GAT figure most recently reported to the Authority plus an uplift of 40%, in view of the fact that the operator has failed to submit its annual Revenue Reporting Declaration and audited financial statements on time. (By way of example, an operator that fails to submit by 1st April 2016 a Revenue Reporting Declaration in respect of the 2015 financial year will be invoiced in Q2 2016 on the basis of its declared revenues for 2014 plus an uplift of 40%).
77. Operators who are invoiced in this way will be subject to an adjustment for the difference between the actual licence fee due based on the required documentation submitted in respect of the applicable calendar year and the 40% uplift when the next licence fee invoice is issued to them (i.e. in the following year), provided that they have in the meantime remedied their non-compliance in this area. All interest earned from the excess amount would be retained by the Authority.
78. In the Authority's view, this administrative measure will incentivise all operators to comply with the revenue reporting process and will ensure that compliant operators are not disadvantaged compared with non-compliant ones. This administrative measure is without prejudice to the Authority's general powers under the Telecommunications Law to ensure compliance with any provision of the Telecommunications Law or a licence.
79. Upon finding an apparent discrepancy in the financials submitted by a licensed operator, the Authority shall, after undertaking a preliminary assessment, reserve the right to engage a firm of independent auditors to carry out a detailed audit of the accounting records of the licensed operator in question to check the validity of the figures contained in the financials submitted. A licensed operator whose revenue declaration is subject to examination by an independent auditor is obliged to co-operate fully with the auditor's examination. If the alleged discrepancy or error is confirmed by the independent auditor, then the licensed operator shall be obliged to submit, without delay, a revised financials correcting the discrepancy or error and the operator shall also be obliged to meet the costs of engaging the independent auditor. If the alleged discrepancy or error is not confirmed by the independent auditor, then the Authority shall meet these costs.
80. The Authority's powers for ensuring compliance in this area, including the power to fine licensed operators for non-compliance are set out in the draft Revenue Reporting Regulation contained in Part 4 of this Consultation. In summary, the formal compliance measures that are proposed to be available to the Authority in relation to revenue reporting by licensed operators are as follows:
 - a. If a licensed operator is deemed to have failed to comply with the revenue reporting process, the Authority is empowered to commence a formal investigation, which may lead it to make a finding of non-compliance against the licensed operator;
 - b. Where the Authority makes a finding of non-compliance against the licensed operator, it is empowered to issue a draft order detailing the contravention and the proposed fine to be imposed on the operator;
 - c. Licensed operators found to be non-compliant in this way will, in accordance with Article 35 of the Telecommunications Law, be granted a period of 30 days to

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respond to any draft order issued by the Authority. The Authority will consider a range of factors as detailed in its Fining Guidelines in order to propose an appropriate fine;

- d. Licensed operators who continue to be non-compliant with the process for a period of three months or more will be considered as being in continuous breach and as such may face more stringent compliance measures, including a higher level of fines and the possible revocation of their licence.

Q4. Do you agree with the proposed measures designed to ensure compliance with the submission of the Revenue Reporting Declaration Form and audited financials? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.

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5 List of questions

- Q1** Do you agree with the proposed general approach? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.
- Q2** Do you agree with the proposed approach to defining licensed and non-licensed activities? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.
- Q3** Do you agree with the proposed approach to the timing and process of submitting the Revenue Reporting Declaration Form and audited financials? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.
- Q4** Do you agree with the proposed measures designed to ensure compliance with the submission of the Revenue Reporting Declaration Form and audited financials? If you do not agree, please present arguments as to why you disagree and what you would recommend, bearing in mind that the approach must be consistent with the Telecommunications Law.



**PART 4: Revenue Reporting
Regulation (Draft)**

**Issued by the
Telecommunications Regulatory Authority**

[Date]

Revenue Reporting Regulation – Public Consultation
Part 4 – Text of the proposed Regulation

Article (1)

Objectives

The objective of this Regulation is to require licensed operators to submit:

1. its Revenue Reporting Declaration in the format defined by the Authority and set out in Annex B to this Regulation as certified by the Auditors of the licensed operator by 1 April of the following year; and
2. its audited financial statements by 1 April of the following year.

