



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

## **Regulatory Accounting Regulation**

**Consultation document**

14 July 2016

Ref: MCD/07/16/055

Purpose: to set out the requirements for the preparation and submission of Regulatory Accounts.

## **Consultation document**

### **Legal disclaimer**

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**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.**

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Main Consultation Document – Introduction and Reasoning

## **1 Instructions for submitting a response**

1. The Telecommunications Regulatory Authority (the “**Authority**”) invites comments on this consultation document from all interested parties.
2. The Authority seeks comments from stakeholders in the telecommunications industry, the business community and the general public on the proposed Regulatory Accounting Regulation, attached at Annex A, the draft Guidelines, attached at Annex B and the draft Determination attached at Annex C. All comments should be supported as much as possible by detailed explanation, including, where relevant, references to the specific provisions of the Telecommunications Law or Licences that the respondent is relying upon.
3. The Authority specifically invites comments upon:
  - (a) The rules for imposing obligations on Licensees for preparing Regulatory Accounts; and
  - (b) The obligations imposed upon Affected Licensees under the proposed Regulatory Accounting Regulation (the “New Regulation”).
4. Comments should be submitted no later than **4pm on 18 August 2016**.
5. Responses should be sent to the Authority preferably by email (or by fax or post) to the attention of:

**Director, Market and Competition Department**  
ASRReview@tra.org.bh

Telecommunications Regulatory Authority  
P.O. Box 10353, Manama, Kingdom of Bahrain  
Fax: +973 1753 2125
6. Responses should include:
  - i. the name of the company/institution/association etc.;
  - ii. the name of the principal contact person;
  - iii. full contact details (physical address, telephone number, fax number and e-mail address); and
  - iv. in the case of responses from individual consumers, name and contact details.
7. The Authority expects respondents to provide a response to the questions raised throughout this consultation document (the consolidated list of questions can be found in Annex D). The Authority also invites respondents to substantiate their responses, wherever possible, by providing factual evidence to support the responses.
8. 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

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relevant legal provisions and the Authority's published guidance on the treatment of confidential and non-confidential information.<sup>1</sup>

9. 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. 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.
10. Once the Authority has received and considered responses to this consultation document, the Authority will issue a document setting out its final decision.

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<sup>1</sup> The Authority, "A Guidance Paper issued by the Telecommunications Regulatory Authority on its treatment of Confidential and Non-confidential Information", Guidance Paper No. 2 of 2007, 10 September 2007, at [http://www.tra.bh/en/pdf/Confidentiality\\_Guidelines\\_Final.pdf](http://www.tra.bh/en/pdf/Confidentiality_Guidelines_Final.pdf)

## **2 Status of this consultation document**

11. This consultation document is issued pursuant to the Consultation Process Regulation issued by the Authority on 10 August 2003.<sup>2</sup>
12. The information contained in this document is intended to provide background on a new regulatory accounting regime that is being considered by the Authority. Interested parties should not take any actions in reliance on the information or proposals contained in this document. Any views set out in this document should be considered as indicative and will be subject to further consideration following the receipt of comments from interested parties.
13. This consultation document does not represent a decision of the Authority. The issues discussed in this document remain open to consideration and should not be construed as indicating that the Authority has formed any final opinion or decision in respect of the regulatory accounting measures.
14. Once the Authority has received and considered responses to this consultation document, the Authority will decide whether to proceed to finalise the proposed regulation for publication in the Official Gazette. If appropriate, the Authority will prepare and publish a further consultation report which summarises and responds to the comments received.
15. The New Regulation should be reviewed in its entirety by stakeholders. The defined terms in the New Regulation have the same meaning when referred to in the rest of this consultation document, unless context requires otherwise. The Authority welcomes responses on any aspect of the New Regulation.

### **2.1 Proposed measure**

16. Under Article 3(c)(1) of the Telecommunications Law, the Authority has the power to issue regulations as may be necessary for the implementation of the Telecommunications Law.
17. The Authority proposes to:
  - i. repeal, on the same day as the New Regulation comes into effect, the existing Accounting Separation Regulation issued on 02 August 2004 (as amended) (LAU RN 004)<sup>3</sup>;
  - ii. repeal, on the same day as the New Regulation comes into effect, the Determination “Changing the audit standard for Batelco’s regulatory accounts from “Properly prepared within the bounds of materiality” to “Fairly presents”, which was issued on 21 July 2011 (ref: MCD/07/11/100); and
  - iii. promulgate the New Regulation.

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<sup>2</sup> [http://www.tra.org.bh/media/document/Consultation\\_Process\\_ERU\\_RN\\_001\\_v1.0\[1\].PDF.pdf](http://www.tra.org.bh/media/document/Consultation_Process_ERU_RN_001_v1.0[1].PDF.pdf)

<sup>3</sup> and related determinations

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18. The New Regulation will be issued pursuant to Article 3(c)(1) of the Telecommunications Law and will be effective from the day following the date of its publication in the Official Gazette, following which all sets of Regulatory Accounts which are required under that Regulation shall be prepared in line with the requirements set out therein, unless stated otherwise in a Determination issued by the Authority under the Regulation.



### **3 Structure of this consultation**

19. The purpose of this consultation is to seek formal views from Licensees and other stakeholders that may be directly or indirectly affected by the Authority's proposals.<sup>4</sup> In particular, the Authority is seeking views in relation to:
- i. the structure of the New Regulation;
  - ii. the circumstances under which the New Regulation applies to Licensees;
  - iii. the objectives, principles and parameters of the New Regulation; and
  - iv. the Guidelines that provide guidance to Affected Licensees on the substantive steps for implementing Regulatory Accounts that Affected Licensees can take to ensure compliance with the Regulation.
20. In addition to the New Regulation and the accompanying Guidelines, the Authority may also issue Specific Guidelines applicable to individual Affected Licensees.
21. The remainder of this part of the consultation document describes in more detail the rationale for the Authority's specific proposals. It is structured as follows:
- i. Section 4 sets out the purpose of promulgating the New Regulation;
  - ii. Section 5 provides a summary of the purpose of Regulatory Accounts which guided the Authority when developing the draft New Regulation;
  - iii. Section 6 summarises the key difference between the Current and draft New Regulation; and
  - iv. Section 7 provides a detailed reasoning for the provisions set out in the draft New Regulation and sets out questions to stakeholders on the draft New Regulation, draft Guidelines and the draft Determination, to be issued under the New Regulation, setting out obligations that will be placed on Affected Licensees to prepare and maintain Regulatory Accounts.
22. The consultation then includes a series of annexures, which set out the draft text of the legal instruments and Guidelines the Authority intends to promulgate:
- i. Annex A sets out the draft New Regulation;
  - ii. Annex B sets out the draft Guidelines;
  - iii. Annex C sets out a draft Determination to be issued under the New Regulation, to set out the obligations that will be placed on Affected Licensees to prepare and maintain Regulatory Accounts; and
  - iv. Annex D sets out the consolidated list of questions to stakeholders.

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<sup>4</sup> The Authority has already facilitated a number of feedback sessions between its advisors and Licensees during October 2015 for the purpose of guiding the development of the New Regulation and Guidelines set out in this consultation document.

## **4 Rationale for promulgating the new Regulatory Accounting Regulation**

### **4.1 Introduction**

23. The Authority has reviewed the Current Regulation and considers it necessary, for the reasons set out below, to replace that Regulation to meet its objectives for monitoring and regulating the sector.
24. In its place, the Authority is proposing to promulgate a New Regulation which shall set out:
- i. the general principles that an Affected Licensee should adhere to when preparing Regulatory Accounts;
  - ii. the relevant information that an Affected Licensee shall submit to the Authority; and
  - iii. the rules governing the separation of the Affected Licensee's Regulatory Accounts Statements.
25. The draft New Regulation, associated legal instruments and Guidelines are set out for consultation in this document.

### **4.2 Background and justification**

26. The Current Regulation, covering the requirement for Licensees to prepare Regulatory Accounts, was issued by the Authority on 2 August 2004. The Current Regulation applies to all holders of Licences for the provision of telecommunication services in the Kingdom. Among others, it includes the requirement for all holders of multiple Telecommunications Licences to prepare Regulatory Accounts, showing separated financial information for business units covered by the Licences.
27. Since 2004, telecommunication markets in Bahrain have evolved significantly. This has included changes in the services offered in the markets, the means by which services are provided, the nature and level of competition between Licensees and changes in the Authority's regulatory policies. Most significantly for this consultation, many services are now provided under competitive conditions and the Authority has therefore removed *ex-ante* regulations from many areas of the sector.
28. Alongside this, the Authority is mindful that new regulatory requirements may arise in the future in order to ensure that all Licensees have fair and reasonable access to bottleneck infrastructure, based on equality of inputs.
29. Therefore, to ensure that its regulations remain fit for purpose and consistent with market developments, the Authority considers it is appropriate to put in place the New Regulation to replace the Current Regulation.

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## 5 Purpose of Regulatory Accounts

30. In developing the draft New Regulation and Guidelines, the Authority has taken into account its regulatory objectives and the Government policy objectives, and more specifically how Regulatory Accounting can help to achieve these objectives.
31. Regulatory Accounting can serve different purposes including:<sup>5</sup>
- i. **Monitoring compliance with - dominance obligations.** Regulatory Accounts complement other regulatory remedies, including transparency, non-discrimination and cost orientation. This is because Regulatory Accounts can make a dominant operator's cost base more transparent to other stakeholders, whilst the obligations for using internal Transfer Charges in the Regulatory Accounts ensure that a dominant operator is charging the same wholesale prices externally that it is charging to its own downstream retail operations. Regulatory Accounts also allow the Authority (and, if published, other Licensees) to conduct an initial check of whether a dominant operator is following relevant cost orientation obligations, by comparing costs with the average revenues for different services.
  - ii. **Supporting *ex post* investigations and resolving disputes.** Regulatory Accounts can ensure that a dominant operator has sufficient information in its underlying costing system to be able to respond to any requests for financial information arising out of *ex post* competition investigations.
32. The obligation to prepare Regulatory Accounts is generally imposed (although exceptions may be possible) on Licensees considered to have a Dominant Position in wholesale markets. As well as providing detailed financial information for those services in which the Affected Licensee has a dominant position, such Regulatory Accounts may also require the Affected Licensee to provide financial information for services and markets in which that Affected Licensee does not have market power. This is to ensure that costs and revenues, assets and liabilities are apportioned appropriately between services in which the Affected Licensee has a Dominant Position, and services in which it does not.