Article (2)

LICENSED OPERATOR COMPLIANCE

- 1- Licensed operators shall comply with the terms of this Regulation. Failure to comply with the terms of this Regulation may constitute a material breach of the Telecommunications Law and/or the Licence and may consequently be subject to enforcement action pursuant to the relevant provisions of the Telecommunications Law.
- 2- Operators who are non-compliant in this regard will be invoiced by the Authority on the basis of the GAT figure most recently reported to the Authority plus an uplift of 40%, to reflect the fact that the operator has failed to submit its annual Revenue Reporting Declaration and/or audited financial statements on time.
- 3- Without prejudice to the Authority's power to take actions pursuant to Article 35 of the Telecommunications Law, the operators who are invoiced in this way will be credited for the 40% uplift when the next licence fee invoice is issued to them (i.e. in the following year), provided that they have in the meantime remedied their non-compliance in this area. All interest earned from the excess amount will be retained by TRA.
- 4- In the event that a licensed operator is deemed by the Authority to have failed to comply with the provisions of this Regulation, the Authority shall take appropriate action pursuant to the terms of Article 35 of the Telecommunications Law.
- 5- Upon making any finding against a licensed operator for failure to comply with the provisions of this Regulation, the Authority shall issue a draft order in the form stipulated by Article 35(b) of the Telecommunications Law setting out the nature of the contravention and the proposed level of any fine to be imposed upon the licensed operator.
- 6- In accordance with the terms of Article 35 of the Telecommunications Law, the affected licensed operator shall have a period of not less than 30 days to respond to the terms of any draft Article 35 Order. When considering any submissions made by the affected licensed operator in accordance with the terms of Article 35(c) of the Telecommunications Law the Authority will take into account the factors set out in Article 2(7) below and act in accordance with Article 3 (a) of the Telecommunications Law.

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Part 4 – Text of the proposed Regulation

- 7- The factors referred to in Article 2(6) are as follows:
- a. the extent of impact of breach;
 - b. the cause of breach;
 - c. the efforts taken by the licensed operator to meet the requirements of this Regulation;
 - d. the challenges faced by the licensed operators in meeting such requirements;
 - e. the number and nature of the measures that were applied on earlier occasions when the licensed operator or another licensed operator had committed similar contraventions; and
 - f. the financial circumstances of the licensed operator.
- 8- In the event that a licensed operator does not meet the provisions of this Regulation for a period of three months, the Authority may treat such failure as a repetitive breach of the licensed operator's licenses, the provisions of the Telecommunications Law and this Regulation and may reflect the repeat nature of the breach(es) in the level of fine. For the avoidance of doubt, the limits in the level of fines set out above shall not be applicable in the event of a repetitive breach and may lead to the revocation of the telecommunications licence(s).
- 9- Upon finding an apparent discrepancy in the financials submitted by a licensed operator, the Authority shall, after undertaking a preliminary assessment, reserve the right to engage a firm of independent auditors to carry out a detailed audit of the accounting records of the licensed operator in question to check the validity of the figures contained in the financials submitted. A licensed operator whose revenue declaration is subject to examination by an independent auditor is obliged to co-operate fully with the auditor's examination. If the alleged discrepancy or error is confirmed by the independent auditor, then the licensed operator shall be obliged to submit, without delay, a revised financials correcting the discrepancy or error and the operator shall also be obliged to meet the costs of engaging the independent auditor. If the alleged discrepancy or error is not confirmed by the independent auditor, then the Authority shall meet these costs.

Article (3)

ENTRY INTO FORCE

- 1- This Regulation is effective as of the 1st January 2016.
- 2- This Regulation is without prejudice to any further Orders, Regulations and Determinations that the Authority may consider necessary pursuant to its powers and duties under the Telecommunications Law. The Authority reserves the right to amend, modify or replace this Regulation and/or to issue further clarifications in relation to the same.

Revenue Reporting Regulation – Public Consultation
Part 5 – Annex A: Revenue status, licensed and non-licensed services

PART 5: ANNEXES

Annex A: Revenue status – licensed and non-licensed services

The starting point for operators in preparing their annual Revenue Reporting Declaration is that all gross revenues earned in Bahrain, as are declared in the company's annual financial statements, are included as GAT. Deductions from gross turnover have to be justified on an individual basis.

The table in this Annex provides examples of common types of revenue and indicates their status in terms of whether or not these types are classed as licensed or non-licensed revenue. The table is for illustrative purposes and is not intended to be exhaustive.

Revenue type	Notes	Revenue status	Category
Revenue earned from post-paid mobile contracts	Revenue derived from mobile voice, data and broadband services provided under the contract to be included	Licensed revenue	Mobile
Revenue earned from pre-paid mobile services	Revenue derived from pre-paid mobile voice, data and broadband services to be included, including revenue derived from expired credit for pre-paid mobile airtime	Licensed revenue	Mobile
Provision of SIM cards and SIM starter packs to post-paid and pre-paid mobile customers	SIM cards are an integral part of the licensed mobile telephony service so the cost of SIM cards and SIM starter packs may not be claimed as a deduction	Licensed revenue	Mobile
Revenue from the sale of mobile phone handsets sold separately	The retail price of the handset should be claimed as a deduction	Non-licensed revenue	Non-licensed
Revenue from the sale of mobile phone handsets recovered through mobile access or calling charges (sold as part of services provided in a bundle)	Deduction based on input cost of the handset (duty delivery paid)	Non-licensed revenue	Non-licensed
Revenue from the sale of mobile dongles sold separately	The retail price of the dongle should be claimed as a deduction.	Non-licensed revenue	Non-licensed