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<sup>5</sup> The Authority also notes that Regulatory Accounts may also be beneficial to the operators for business planning and management purposes.

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## 6 Main differences between the draft New Regulation and the Current Regulation

33. This section summarises the major differences between the Current Regulation and the draft New Regulation. These are presented under the following categories:
- i. structure of the Regulation;
  - ii. Licensees that must submit Regulatory Accounts;
  - iii. the required costing standards;
  - iv. the level of separation of the Regulatory Accounts Statements;
  - v. Transfer Charges; and
  - vi. the regulatory timeline.
34. The Current Regulation sets out all the accounting requirements to be applied to Licensees, alongside explanations for how they should be applied. The draft New Regulation is structured such that the general principles and requirements for all Affected Licensees to prepare and maintain Regulatory Accounts are set out in the Regulation, while requirements that are specific to a particular Affected Licensee are set out separately (for instance, as part of the findings from a market review, as a Licence condition or a separate Determination under the Regulation). In addition, the draft New Regulation also refers to the Guidelines, which set out in detail how the Authority expects an Affected Licensee to interpret and implement the requirements of the Regulation.
35. The Current Regulation requires all Licensees that hold multiple Licences to submit Regulatory Accounts. In contrast, the New Regulation generally requires Regulatory Accounts to be submitted only by those Licensees that have been determined to hold a Dominant Position in a Relevant Market and/or those Licensees who have certain special, exclusive or monopolistic rights. The Authority will set out the exact obligations placed on these Affected Licensees according to the market in which the Affected Licensees is determined to have a Dominant Position, and the Authority's overall suite of regulatory remedies. At this time, the Authority does not envisage a need to require Licensees to prepare and submit Regulatory Accounts on the basis that they are determined to hold a Dominant Position in the wholesale market for the provision of termination services on their own networks.
36. However, whilst the promulgation of the draft New Regulation will mean that other Licensees (i.e. those non-dominant and not holding certain special, monopolistic or exclusive rights) will no longer be required to prepare and maintain Regulatory Accounts, the Authority still recommends that these Licensees maintain a costing system. Such a costing system will allow these Licensees to monitor the profitability of their services and respond appropriately to information requests issued by the Authority pursuant to the powers conferred upon it by Articles 3 and 53 of the Telecommunications Law.
37. The draft New Regulation no longer requires Affected Licensees to submit Regulatory Accounts based on the LRAIC cost standard. However, Affected Licensees shall continue to maintain a costing system, which allows for the implementation of Regulatory Accounts based on the LRAIC standard. That is, the costing system must be sufficiently granular

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and capable of differentiating between variable and fixed and common costs. This change reflects the Authority's development of bottom-up LRAIC models, which means it no longer needs Regulatory Accounts based on LRAIC to achieve its regulatory objectives.

38. The draft New Regulation specifies that Regulatory Accounts shall be prepared to show separate Regulatory Accounts Statements for Relevant Markets, Product Groups or Individual Products, as defined as a remedy as a result of a market review, or imposed through a Licence obligation, instead of the business units upon which the Current Regulation was structured. This will bring Regulatory Accounts in Bahrain in line with the structure of other regulatory instruments, which are usually implemented as part of market reviews, and the Relevant Markets that they define. It also brings the Regulation in line with international precedent, given regulators in many other jurisdictions (including the Middle East and Europe) structure Regulatory Accounts on this basis.
39. Under the Current Regulation, Transfer Charges are calculated using a cost-based method, between business units. Given the change to levels of separation as discussed in paragraph 38, Transfer Charges will now be calculated between Individual Products, and aggregated up to Relevant Markets. Transfer Charges will now also be charge-based, meaning they will be, where possible, based upon charges that are available to other Licensees (such as those charges published as part of an Affected Licensee's Reference Offers). This change is designed to ensure that the principle of 'equivalence of inputs' is applied in the Regulatory Accounts.
40. Finally, the draft New Regulation provides a more structured timeline for the submission of Regulatory Accounts, which the Authority expects will assist Affected Licensees and the Authority to complete the review process of the Regulatory Accounts in a more streamlined manner. The new structure is based upon the following principles:
  - i. the major development of the accounting practices and methodologies will occur when the New Regulation first comes into force;
  - ii. further material changes and updates to the general structure of the statements provided in the Regulatory Accounts should be requested and approved before the annual submission process for the year to which those changes first relate; and
  - iii. the annual submission process will require Affected Licensees to submit Regulatory Accounts based on the previously agreed methodology.

## **7 Reasoning and questions**

41. The following sections set out the Authority's reasoning underlying the key elements of the draft New Regulation, the draft Guidelines and the draft Determination to be issued pursuant to the New Regulation. The following sections should be read in conjunction with Annex A, B and C (i.e. the draft New Regulation, draft Guidelines and draft Determination respectively).

### **7.1 Reasoning and questions in relation to the draft New Regulation**

42. This section sets out explanations for key elements of the draft New Regulation as set out in Annex A, together with corresponding questions to the industry.

#### **7.1.1 Obligations placed on Licensees**

43. The Current Regulation requires all Licensees to submit Regulatory Accounts to the Authority. In contrast, the draft New Regulation only requires Regulatory Accounts to be submitted if such an obligation has specifically been imposed on a Licensee by way of a Determination (e.g. as a result of determining that a Licensee has a Dominant Position in a relevant market, or as a result of issuing a Licence which confers upon its holder some form of special, exclusive or monopolistic rights).
44. The Authority nevertheless recommends those Licensees not affected by the New Regulation to maintain costing systems that enable them to respond efficiently to enquiries the Authority undertakes from time to time pursuant to its powers under the Telecommunications Law. That is, all Licensees are encouraged to maintain costing systems which enable them to provide reasonable estimates of service unit costs, based on the principle of Causality, should the Authority require such information for the purposes of carrying out its functions under the Telecommunications Law and ancillary legislation.
45. The exact requirements that each Affected Licensee must fulfil, are set out separately to the draft New Regulation, so that the Authority has the flexibility to ensure that reporting obligations reflect its broader regulatory policy, market review findings and the state of the sector. This will also give the Authority sufficient flexibility in the event that it considers that Regulatory Accounts are unnecessary for some markets where Licensees are dominant. For example, this could be the case when other remedies are sufficiently able to mitigate the potential anti-competitive behaviours arising from a Licensee's Dominant Position in a Relevant Market.
46. By way of illustration, at this time, the Authority does not envisage it being necessary to impose an obligation to prepare Regulatory Accounts on those Licensees who only are in a Dominant Position in the market for termination services on their respective networks. Wholesale prices for termination and interconnection services are set, among other sources of information, on the basis of the Authority's bottom-up (BU) LRAIC model and the Authority currently considers this remedy sufficient to mitigate anti-competitive behaviour in these markets.

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47. The flexibility to issue specific requirements also ensures that the Authority can adapt to new regulatory requirements which may arise in response to developments in relation to the roll-out of new infrastructure in the Kingdom and developments as envisaged under the Fourth National Telecommunications Plan.

**Q1. Do you agree with the way in which the Authority plans to impose obligations for preparing and maintaining Regulatory Accounts?**

#### 7.1.2 The costing approach applied in the Regulatory Accounts

48. The draft New Regulation requires Regulatory Accounts to be submitted using the Fully Allocated Cost (“**FAC**”) standard based on Historical Cost Accounting (“**HCA**”) and Current Cost Accounting (“**CCA**”). Unlike the Current Regulation, the draft New Regulation does not require any submissions on the basis of Long-Run Average Incremental Cost (“**LRAIC**”). The Authority has not included the requirement to submit LRAIC accounts in the draft New Regulation because it is of the opinion that the cost of implementing this costing standard outweighs the benefits arising from the Authority having regular access to this information. Compared to the FAC standard, the implementation of the LRAIC cost standard requires a number of additional steps to be implemented (e.g. technical modelling) to derive the relationships between service demand and costs (i.e. Cost Volume Relationship), in order for an Affected Licensee to differentiate between incremental and fixed and common costs. This additional effort by Affected Licensees seems unjustified given the availability of the Authority’s own BU LRAIC model. The Authority therefore believes it proportionate to only impose the FAC HCA and CCA standards for the development of Regulatory Accounts, as these can be derived more readily from statutory accounting information.
49. HCA is required because it is directly based on an Affected Licensee’s Statutory Financial Accounts and provides an overview of the actual costs incurred against the revenues earned by the Affected Licensee. This provides the Authority with useful information about the profitability of different Relevant Markets (or Product Groups or Individual Products), assuming a certain allocation of fixed and common costs.
50. The Authority also proposes to impose a separate requirement that Regulatory Accounts are also prepared based on the CCA standard. This standard can be useful as a comparator to cost estimates based on the Authority’s BU LRAIC model without imposing the significant burden of the LRAIC standard. Cost information prepared on the basis of the CCA standard can also provide potential inputs for the development and update of the Authority’s BU LRAIC models and information that could be used in *ex post* investigations of potential anti-competitive behaviour.
51. Nevertheless, the Authority requires Licensees to implement Regulatory Accounts in a way that would in principle allow the derivation of LRAIC information. This will require an Affected Licensee to ensure that its costing system is sufficiently granular to identify fixed costs as distinct to variable cost items, but should not require the Affected Licensee to undertake major adjustments to its underlying costing data.

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**Q2. Do you agree with the proposed obligations set out in the draft New Regulation for Regulatory Accounts to be prepared on FAC HCA and FAC CCA standards? Do you agree with the removal of the requirement to prepare Regulatory Accounts based on the LRAIC standard?**

#### **7.1.3 The Authority's view in relation to the audit standard to be applied to Regulatory Accounts**

52. It is the Authority's opinion that the "fairly presents in accordance" ("FPIA") audit standard should be achievable for any Affected Licensee. This standard provides the Authority with the highest level of assurance that the Affected Licensee's underlying cost data (e.g. general ledger and fixed asset register) and methodologies applied (e.g. cost allocation) for developing the Regulatory Accounts are reliable and a fair representation of that Affected Licensee's operations, network and the relationships between Individual Products and costs; and reflect the requirements set out in the New Regulation.
53. The Authority recognises that some reasons may exist which have limited the ability of Licensees to achieve this audit standard in the past. For this reason the draft New Regulation sets out a process whereby an Auditor may give an opinion at the "properly prepared in accordance" ("PPIA") standard for certain aspects of the Regulatory Accounts, so long as it is able to specify the reasons why the FPIA standard was not reached. In this case, the Affected Licensee must demonstrate to the Authority that it is improving the quality of its Regulatory Accounts, for instance through a reduction over time in the reasons for why the FPIA standard was not reached. If the Affected Licensee does not illustrate that it is improving its systems such that it is moving towards reaching the FPIA standard for all aspects of its Regulatory Accounts within a reasonable period, then the Authority may deem the Regulatory Accounts unsuitable and in breach of the provisions made in the Regulation and impose enforcement measures as necessary.