Revenue Reporting Regulation – Public Consultation
Part 5 – Annex A: Revenue status, licensed and non-licensed services

Revenue from mobile dongles sold as part of a package or as part of a service bundle	Deduction based on input cost of the dongle (duty delivery paid)	Non-licensed revenue	Non-licensed
Revenue from fixed line rental	Revenue derived from use of fixed communications network	Licensed revenue	Fixed
Revenue from fixed voice calls (including voice over broadband calls)	Revenue derived from use of fixed communications network	Licensed revenue	Fixed
Revenue from fixed broadband, including all retail xDSL and 'naked' DSL services	Revenue derived from use of fixed communications networks	Licensed revenue	Fixed
Retail leased lines	Revenue derived from use of fixed communications network	Licensed revenue	Fixed
Fixed wireless revenues	Revenue derived from use of fixed wireless communications network (voice, broadband and leased lines)	Licensed revenue	Fixed
Satellite revenues	Revenue derived from use of satellite communications network	Licensed revenue	Fixed
Revenue derived from the supply of video on-demand content	The production and sale of content is not a licensed activity (but the carriage of VOD is licensed). The annual retail value should be claimed as a deduction	Non-licensed revenue	Non-licensed
Broadcasting services	Broadcasting content is not a licensed activity	Non-licensed revenue	Non-licensed
Revenue from direct dial calls switched by a liable person, on behalf of another liable person	Revenue derived from use of communications network	Licensed revenue	Wholesale
Revenue earned from late payment fees levied on customers for the late payment of outstanding accounts for telecommunications services	Revenue derived from use of communications networks	Licensed revenue	Mobile; Fixed; Wholesale

Revenue Reporting Regulation – Public Consultation
Part 5 – Annex A: Revenue status, licensed and non-licensed services

Revenue from selling customer premises equipment (CPE), including routers, modems and other terminal equipment	Deduction of retail cost where available, deduction based on input cost (duty delivery paid) where no retail cost available	Non-licensed revenue	Non-licensed
Revenue from dumb caches, servers, content delivery networks (CDN)	Revenue depends on use of communications network	Licensed revenue	Mobile; Fixed
Value added IT services (including systems integration, data hosting etc.)	May be sold to business customers as part of a managed network service but is not a licensed activity. Retail cost should be claimed as a deduction.	Non-licensed revenue	Non-licensed
Revenues earned from installation fees	Not a licensed activity. Installation fees charged should be claimed as a deduction.	Non-licensed revenue	Non-licensed
Revenues from wholesale leased lines	Revenues earned in the merchant market from the sale of wholesale leased lines to other operators	Licensed revenue	Wholesale
Wholesale revenue from WBA services, including bitstream and 'naked' DSL services	Revenues earned in the merchant market from the sale of wholesale services to other operators	Licensed revenue	Wholesale
Wholesale revenue from call origination and/or termination in Bahrain on fixed and mobile networks	Applies to all call origination and termination irrespective of origin or destination	Licensed revenue	Wholesale
Revenues arising from transit traffic between local and overseas operators (including group company transit traffic)	If traffic either originates or terminates in Bahrain, then it is a licensed activity in Bahrain and all transit revenues, as well as any associated revenues arising from the provision of such transit, must be reported as licensed revenue	Licensed revenue	Wholesale
Revenues arising from the provision of international telecommunications facilities	Provision of access to international telecommunications facilities to other operators (including co-location services)	Licensed revenue	Wholesale

Revenue Reporting Regulation – Public Consultation
 Part 5 – Annex A: Revenue status, licensed and non-licensed services

Revenues arising from value-added voice and data telecommunications services	Revenue derived from use of communications networks to provide value-added voice and data telecommunications services	Licensed revenue	Fixed; Mobile
Revenues arising from transit traffic between local and overseas operators (including group company transit traffic)	If traffic does not either originate or terminate (or both) within Bahrain, then it is not a licensed activity within Bahrain	Non-licensed revenue	Non-licensed

Revenue Reporting Regulation – Public Consultation
Part 5 – Annex B: Revenue Reporting Declaration form

Annex B: Revenue Reporting Declaration Form

See separate Excel file titled "Annexure B - Revenue Reporting Declaration Form"