**Q3. Do you agree with the Authority's proposal in relation to the audit standard of the Regulatory Accounts?**

#### **7.1.4 The Authority's view in relation to the separation of the Regulatory Accounts Statements**

54. The draft New Regulation specifies that Regulatory Accounts shall provide separated statements based upon Relevant Markets, as defined in market reviews or Licence conditions, instead of the business units prescribed by the Current Regulation. This brings the accounts in line with the structure of other regulatory instruments, which are usually implemented as part of Market Reviews, and the Relevant Markets which they define. The draft New Regulation also allows for a separation at the level of Product Groups or Individual Products within these Relevant Markets; and separation of other Relevant Markets (or Product Groups or Individual Products) related to those markets in which the



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Affected Licensee was found to have a Dominant Position in, e.g. downstream markets. The Authority will consider the required level of separation for each Affected Licensee, based on how this aids its regulatory policy objectives. For example, the separation at Product Group or Individual Product level could be required in a case where the market an Affected Licensee is dominant in is very broad, covering a range of different wholesale products that are used by access seekers for different purposes.

55. The draft New Regulation also enables the Authority to request the separation of Regulatory Accounts Statements outside the Relevant Markets as it requires for supporting its objectives. For example, this can be the case where Individual Products other than those in the Relevant Markets are provided by the Affected Licensee in competition to other Licensees that rely on Individual products in the Relevant Markets. In those circumstances, the Authority may be concerned about the compliance with non-discrimination obligations and forms of dominance abuses such as margin squeeze.

**Q4. Do you agree with the Regulatory Accounts Statements being separated based upon Relevant Markets and Product Groups and Individual Products within those Relevant Markets and other provisions made in that regard?**

#### 7.1.5 The Authority's opinion in relation to the timeline for submitting the Regulatory Accounts

56. The draft New Regulation provides a more structured regulatory timeline, which is envisaged will help Affected Licensees and the Authority to complete the annual requirements for producing Regulatory Accounts in a more streamlined manner.
57. The new structure is based upon the following principles:
- i. the major development of the accounting practices and methodologies will occur when the New Regulation and the initial Determination issued thereunder first comes into effect;
  - ii. further material changes and the general structure of the Regulatory Accounts Statements should be requested by an Affected Licensee and approved by the Authority before the annual submission process; and
  - iii. the annual submission process should involve an Affected Licensees submitting Regulatory Accounts, Accounting Procedures Manual (“**APM**”) and any requested supporting documents based on a previously agreed methodology<sup>6</sup>.

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<sup>6</sup> N.B. “previously agreed methodology” may include immaterial changes.

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**Q5. Do you agree with the regulatory timeline and the provisions in the Regulation made in that regard?**

#### 7.1.6 The Authority's view in relation to the appointment of Auditors

58. The draft New Regulation sets out a requirement for the Auditor of the Regulatory Accounts to be different from the Auditor of the Affected Licensee's statutory accounts. The Authority considers this obligation is reasonable because the audits of statutory and Regulatory Accounts are fundamentally different, the former focussing on the accuracy of the general ledger and fixed asset register and the overall financial viability of the company concerned; the latter, focussing on the appropriate separation of costs, assets, liabilities and revenues between Individual Products, Product Groups and Relevant Market in accordance with the Regulation and APM.
59. Given this specialisation, the Authority considers it reasonable that separate Auditors are chosen for each task. Furthermore, the Authority also considers that this will most appropriately ensure that the Auditors of the Regulatory Account are independent and do not face a conflict of interest in conducting the respective audits.
60. In addition, the Authority proposes to reserve the right, in exceptional circumstances, to require an Affected Licensee to change its Regulatory Accounts Auditor. However, the Authority would only seek to impose this on an Affected Licensee if it had serious doubts as to whether the proposed or current Auditor would be able to complete the audit in line with the objectives and principles of the Regulation.

**Q6. Do you agree with the Authority's proposal in relation to the appointment of an Affected Licensee's Regulatory Accounts Auditor?**

#### 7.1.7 The Authority's view in relation to publishing the Regulatory Accounts

61. The draft New Regulation provides the Authority with the ability to require an Affected Licensee to publish its Regulatory Accounts, if such publication would be likely to be beneficial for improving the transparency of the sector and the economic regulation underpinning the sector. For example, published Regulatory Accounts can improve the submissions the Authority receives from other Licensee's in the market, leading to a more informed and efficient regulatory decision making process for the Affected Licensee, other Licensees and the Authority.

**Q7. Do you agree with the Authority's proposal in relation to publishing Regulatory Accounts?**

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62. Finally, the Authority invites comments regarding any other observations respondents to this consultation wish to make with regard to the draft New Regulation as set out in Annex A.

**Q8. Do you have any other comments in relation to the draft New Regulation?**

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#### 7.2 Reasoning and questions in relation to the draft Guidelines

63. Annex B sets out the draft Guidelines that shall accompany the New Regulation. These Guidelines provide further detail and background for Affected Licensees to aid their compliance with the Regulation. As such, the reasoning for the Regulation, as set out in the previous section, also applies to the relevant sections in the Guidelines.
64. The Guidelines further outline how the Authority envisages the steps an Affected Licensee should take to comply with the New Regulation when preparing its Regulatory Accounts. In particular, the draft Guidelines set out:
- i. the meaning of the principles upon which the Regulatory Accounts should be based;
  - ii. further details on the methodology that the Authority would typically expect an Affected Licensee to follow when preparing and maintaining Regulatory Accounts,
  - iii. the expected format and content of Regulatory Accounts;
  - iv. details about the expected format and content of the documentation supporting the Regulatory Accounts;
  - v. details about the expected process governing the audit of the Regulatory Accounts;
65. The draft Guidelines set out in the Annex B apply to all Affected Licensees. The Authority may publish Specific Guidelines in the event that further guidance needs to be provided to an Affected Licensee, given the specific obligations that Licensee faces under any Determination under the Regulation.
66. The Guidelines as such are self-explanatory and reflect the Authority's view of how the Regulatory Accounts should be implemented. The Authority therefore asks for respondents to comment on the entirety of the draft Guidelines as set out in Annex B.

**Q9. Do you have any comments in relation to the draft Guidelines? In your response, please specify the paragraph to which your comment relate.**

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### Main Consultation Document – Introduction and Reasoning

#### 7.3 Reasoning and questions in relation to the draft Determination to be issued pursuant to the Regulation

67. The draft New Regulation sets out a number of provisions for the preparation of Regulatory Accounts that are different from those that arise under the Current Regulation or as a result of the obligations imposed on Licensees through their Licences.
68. Annex C sets out the draft Determination, to be issued pursuant to the New Regulation, which will set out the obligations for preparing Regulatory Accounts proposed to be imposed on current Licensees, given the existing regulatory environment (i.e. previous regulations and determinations).
69. Under the draft New Regulation, the universal requirement imposed on all Licensees to prepare and maintain Regulatory Accounts no longer exists.
70. Based on the rules set out in the draft New Regulation, the obligation to prepare and maintain Regulatory Accounts will generally (but not exclusively) arise from Licensees being designated as Dominant and/or Licensees hold some form of special, exclusive or monopolistic rights.
71. The Authority will typically arrive at such a designation and put in place the required Regulatory Accounting obligations as part of a market review. The provisions outlined in Annex C therefore reflect the results of market reviews previously conducted by the Authority where it found Batelco to hold a Dominant Position in markets susceptible to *ex ante* Regulation.
72. The provisions in Annex C do not affect any other Licensees. This is because the only markets where Licensees other than Batelco are currently found to be dominant are those for call and data termination on their own networks. As set out earlier in this document the Authority believes that Regulatory Accounts are no longer required to regulate effectively these markets as the remedies, in particular price regulation, are based on the Authority's own BU LRAIC models.
73. The Authority expects that these obligations would be reviewed as part of any future market reviews that it carries out for these markets.

**Q10. Do you agree with the obligations set out in the draft Determination under the Regulation? In particular, the Authority welcomes comments on the proposed degree of separation; the wholesale products proposed for internal Transfer Charges; and the proposed timing for the submission of the first Regulatory Accounts under the New Regulation.**

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**ANNEX A – Draft New Regulation**



هيئة تنظيم الاتصالات  
Telecommunications Regulatory Authority  
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**Regulatory accounting**  
**Regulation**

**Consultation document**

**ANNEX A – Draft New Regulation**

Purpose: to set out the requirements for the preparation and submission of Regulatory Accounts.

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ANNEX A – Draft New Regulation

**ARTICLE 1 DEFINITIONS AND INTERPRETATION**

- 1.1 Any defined term used in the Regulation and the Guidelines to the Regulation shall, unless the context requires otherwise or it is expressly defined therein, have the same meaning as it has in the Legislative Decree No. 48 of 2002 Promulgating the Telecommunications Law (the “Telecommunications Law”) and the terms below shall have the following meaning:
- **Accounting Methodologies:** the appropriate methodologies and measures to be employed and utilised by the Affected Licensee in the preparation of Regulatory Accounts in accordance with the requirements of Article 3.1.1 of the Regulation.
  - **Accounting Procedures Manual (APM):** a manual that is part of the Regulatory Accounts containing supporting documents describing the approach taken to prepare the Regulatory Accounts Statements.
  - **Affected Licensee:** a Licensee required by the Authority, by way of a Determination issued pursuant to the Regulation, to submit Regulatory Accounts on an annual basis.
  - **Audited Regulatory Accounts Statements:** Regulatory Accounts Statements audited in accordance with the requirements of Article 12 of the Regulation.
  - **Auditor:** an individual or firm approved by the Authority and fully compliant with the Bahrain Auditors Law (No. 26 of 1996) and the requirements of the General Conditions of the Company Affairs Directorate at the Bahrain Ministry of Industry and Commerce.
  - **Auditor’s Report:** a report issued by an Auditor as a result of an audit of the Regulatory Accounts expressing an opinion as to whether the Regulatory Accounts provide a fair representation of the Affected Licensee’s business in line with the requirements set out in the Regulation.
  - **Capital Costs:** in the context of the Regulation are those costs that an Affected Licensee calculates it incurs for financing its fixed assets and Working Capital and is typically calculated by multiplying MCE with WACC.
  - **Causality:** a principle to be applied in the Regulatory Accounts whereby the allocation and attribution of costs (including Transfer Charges), revenues, assets and liabilities to Individual Products, Product Groups and Relevant Markets in accordance with the activities which cause the costs to be incurred, the revenues to be obtained, the assets to be acquired or liabilities to be incurred.
  - **Current Cost Accounting (CCA):** an accounting methodology, where assets are valued and depreciated according to their current replacement cost.
  - **Decision under the Regulation:** written decisions issued by the Authority under the Regulation relating to the appropriate interpretation and implementation of obligations arising as a result of a Determination under the Regulation.
  - **Determination under the Regulation:** written determinations issued by the Authority under the Regulation relating to the obligations to be placed on an Affected Licensee to

**Consultation document**  
**ANNEX A – Draft New Regulation**

prepare Regulatory Accounts including in relation to the level of separation to which such accounts should be prepared and the timeframe over which such accounts should be prepared.

- **Fairly Presents in Accordance (FPIA):** an audit opinion which provides assurance that the Regulatory Accounts 'fairly present' the underlying performance and financial position of the Affected Licensee's communications products, including its presentation in accordance with the Regulation. This level of audit opinion is equivalent to the standard required for statutory accounts.
- **Financial Capital Maintenance (FCM):** An approach under which the financial capital of the company is maintained in current price terms.
- **Financial Year:** a 12 month period used by a company for accounting purposes and for preparing financial statements.
- **Fully Allocated Costs (FAC):** an accounting approach under which all the costs of the company are distributed between its Individual Products. The fully allocated cost of an Individual Product may therefore include some common costs that are not directly attributable to the service.
- **Guidelines:** means the Guidelines issued by the Authority, and amended from time to time, setting out the steps the Authority expects an Affected Licensee to take to ensure that it complies with the terms of the Regulation. Reference in the Regulation to Guidelines shall also include reference to the terms of Specific Guidelines where the context so requires.
- **Historical Cost Accounting (HCA):** the conventional accounting methodology, where assets are valued and depreciated according to their cost at the time of purchase.
- **Individual Product:** a single product provided under a Telecommunications Licence issued under the Telecommunications Law.
- **International Financial Reporting Standards (IFRS):** internationally harmonised accounting rules and procedures set out by the International Accounting Standards Board.
- **Long-Run Average Incremental Cost (LRAIC):** a measure of the change in total long run costs of the firm that arise from an increase or decrease in a discrete increment of output.
- **Mean Capital Employed (MCE):** is equal to total assets less current liabilities, with the mean computed from the monthly values for the Financial Year.
- **Pro-forma:** a template showing the type of information and the level of detail that an Affected Licensee shall include in its Regulatory Accounts to be submitted to the Authority.
- **Product Groups:** a group of similar Individual Products, within a single Relevant Market.



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ANNEX A – Draft New Regulation

- **Profit and Loss (P&L):** a statement showing all items of income and expense in a given period for a Relevant Market, Product Group or Individual Product as the case may be.
- **Properly Prepared in Accordance (PPIA):** an audit opinion that provides assurance that the figures contained in Regulatory Accounts have been properly prepared in accordance with a described methodology, but without any assurance that the overall impression which they convey represents the underlying performance and financial position of the Affected Licensee's communications products in a 'fair' manner.
- **Regulation:** refers to this Regulation.
- **Regulatory Accounts:** means accounts prepared in accordance with IFRS that provide the information (financial and operational) as required under the Regulation and Determinations under the Regulation drawn up on an annual basis for the purpose of informing the Authority's regulatory procedures. Where the context requires, Regulatory Accounts shall refer to all documents required to be submitted under the Regulation, including Pro-forma, APM, the Regulatory Accounts Statements and any other supporting documents.
- **Regulatory Accounts Statements:** the financial statements for each separate Relevant Market, Product Group or Individual Product as required under the Determinations issued by the Authority under the Regulation.
- **Relevant Market:** a grouping of Individual Products and/or Product Groups defined by the Authority as part of a market review or where in the Authority's determination a Licensee has special, exclusive or monopolistic rights.
- **Specific Guidelines:** guidelines issued by the Authority relevant to an Affected Licensee setting out how that Licensee should interpret and implement its obligations under the Regulation.
- **Statutory Financial Accounts:** mandatory submission of financial and non-financial information to the Ministry of Industry and Commerce.
- **Transfer Charges:** a documentary and accounting approach whereby Individual Products supplied by one part of the business (e.g. a Relevant Market) to another part of the business are charged to the receiving part of the business as though the separate parts of the business party to the transaction were under separate third party ownership.
- **Weighted Average Cost of Capital (WACC):** the rate that a Licensee is expected to pay on average to its security holders (equity and debt) to finance its assets as determined or approved by the Authority.
- **Working Capital:** the net of current assets and current liabilities.

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**ANNEX A – Draft New Regulation**

**ARTICLE 2    GENERAL PROVISIONS UNDER THE REGULATION**

- 2.1 By way of a Determination under the Regulation, the Authority may designate a Licensee that meets at least one of the following criteria as an Affected Licensee:
- (a) a Licensee with a Dominant Position; and/or
  - (b) a Licensee having special, exclusive or monopolistic rights.
- 2.2 An Affected Licensee shall prepare and submit the Regulatory Accounts required under the Regulation in accordance with the Regulation, Determinations under the Regulation and Decisions under the Regulation, taking utmost account of the Guidelines issued by the Authority pursuant to the Regulation.
- 2.3 By way of a Determination under the Regulation, the Authority may amend and withdraw part or all of the obligations that were previously imposed on an Affected Licensee under this Regulation.
- 2.4 The Authority may amend the Guidelines developed under the Regulation by written notice to all Licensees.
- 2.5 The Authority may at any time publish Specific Guidelines that shall apply to one Affected Licensee in particular.
- 2.6 The introduction of Specific Guidelines or a change to any existing Specific Guidelines shall be notified to the Licensee affected by such Specific Guidelines and that Affected Licensee shall be afforded the opportunity to comment on a draft of the same.
- 2.7 In case of any conflict in interpretation of the provisions of the Regulation, the following order of precedence shall be observed while applying the terms of the Regulation:
- (a) the Regulation;
  - (b) any Determination or Decision under the Regulation;
  - (c) Specific Guidelines applicable to an Affected Licensee; and
  - (d) the Guidelines.

**ARTICLE 3    OBLIGATIONS IN RELATION TO THE PREPARATION OF REGULATORY ACCOUNTS**

- 3.1 Regulatory Accounts shall be prepared in accordance with the terms of the Regulation and submitted to the Authority together with any supplementary documentation as may be required by the Authority.
- 3.2 Affected Licensees shall prepare Regulatory Accounts based on the principles given below and having regard to the approach the Authority expects Affected Licensees to apply in ensuring compliance with the Regulation, as set out in the Guidelines. These principles are to be applied in the following order of precedence:
- (a) Reliability;
  - (b) Objectivity;
  - (c) Causality;
  - (d) Transparency;

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**ANNEX A – Draft New Regulation**

- (e) Materiality;
  - (f) Consistency with the Regulatory Accounts as a whole and from one period to another; and
  - (g) Compliance with statutory accounting standards.
- 3.3 Unless otherwise specified in the terms of a Determination under the Regulation, an Affected Licensee shall prepare separated Regulatory Accounts Statements:
- (a) for each Relevant Market in which the Affected Licensee is declared by the Authority to have a Dominant Position or has been granted special, exclusive or monopolistic rights; and
  - (b) for all other markets grouped into a minimum of two categories called “other wholesale” and “other retail”.
- 3.4 The Authority may also require, through a Determination under the Regulation, that an Affected Licensee prepares its Regulatory Accounts at a different level of separation, or using different Accounting Methodologies, including but not limited to any or all of the following:
- (a) Separation at the level of Product Groups or Individual Products in the Relevant Market(s) in which an Affected Licensee is determined to hold a Dominant Position or has been granted special, exclusive or monopolistic rights;
  - (b) Separation at the level of Relevant Market(s) other than those in which an Affected Licensee is determined to hold a Dominant Position or has been granted exclusive or monopolistic rights; and
  - (c) Separation at the level of Product Groups or Individual Products in the Relevant Market(s) other than those in which an Affected Licensee is determined to hold a Dominant Position or has been granted special, exclusive or monopolistic rights.

**ARTICLE 4    CONTENT OF REGULATORY ACCOUNTS**

- 4.1 Unless otherwise set out in a Determination under the Regulation, Regulatory Accounts shall consist of:
- (a) FAC HCA Regulatory Accounts; and
  - (b) FAC CCA Regulatory Accounts.
- 4.2 An Affected Licensee is required to prepare Regulatory Accounts for its full Financial Year.
- 4.3 Affected Licensees shall prepare and submit to the Authority, in accordance with the terms of this Regulation (including the stipulations set out in a Determination under the Regulation), and by taking account of the Guidelines, the following:
- (a) a Pro-forma;
  - (b) an APM; and
  - (c) Audited Regulatory Accounts Statements.

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- 4.4 Affected Licensees shall submit for approval the Pro-forma in line with the requirements set out in the Regulation. The Pro-forma shall show the level of detail that the Audited Regulatory Accounts Statements will have, but without the actual accounting figures.
- 4.5 Affected Licensees shall submit for approval an APM and a Pro-forma in line with the stipulations set out in a Determination under the Regulation, by taking utmost account of the Guidelines, Article 8 and Article 9 of the Regulation. The APM shall set out the procedures by which the Regulatory Accounts are prepared including a detailed listing of the policies and the allocation methodology (including allocation of indirectly attributable costs) applied by the Affected Licensee, as well as such operational data required in the preparation of the Regulatory Accounts, the allocation of revenues and costs and valuation of assets.
- 4.6 The submitted Regulatory Accounts shall follow the form and level of detail as required in a Determination under the Regulation (taking into utmost account the guidance provided in the Guidelines) and any Decision under the Regulation.
- 4.7 Unless otherwise requested by the Authority by way of a Decision under the Regulation, for each level of separation the following statements shall be provided by an Affected Licensee:
- (a) Consolidated P&L statement;
  - (b) Consolidated MCE statement;
  - (c) Separated P&L statements;
  - (d) Statement of reconciliation between consolidated P&L statement and Statutory Financial Accounts;
  - (e) Statement of reconciliation between consolidated MCE statement and Statutory Financial Accounts;
  - (f) Equivalence table of Transfer Charges;
  - (g) Statement of Transfer Charges;
  - (h) Statements of network component costs;
  - (i) Statement of responsibility;
  - (j) Auditor's Report; and
  - (k) Notes to the accountants, including any other supporting documents, statements or information, which is necessary to explain the accounts or is requested by the Authority.

**ARTICLE 5 COST AND REVENUE ALLOCATION, COSTING AND ASSET VALUATION  
APPROACH TO BE APPLIED IN THE PREPARATION OF REGULATORY  
ACCOUNTS**

- 5.1 In any Regulatory Accounts, revenues and costs (and assets and liabilities) shall be attributed to Individual Products, and thereby to Product Groups and Relevant Markets, using the principle of Causality.
- 5.2 The costs in the Regulatory Accounts must include the Capital Costs of all fixed assets and working capital, calculated by applying the WACC to the MCE.

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- 5.3 Regulatory Accounts prepared by Affected Licensees on the basis of CCA FAC shall use the FCM standard.
- 5.4 Unless otherwise specified, the revaluation of assets for the preparation of the CCA FAC Regulatory Accounts shall be based on indexation using established, long term and representative indices as a basis, and be prepared taking utmost account of the principles set out in the Guidelines.
- 5.5 The Authority may, by Decision under the Regulation, disallow particular costs from Individual Products, Product Groups and Relevant Markets. Any costs excluded on such basis must be separately identified when reconciling the Regulatory Accounts to the Statutory Financial Accounts. Any adjustment made by an Affected Licensee as a result of this provision or any other adjustments to the costs included in an Affected Licensee's Regulatory Accounts for the purpose of adjusting for inefficiencies shall be considered a material change to the Regulatory Accounts and be notified to the Authority in accordance with Article 8 of the Regulation..
- 5.6 Affected Licensees shall also maintain their accounting systems in a way that would allow them, if required by the Authority, to develop LRAIC estimates for submission to the Authority, consistent with the information contained within their Regulatory Accounts.
- 5.7 The Authority may, by Determination under the Regulation, require an Affected Licensee to prepare its Regulatory Accounts using any other Accounting Methodologies.

**ARTICLE 6      TRANSFER CHARGES**

- 6.1 Charges for Individual Products that are supplied by means of transfers between Relevant Markets under the control of the same Affected Licensee shall be reflected in the Regulatory Accounts at the same price and on the same commercial terms, including payment terms, as comparable products supplied by the Affected Licensee to other Licensees.
- 6.2 Affected Licensees must demonstrate the equivalence of Transfer Charges and prices of Individual Products provided to other Licensees as part of their APM and Regulatory Accounts.

**ARTICLE 7      TIMELINE FOR THE SUBMISSION OF REGULATORY ACCOUNTS**

- 7.1 An Affected Licensee shall prepare its first set of Regulatory Accounts under the Regulation in accordance with the timeline set out in a Determination under the Regulation.
- 7.2 All subsequent sets of Regulatory Accounts must be prepared in accordance with the process and timeline described in Article 8, Article 9 and Article 10 of the Regulation.

**ARTICLE 8      YEAR-ON YEAR MATERIAL CHANGES TO THE APM AND PRO-FORMA**

- 8.1 In the event that an Affected Licensee needs to make any material changes to the APM or Pro-forma, it must submit such material changes for approval to the Authority at least

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two (2) months prior to the end of the Licensee's Financial Year to which the changes relate, setting out its justifications for doing so.

- 8.2 It shall be the responsibility of the Affected Licensee to ensure that any material changes are reviewed by the Auditor, prior to submission to the Authority, to determine their compliance with the Regulation. Material changes to the Regulatory Accounts are those that imply a significant change in revenues or costs of Relevant Markets (Product Groups or Individual Products) or could lead to a different interpretation of the Regulatory Accounts by the user of the accounts (e.g. for the purpose of the Authority's regulatory decision making).
- 8.3 The Affected Licensee shall submit to the Authority along with the Pro-forma and APM a written statement prepared by the Auditor confirming whether, in the Auditor's opinion, the Pro-forma and APM are in line with the Regulation, and/or any applicable Decision or Determination under the Regulation. .
- 8.4 Following receipt of a submission made pursuant to Sub-article 8.1 of the Regulation, the Authority shall review the proposed material changes to the APM and Pro-forma and may subsequently issue a Decision under the Regulation in the manner envisaged under Sub-article 8.5 below, taking into account whether the proposed material changes:
- (a) are justified;
  - (b) improve the Regulatory Accounts with regards to the principles set out in Sub-article 3.2; and
  - (c) are consistent with any other Decisions under the Regulation made in relation to the preparation of Regulatory Accounts.
- 8.5 Having considered a submission made pursuant to Sub-article 8.1 of the Regulation the Authority may issue a Decision under the Regulation within two (2) months of the date of submission of the proposed material changes to:
- (a) approve the changes; or
  - (b) conditionally approve the changes, subject to amendments specified by the Authority; or
  - (c) reject the changes and require the Affected Licensee to resubmit its APM or Pro-forma within a timeframe determined by the Authority; or
  - (d) reject the changes and require the Affected Licensee to revert to a previously approved version for that year's Regulatory Accounts.
- 8.6 Should the Authority not respond to the Affected Licensee within the two (2) months from the date of submission of the proposed material changes, such changes shall be deemed to have been approved.

**ARTICLE 9 SUBMISSION OF THE PRO-FORMA**

- 9.1 Should no notification to the Authority under Article 8 of the Regulation be required by an Affected Licensee, only the Pro-forma must be submitted for approval to the Authority at least two (2) months prior to the end of the Affected Licensee's Financial Year.

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- 9.2 The Authority shall review the Pro-forma within two (2) months of receiving it and may subsequently issue a Decision under the Regulation in the manner envisaged under Sub-article 9.3 taking into account whether the Pro-forma are consistent with:
- (a) the principles set out in Sub-article 3.2; and
  - (b) any other Decisions under the Regulation made in relation to the preparation of the Regulatory Accounts.
- 9.3 Having considered the criteria set out in Sub-article 9.2 the Authority may issue a Decision under the Regulation within two (2) months of the date of submission of the Pro-forma to:
- (a) approve the use of the Pro-forma without change; or
  - (b) conditionally approve the use of the Pro-forma subject to amendments specified by the Authority; or
  - (c) reject the use of the Pro-forma and require the Affected Licensee to resubmit a revised Pro-forma within a timeframe determined by the Authority; or
  - (d) reject the use of the Pro-forma and require the Affected Licensee to revert to a previously approved version for that year's annual submission.
- 9.4 Should the Authority not respond to the Affected Licensee within two (2) months from the date of submission of the proposed changes, the Pro-forma shall be deemed to have been approved.

**ARTICLE 10 ANNUAL SUBMISSION PROCESS**

- 10.1 Unless otherwise specified by the Authority, the Affected Licensee shall submit their Regulatory Accounts including the Audited Regulatory Accounts Statements to the Authority no later than five (5) months after the end of the Affected Licensee's Financial Year to which the Regulatory Accounts relate.
- 10.2 The Authority reserves the right to request a restatement of the most recent Regulatory Accounts after the submission process, along with the restatement of the prior year's Regulatory Accounts, if it has reasons to believe that those Regulatory Accounts do not comply with the Regulation, or any Determination or Decision under the Regulation.

**ARTICLE 11 APPOINTMENT OF THE AUDITOR OF REGULATORY ACCOUNTS**

- 11.1 Affected Licensees shall appoint an Auditor to audit the Regulatory Accounts in accordance with the Regulation. This Auditor should be different from the Auditor of that Affected Licensee's Statutory Financial Accounts.
- 11.2 An Affected Licensee shall not appoint a new Auditor without informing the Authority in advance of any appointment and setting out the reason that the Affected Licensee believes makes a new appointment necessary.
- 11.3 The Authority may further require the Affected Licensee to appoint a new Auditor in the event that it has reason to believe that the objectives of the Regulation or the Telecommunications Law may not be met.

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**ANNEX A – Draft New Regulation**

- 11.4 The Affected Licensee shall ensure that the audit takes place in a timely manner to ensure that the Regulatory Accounts are prepared and submitted to the Authority in accordance with the requirements set out in Article 10.

**ARTICLE 12 AUDIT OF REGULATORY ACCOUNTS**

- 12.1 The Regulatory Accounts shall be subject to an audit carried out by an independent and professionally qualified Auditor using the FPIA standard. The Auditor shall provide an Auditor's Report certifying that the Regulatory Accounts, the costs incurred, the mean capital employed and the revenues generated by the Affected Licensee in each separated Relevant Market, Product Group or Individual Product (as required by the relevant Determination under the Regulation) have been prepared in accordance with the Regulation and the APM.
- 12.2 If the Auditor is only able to issue a qualified opinion or disclaimer in its Auditor's Report under FPIA, the Affected Licensee must also instruct its Auditor to include in the Auditor's Report, a separate opinion under the PPIA standard, regarding those aspects of the Regulatory Accounts that prevented it from issuing an unqualified opinion under FPIA. This opinion must state whether those aspects meet the requirements to achieve an unqualified audit opinion based on an audit under the PPIA standard. The opinion must also set out the requirements that the Affected Licensee must fulfil in order to achieve an unqualified opinion based on an audit under FPIA.
- 12.3 If the Auditor issues a qualified opinion or disclaimer, based on either of these audit standards, the Auditor's Report must specify why the qualified opinion or disclaimer was issued, alongside the necessary changes or improvements which the Affected Licensee would need to make to achieve an unqualified opinion.
- 12.4 In the event that an Affected Licensee is only able to provide a qualified opinion or disclaimer under both FPIA and PPIA, then, if in the Authority's view the Regulatory Accounts appear unsuitable for regulatory purposes, the Authority, without prejudice to its powers to impose penalties under the Telecommunications Law, may require the Affected Licensee to prepare a second set of Regulatory Accounts for the year in question, which resolves the concerns raised by the Auditor.
- 12.5 An Affected Licensees shall be deemed to have complied with its obligations in relation to the preparation of the Regulatory Accounts only if the Auditor issues an unqualified opinion in its Auditor's Report, applying the FPIA standard, as a whole.
- 12.6 The Auditor's Report shall contain all necessary details as required under the Regulation and under any Determination and Decision under the Regulation.

**ARTICLE 13 PUBLICATION OF REGULATORY ACCOUNTS**

- 13.1 The Authority may, at its sole discretion, publish on its website or request that an Affected Licensee publishes on its website the Regulatory Accounts that have been submitted to the Authority in compliance with the Regulation.
- 13.2 If deciding to publish, or requiring such information to be published, the Authority shall request at such a time that the Affected Licensee should provide a non-confidential version of that information suitable for publication. However, the Authority may, at its sole



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**ANNEX A – Draft New Regulation**

discretion, publish material that has been submitted in accordance with the obligations under the Regulation which the Affected Licensee considers confidential if in the Authority's opinion doing so is consistent with the objectives of the Telecommunications Law.

**ARTICLE 14 PROVISION OF INFORMATION**

14.1 Without prejudice to its powers under Article 53 of the Telecommunications Law, the Authority may require an Affected Licensee to submit full copies of, or provide read-only access to, underlying cost models used by the Affected Licensee in the preparation of its Regulatory Accounts.

**ARTICLE 15 RETENTION OF DATA**

15.1 An Affected Licensee shall retain Regulatory Accounts, together with information, records and documents upon which the Regulatory Accounts have been prepared for at least the same period as its underlying Statutory Financial Accounts.

15.2 This requirement is without prejudice to any other obligations that the Affected Licensee may have for the retention of such documents pursuant to any other legal or regulatory obligations that it is subject to.

**ARTICLE 16 COSTS INCURRED**

16.1 All costs incurred in complying with the Regulation, including but not limited to the Auditor's costs, shall be borne by the Affected Licensee.

**ARTICLE 17 ISSUANCE OF DETERMINATIONS AND DECISIONS UNDER THE REGULATION**

17.1 The Authority shall have the power to issue Determinations and Decisions under the Regulation as it deems appropriate.

17.2 Determinations issued under the Regulation shall be in accordance with the terms of the Regulation including for implementing, altering or removing any of the obligations imposed upon an Affected Licensee pursuant to the Regulation and setting the initial timeline for the first preparation of Regulatory Accounts under the Regulation.

17.3 Decisions issued under the Regulation shall be in accordance with the terms of the Regulation including for the approval or rejection of the Pro-forma and APM, alterations to the annual timeline for submitting the Regulatory Accounts and the interpretation of the Regulation for the preparation of the Regulatory Accounts.

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**ARTICLE 18 FAILURE TO COMPLY WITH THE REGULATION**

- 18.1 Failure by an Affected Licensee to comply with the Regulation, including failure to present any required documents or information on time or in a form that is required by the Authority, shall be considered as a material breach of the Regulation and the Telecommunications Law.

**Consultation document**

**ANNEX B – Draft Guidelines for the preparation of Regulatory Accounts**



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

**Regulatory Accounting Guidelines**

**Consultation document**

**ANNEX B – Draft Guidelines for the preparation of  
Regulatory Accounts**

Purpose: to set out explanation of the expected detail provided by an Affected Licensee's Regulatory Accounts to ensure compliance with the Regulation.

## Consultation document

### ANNEX B – Draft Guidelines for the preparation of Regulatory Accounts

## 1 Definitions and interpretation

1. Any defined term used in these Guidelines 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 Regulatory Accounting Regulation [●].
2. These Guidelines set out how the Authority in general expects Affected Licensee’s to implement their Regulatory Accounts in order to be compliant with the Regulation.

## 2 Principles to be applied in Regulatory Accounting

3. Article 3.2 of the Regulation sets out the principles that Affected Licensees shall apply in preparing Regulatory Accounts. In judging compliance with these principles, the Authority shall interpret each principle as follows:
  - i. **Reliability.** The Regulatory Accounts are free from errors or omissions.
  - ii. **Objectivity.** The Regulatory Accounts present a fair view of an Affected Licensee’s business, are based on objective evidence as far as possible and do not contain any systematic biases.
  - iii. **Causality.** Costs (and revenues, assets and liabilities) are attributed to Individual Products, Product Groups and Relevant Markets in accordance with the activities which cause the costs to be incurred, the revenues to be earned, assets to be acquired or liabilities to be incurred.
  - iv. **Transparency.** The approach and processes used to prepare the Regulatory Accounts are clear. That is, a user of the accounts is able to follow the steps taken to prepare the Regulatory Accounts.
  - v. **Materiality.** A more rigorous approach to allocate costs, assets and revenues is used for those products or cost categories that are more material.
  - vi. **Consistency.** Regulatory Accounts, both as a whole and from one period to another, use, as far as possible, consistent assumptions and data in the Regulatory Accounts is comparable across time periods.
  - vii. **Compliance with statutory accounting standards.** Except for those areas where the Regulation specifies otherwise, the Regulatory Accounts are consistent with the accounting standards used in a Licensee’s Statutory Financial Accounts.

## 3 General obligations for preparing Regulatory Accounts

4. This section of the Guidelines sets out the methodology that the Authority will expect an Affected Licensee to follow in preparing its Regulatory Accounts. In particular, it describes how an Affected Licensee should interpret the requirements of the Regulation for the purposes of:

## Consultation document

### ANNEX B – Draft Guidelines for the preparation of Regulatory Accounts

- i. Defining Individual Products, Product Groups and Relevant Markets;
  - ii. Allocating revenues and volumes;
  - iii. Cost allocation;
  - iv. Asset valuation;
  - v. Calculating depreciation charges;
  - vi. Calculating the return on capital;
  - vii. Deriving internal Transfer Charges;
  - viii. Making efficiency adjustments; and
  - ix. Sampling of data.
5. Section 4 of these Guidelines, explains the expected content of the Regulatory Accounts Statements and Accounting Procedures Manual (APM) that an Affected Licensee is obliged to produce and which should describe how the Affected Licensee has prepared its Regulatory Accounts.

#### 3.1 Identifying Individual Products, Product Groups and Relevant Markets

6. Subject to the provisions made in any Determination under the Regulation, an Affected Licensee may be required to prepare up to four levels of Regulatory Accounts:
- i. the whole telecoms business, covering all Individual Products offered by the Affected Licensee, which can be separated into;
  - ii. accounts for each Relevant Market; which can each be separated into;
  - iii. accounts for each Product Group; which can each be separated into;
  - iv. accounts for Individual Products.
7. Relevant Markets are those markets defined by the Authority as part of a market review. An Affected Licensee will not always be required to separate its whole telecoms business into every Relevant Market. Rather the Authority will typically impose a remedy on an Affected Licensee to prepare Regulatory Accounts for particular Relevant Markets, based on those markets in which the Affected Licensee is found to have a Dominant Position or has special, exclusive or monopolistic rights. According to the Regulation, all other markets for which an Affected Licensee does not face a Regulatory Accounting remedy shall also be reported and grouped together into a minimum of two categories called “other wholesale” and “other retail”. Affected Licensees may further disaggregate these categories if they choose to do so. The Regulatory Accounts shall cover (as part of the possible separations set out above) should cover all Individual Products an Affected Licensee provides under its Telecommunications Licence(s).

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#### 3.1.1 Separation at the level of Product Groups

8. Subject to any Determination under the Regulation, Regulatory Accounts may be further separated at the level of Product Groups.
9. Product Groups shall relate to groups of Individual Products which have common characteristics, but which may differ in certain parameters. For example, a Relevant Market for wholesale broadband products may have different Product Groups, such as resale, standard bitstream, and high-quality bitstream. If an Affected Licensee is required to separate Regulatory Accounts at the level of all Product Groups within a Relevant Market, it may choose to no longer prepare such accounts at the level of that Relevant Market. If an Affected Licensee is required to separate Regulatory Accounts at the level of only some Product Groups within a Relevant Market, it should still prepare such accounts at the level of that Relevant Market.
10. Subject to any specific requirements defined in Determinations under the Regulation, an Affected Licensee should show separately the costs related to one off services (e.g. installation and/or connection), the costs related to periodic services (e.g. access rental) and the costs related to usage based services (e.g. number of minutes, amount of traffic). For example, based on this the Authority would expect that an Affected Licensee would split a wholesale broadband service between connection, monthly line rental and data consumption services.
11. Where the same Product Groups can be provided over different network technologies and the pricing reflects this, an Affected Licensee should distinguish between Product Groups by technology. For example, within the physical and virtual wholesale broadband access market, the Authority would expect an Affected Licensee to distinguish between lower speed bitstream typically provided over the copper access network and higher speed bitstream provided over a fibre access network.

#### 3.1.2 Separation at the level of Individual Products

12. Subject to any Determination under the Regulation, accounts may also be further separated at the level of Individual Products.
13. This level of separation relates to Individual Products within Product Groups. For example, the Product Group for bitstream products may have different types of accesses and capacity services. An obligation to separate Regulatory Accounts at the level of the Individual Product means that an Affected Licensee may choose to no longer provide Regulatory Accounts at the level of Relevant Markets or Product Groups. However, the Authority will still expect an Affected Licensee to provide such Regulatory Accounts if it is only required to provide separate Regulatory Accounts for a sub-set of Individual Products within a Product Group (or Relevant Market).
14. Other expectations in relation to the preparation of Regulatory Accounts at the level of Individual Products are analogous to those set out for Product Groups.

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#### 3.2 Revenue and volume allocation

15. The Authority expects that external revenues should be directly assigned to a particular Individual Product and therefore Product Group and Relevant Market. In general, the Authority expects that Individual Products should be sufficiently defined to ensure direct attribution of revenues to Individual Products. Where this is not possible, volumes and revenues should be attributed on an appropriate basis, where that basis is set out in the APM.
16. Where there is a simple consistent measure for the volume of the Individual Product or Product Group within a Relevant Market, for example call minutes, number of subscribers, data traffic or capacity, this should also be shown.

#### 3.3 Cost allocation

17. According to the Regulation, an Affected Licensee is required to implement a FAC costing approach. In order to comply with this requirement, the Authority expects that an Affected Licensee should use an Activity Based Costing (ABC) approach to allocate costs, assets and liabilities to Individual Products, Product Groups and Relevant Markets.
18. In order to satisfy the Causality principle, the Authority expects that an Affected Licensee will use the following approach when allocating costs<sup>7</sup> to Individual Products.
  - i. **Direct and directly attributable costs.** Direct costs are those that unambiguously relate to an Individual Product or Product Group and should be attributed accordingly.
  - ii. **Indirectly attributable costs.** These are costs that should be allocated to an Individual Product or Product Group through a relationship to other costs or factors linked to the relevant Individual Product or Product Group. Such an allocation should not be arbitrary and the APM accompanying the Regulatory Accounts should explain how such indirectly attributable costs have been allocated.
  - iii. **Un-attributable costs.** These are costs that do not fit into either of the above categories. The Authority strongly expects this category will represent less than 10% of the overall costs of a Relevant Market, Product Group or Individual Product, unless a Licensee specifies clearly why this is not appropriate. Unless stated otherwise through a Decision under the Regulation, the Authority would expect that un-attributable costs would be allocated through the use of an equi-proportionate mark-up (EPMU), whereby costs are allocated in proportion to the sum of the costs (direct and indirect) that have been allocated to the Individual Product or Product Group.
  - iv. **Disallowed costs.** Where the Authority does not allow an Affected Licensee to recover particular costs from Individual Products, or Product Groups, for example for the purposes of price regulation or otherwise, that Affected Licensee should

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<sup>7</sup> Where relevant in these Guidelines, references to “costs” should be understood to cover also assets and liabilities.

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provide, as part of its Regulatory Accounts a reconciliation between the attribution or allocation of all costs and the attribution or allocation of allowed costs only.

19. Where applicable, sampling techniques can be used to allocate costs. Such techniques are described in more detail below.
20. The Authority expects that cost categories should typically be defined under the following headings, or equivalent headings of at least the same level of granularity:
  - i. Product development and management;
  - ii. Marketing and sales;
  - iii. Repair and maintenance;
  - iv. Finance and billing;
  - v. Installation/provisioning;
  - vi. Network support;
  - vii. General support;
  - viii. General management;
  - ix. Accommodation for network equipment
  - x. Accommodation for other equipment and personnel;
  - xi. Information Technology;
  - xii. Transport;
  - xiii. Personnel and administration;
  - xiv. Other operating expenses;
  - xv. Historical depreciation;
  - xvi. Supplementary depreciation;
  - xvii. Holding gains and losses; and
  - xviii. Internal Transfer Charges (with a single row showing the internal transfer charge for each of the separated Relevant Markets (or Product Groups or Individual Products), other wholesale and other retail markets).
21. An Affected Licensee that intends to use cost categories different from those set out above should seek the Authority's approval for doing so, as part of its submission of the Pro-forma and APM.

#### 3.4 Asset valuation

22. According to the Regulation and unless otherwise specified by a Determination under the Regulation, an Affected Licensee must present its Regulatory Accounts on a Historical Cost Accounting (HCA) and Current Cost Accounting (CCA) basis.
23. The preparation of the Regulatory Accounts on the basis of HCA should not require any adjustments to the Affected Licensee's statutory fixed asset register, as the information contained therein is normally already based on the historic acquisition or production value.



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24. As set out in the Regulation and unless specified otherwise in a Determination under the Regulation, CCA should be implemented using an indexation approach. This approach to valuing assets is intended to reflect the replacement costs of assets as a proxy for the costs that a new entrant with the same scale and scope as the Affected Licensee would face. The Affected Licensee should use appropriate price indices based on publically available information or derived from its own procurement of assets over time. Such indices should also take into account the development of technology (e.g. increase in capacity) over time.
25. If required and justified, the Affected Licensee may use a different CCA valuation approach (such as Modern Equivalent Asset Valuation). The APM should justify why this approach was applied and the exact methodology used should be explained in detail.
26. Where assets have short asset lives (less or equal to three years), historic asset values may be used in place of current cost. Assets of relatively low gross book value may be revalued on the basis of suitable generic indices.

### 3.5 Depreciation

27. The Authority expects that depreciation should be calculated on a straight-line basis.
28. The Authority also expects that an Affected Licensee will apply its statutory asset lives in the determination of its Regulatory Accounts, unless there is a specific reason to use alternative asset lives. Without prejudice to this general principle, previous instructions issued by the Authority on this matter prior to the Regulatory Accounting Regulation entering into force shall remain in force and shall take priority over the general principle set out in this subsection of the Guidelines
29. Should an Affected Licensee propose other adjustments to the asset lives used in its Regulatory Accounts, it should set out and justify this in its APM, explaining how the revised asset life will more accurately reflect the economic life of the asset.
30. As set out in the Regulation, an Affected Licensee shall use FCM when estimating capital charges under CCA. FCM recognises changes in asset values in each year, regardless of whether the asset is sold or not. This differs from OCM which only recognises changes in assets values when the asset is sold.
31. The use of FCM allows the Affected Licensee to fully recover the value of the capital originally invested. Using FCM will mean that any P&L statements presented in the Regulatory Accounts (CCA version) will need to recognise historical depreciation, supplementary depreciation and holding gains or losses.
32. Fully depreciated assets should be excluded from the net asset base and calculation of capital charges since, by definition, the cost of these assets will have already been recovered.

### 3.6 Return on capital

33. To allow for a reasonable Return on Capital Employed, the Regulation requires an Affected Licensee to take account of Capital Costs by multiplying MCE by the WACC. The MCE should be calculated as the net value of mid-year fixed asset values plus current assets minus current liabilities. The mid-year fixed asset values should be determined as

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the average of opening and closing net book value/net replacement costs. The mid-year current assets and current liabilities should be determined as an average of the monthly values.

34. The allocation of cash and cash equivalents to Relevant Markets, Product Groups and Individual Products should be based on a causal, justifiable relationship between the holding of cash and cash equivalent balances and the Relevant Markets, Product Groups and Individual Products. Excess cash and cash equivalents (i.e., cash holdings not justified by any normal and efficient operations of the business) should be allocated to the separated accounts for remaining retail markets. The APM should set out the amount of cash and cash equivalents considered by the Affected Licensee to be in excess of that amount required for the normal and efficient operation of the business and how this amount has been determined.

### 3.7 Internal Transfer Charges

35. The Regulation requires an Affected Licensee to show internal Transfer Charges to demonstrate non-discrimination and equivalent treatment between its own downstream business and that of other Licensees.
36. As a result, the Authority expects that an Affected Licensee will provide and maintain an equivalence table which links wholesale products to retail products, including those products only used in self supply.
37. An Affected Licensee should then calculate the internal Transfer Charges as follows:
  - i. Internal Transfer Charges should be calculated by multiplying the unit charges for services “consumed” by a downstream Individual Product, Product Group or Relevant Market, by the volume of services delivered internally.
  - ii. The unit charges should be based on the wholesale prices the Affected Licensee charges other Licensees for the equivalent wholesale service.
  - iii. Where no close equivalent wholesale service can be identified for the self-supplied service, an Affected Licensee should calculate the unit price based on unit costs, including a return on capital. The methodology used to derive these costs should be consistent with the one used to derive wholesale prices used in the same downstream markets. For example, the cost of a 100Gbps Ethernet link (as an example of a wholesale product that may not be offered to third parties) should be calculated using the same methodology as that used to estimate 1Gbps or 10Gbps Ethernet links (as examples of wholesale products that are more likely to be used by third parties). Where wholesale prices are determined by the Authority an Affected Licensee may not have all information at its disposal for determining how the methodology applied by the Authority would apply to wholesale products other than those that are regulated. In this instance, Affected Licensee should seek guidance from the Authority for setting an appropriate Transfer Charge.

### 3.8 Sampling

38. Where sample data is used for the purpose of attributing or allocating costs, it should provide an objective, accurate and fair representation of the underlying data. An Affected

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Licensee shall ensure the sample data is based on either generally accepted statistical techniques or other appropriate methods and shall be required to demonstrate that:

- i. the sample data and use of the sample data is unbiased and objective;
- ii. the sample size is statistically significant and representative of the entire population, including over time (i.e. not subject to seasonality); and
- iii. the sample data is updated on an annual basis or remains representative of the Affected Licensee's operations.

## 4 Format and content of the Regulatory Accounts

39. The Regulation requires an Affected Licensee to its Regulatory Accounts annually for each complete Financial Year. For the avoidance of doubt, the Authority expects that an Affected Licensee will align its Financial Year for Regulatory Accounting purposes to the Financial Year for its Statutory Financial Accounts. This is to allow for reconciliation of the Regulatory Accounts to the Statutory Financial Accounts. This section of the Guidelines sets out the list of statements and reports an Affected Licensee is expected to submit to the Authority as part of its Regulatory Accounts, unless otherwise specified by the Authority in a Determination under the Regulation.
40. Before preparing the Regulatory Accounts, the Regulation requires an Affected Licensee to develop Pro-forma of all statements and reports included in the Regulatory Accounts, specifying the detail that the Affected Licensee intends to provide in order to comply with the Regulation. In particular, the Pro-forma should show the level of detail that the Regulatory Accounts will provide, but without the actual figures and results. This should include, but is not limited to:
  - i. Details of the Relevant Markets that will be included in each statement; and/ or
  - ii. Details of the Product Groups or Individual Products that will be included in each statement, subject to the Authority's required level of separation; and
  - iii. Details of the cost categories that will be included in each statement; and
  - iv. Details of the network components that will be included in each statement.
41. The precise specification of the format of the Regulatory Accounts is likely to vary from year to year, for example because of changes in technology resulting in network elements changing, or because of the introduction of new services over time. If an Affected Licensee is unsure if those changes are material, the Affected Licensee should generally assume that they are and proceed according to the corresponding requirements set out in the Regulation.

### 4.1 Regulatory Accounts Statements

42. This subsection of the Guidelines provides a list and description of the statements and reports that an Affected Licensee is expected to produce as part of its Regulatory Accounts.
43. **Consolidated Profit and Loss (P&L) statement:** Consolidated P&L for the Licensee's Telecommunications activities (including both wholesale and retail activities) showing:

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- i. External revenues;
  - ii. Internal revenues;
  - iii. Total revenues;
  - iv. Cost categories listed in paragraph 20 above;
  - v. Total costs;
  - vi. Return; and
  - vii. Return on revenue.
44. The following template shows the structure that the Authority expects a Licensee to use for the consolidated P&L statement.

**Table 1: Consolidated P&L**

Line item	Value
External revenues	X
Internal revenues <i>[Insert a row showing the internal revenue for each of the separated markets, other wholesale and other retail]</i>	X
Total revenues	X
<i>[Insert a row for each of the different cost categories – see paragraph 20 above]</i>	X
Total Operating Costs	X
Return	X
Return on revenue	X%

45. **Consolidated MCE Statement.** Consolidated MCE statement for the Licensee’s telecoms activities showing:
- i. Fixed assets (split by tangible and intangible assets);
  - ii. Current assets (split by stocks, work in progress, debtors, cash and near cash);
  - iii. Liabilities (split by creditors, provisions and accruals);
  - iv. MCE; and
  - v. ROCE

46. The following template shows the structure the Authority expects an Affected Licensee to use for this statement.

**Table 2: Consolidated MCE statement**

Line item	Value
<b>Fixed assets</b>	X
<i>Tangible assets</i>	X
<i>Intangible assets</i>	X
<b>Current assets</b>	X
<i>Stocks</i>	X
<i>Work in progress</i>	X

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<i>Debtors</i>	X
<i>Cash and near cash</i>	X
<b>Total assets</b>	X
<b>Liabilities</b>	X
<i>Creditors</i>	X
<i>Provisions</i>	X
<i>Accruals</i>	X
<b>Total mean capital employed</b>	X
Return On Capital Employed	X%

47. **Breakdown of network cost.** This should show, for each network element, a breakdown of cost for that network element. The list of network elements should be defined by the Affected Licensee in its Pro-forma and agreed with the Authority. The following template shows the structure the Authority expects an Affected Licensee to use for this statement.

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**Table 3: Breakdown of network cost by network component**

	Operating costs (less depreciation)	Exceptional operating costs	Depreciation	Total Operating costs	Mean capital employed	Applicable rate of return on capital	Capital Costs	Total operating and Capital Costs	Volume	Units of volume	Average cost per unit
Network Component 1											
Network Component 2											
Network Component 3											
...											
Total											

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48. **Breakdown of network cost by separated Relevant Market (Product Group or Individual Product).** This should show for each level of separation, the composition of costs by network element. The list of network elements should be defined by the Affected Licensee in its Pro-forma and agreed with the Authority. The following template shows the structure the Authority expects an Affected Licensee to use for this statement.

**Table 4: Breakdown of network cost by separated Relevant Market (Product Group or Individual Product)**

Total operating and Capital Costs	Separated Relevant Market/Product Group/Individual Product 1	Separated Relevant Market/Product Group/Individual Product 2	...	Other wholesale	Other retail	Total costs for telecoms activities (wholesale and retail)
Network element 1	X	X	X	X	X	X
Network element 2	X	X	X	X	X	X
Network element 3	X	X	X	X	X	X
...	X	X	X	X	X	X

49. **Table of equivalence for Transfer Charges.** A table showing the wholesale products which act as inputs for retail products, as used in the calculation of internal Transfer Charges. This should include all Individual Products, including those only involved in self-supply. The table should indicate the number of units used as an input to supply a unit of the retail product, as well as a description of the unit used. The following template shows the structure the Authority expects an Affected Licensee to use for this template.

**Table 5: Table of equivalence for Transfer Charges**

Retail Product	Wholesale Product	Unit	Description of unit
Retail Individual Product 1	Wholesale Individual Product X		-
	Wholesale Individual Product X		-
	Wholesale Individual Product X		-
Retail Individual Product 2	Wholesale Individual Product X		-
	Wholesale Individual Product X		-
	Wholesale Individual Product X		
...	...		
	...		
	...		

50. **Internal Transfer Charges.** A matrix showing the internal Transfer Charges and volumes between the separated markets (Product Groups, Individual Products) with the rest of the Affected Licensee’s telecoms business (i.e. the provision of Individual Products not

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included in the separated markets)<sup>8</sup>. The following template shows the structure the Authority expects an Affected Licensee to use for this statement.

**Table 6: Breakdown of Transfer Charges**

Transferred from (Revenue)	Volume	Unit charge	Transferred to (cost)					
			Separated Relevant Market/Product Group/Individual Product 1	Separated Relevant Market/Product Group/Individual Product 2	...	Other wholesale	Other retail	Total
Product group 1.1			-					
Product group 1.2			-					
Product group 1.3			-					
Product group 1.4			-					
<b>Total Relevant Market 1</b>			-					
Product group 2.1								
Product group 2.2								
...								
Other Wholesale								
Other Retail								

51. **P&Ls for each level of separation:** The Regulation requires an Affected Licensee to show a separate P&L for each of the separated Relevant Markets (Product Groups, Individual Products). Each P&L should include data on external revenues, internal revenues, total revenues, different cost types (see below), the return (excluding Capital Costs), the MCE and the ROCE. The total cost of the different cost types should sum up to the total costs of the resource categories.
52. Cost types should be defined in the Pro-forma, but should at a minimum include the operating expenses as outlined in paragraph 20 and should not include the Capital Costs (based on MCE x WACC). Costs should be suitably categorised to allow users of the accounts to distinguish between costs which are caused by different cost drivers.

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<sup>8</sup> For the avoidance of doubt, the internal Transfer Charges should only show transfers between the different parts of the licensee's telecoms division. Any Individual Products sold to or purchased from non-telecoms divisions should be charged at the appropriate retail rates.



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53. The following template shows the structure that the Authority expects an Affected Licensee should use for the P&L information for different Relevant Markets. There should be a separate statement for each of the required separated Relevant Markets and one for other wholesale markets and other retail markets. There should also be a “Total telecoms activities” statement, which is the summation of all Relevant Markets and remaining communication activities.
54. The “Return” and “Mean Capital Employed” in the “Total telecoms activities” statement should be consistent with the data shown in the consolidated P&L and MCE statement. The following template shows the structure the Authority expects an Affected Licensee to use for these statements.

**Table 7: Separated P&L**

	Separated Relevant Market/Product Group/Individual Product 1
External revenues	X
Internal revenues <i>[Insert a row showing the internal revenue for each of the separated Relevant Markets, Product Groups, Individual Products, other wholesale and other retail markets]</i>	X
Total revenues	X
Costs <i>[Insert a row for each of the different cost categories – see paragraph 20 above]</i>	X
Return	X
Return on external revenues (excluding cost of capital)	X
Mean Capital Employed	X
Return On Capital Employed	X

55. **Reconciliation of P&L to Statutory Financial Accounts.** The Regulation requires an Affected Licensee to show how the consolidated P&L in its Regulatory Accounts can be reconciled to the P&L in its Statutory Financial Accounts. For this, the Authority expects that the Affected Licensee should show the impact of adjustments, such as CCA adjustments and internal Transfer Charges. The following template shows the structure the Authority expects an Affected Licensee to use for this statement.

**Table 8: Reconciliation of P&L to Statutory Financial Accounts**

	Revenue	Cost	Return
Separated accounts			
CCA adjustments <sup>9</sup>			
<i>Adjustments for inefficient costs<sup>10</sup></i>			
Internal Transfer Charges			
Adjustment X			

<sup>9</sup> For Regulatory Accounts based on CCA

<sup>10</sup> Only in exceptional circumstances

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	Revenue	Cost	Return
.....			
Non-telecoms activities			
Statutory accounts			

56. **Reconciliation of MCE to Statutory Financial Accounts.** The Regulation requires an Affected Licensee to show how the consolidated MCE statement in its Regulatory Accounts can be reconciled to the Statutory Financial Accounts. Where applicable, this should show separately the difference in the MCE resulting from the use of different assets lives in the Regulatory Accounts compared to the Statutory Financial Accounts. The following template shows the structure the Authority expects an Affected Licensee to use for this statement.

**Table 9: Reconciliation of MCE to Statutory Financial Accounts**

	Mean capital employed
Separated accounts	
Impact of using different asset lives	
Impact of CCA adjustment <sup>11</sup>	
<i>Impact of efficiency adjustments<sup>12</sup></i>	
Adjustment X	
.....	
Non-telecoms activities	
Shareholders' funds in statutory accounts	

57. **Statement of Responsibility from the Chairman of the Board of Directors:** The Chairman of the Board of Directors of an Affected Licensee should provide an introduction to the Regulatory accounts. This should include a signature to confirm that the accounts are an accurate representation of the Affected Licensee’s telecommunications activities. This is to provide assurance to the Authority on the reliability and completeness of the Regulatory Accounts.

58. **Statement of Auditor:** The Affected Licensee should require its Auditor to provide an overview of how they have audited the accounts, provide their opinion on the accuracy of the accounts, to the required audit standard, and confirm that the accounts have been produced in line with the Regulation and any Decisions or Determinations under the Regulation. Where this cannot be given, the Authority expects that the Affected Licensee will require its Auditor to set out reasons why this confirmation cannot be given. This is to provide assurance on the reliability of the Regulatory Accounts. See section 5 of these Guidelines for details on the audit process.

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<sup>11</sup> For Regulatory Accounts based on CCA

<sup>12</sup> Only in exceptional circumstances

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59. **Notes to the accounts.** The Licensee should also provide any further notes, as necessary, to explain the accounts or as requested by the Authority. These should include, at a minimum:
60. **Basis of preparation:** A description of how the Affected Licensee has prepared the Regulatory Accounts and confirmation that it has adhered to the overarching principles set out in the Regulation and Guidelines. This is to ensure transparency.
- i. **Significant changes compared to previous year.** The Affected Licensee should describe any significant changes to the results in its Regulatory Accounts relative to the previous year.
  - ii. **Description of any material one-off items.** The Affected Licensee should provide a description of any material one-off costs or revenue.

#### 4.2 Accounting Procedures Manual

61. The Regulation requires an Affected Licensee to produce an APM as an integral part of the Regulatory Accounts. This should describe the approach that the Affected Licensee has used to derive the Regulatory Accounts Statements, so to enable an independent audit of the Statements to ensure their reliability and transparency to the Authority.
62. In order to meet this obligation, the Authority expects that an Affected Licensee's APM should at a minimum cover:
- i. **A description of the Affected Licensee's business:** This should explain how the firm's telecommunications activities fit into the overall structure of its business. The explanation should be complemented by a diagram showing the structure of the business.
  - ii. **An overview of which Individual Products are contained within different Product Groups within each Relevant Market (for separated markets):** This does not need to list every single Individual Product contained within all of the Product Groups, but it should provide sufficient information so that a user of the Regulatory Accounts could determine under which Product Group given Individual Products fall.
  - iii. **An overview of any material changes in the approach compared to the previous year and the justification for changing the approach.** For example, if the Affected Licensee has changed one of the price indices used for asset valuation or has changed one of the cost drivers used for cost allocation, then this should be explained and justified in this section of the APM. This is to provide clarity on the consistency of the Regulatory Accounts from one period to another.
  - iv. **A description of the source of information for its Regulatory Accounts and underlying costing system.** This should include a description of whether the Affected Licensee uses different costing systems for its wholesale and retail activities. If so, it should explain how these systems interrelate.
  - v. **A description of internal safeguards that the Affected Licensee has used to ensure that its Regulatory Accounts are accurate and complete.** This should include a description of any cross-checks performed.
  - vi. **The approach to cost allocation.** This should include a description of:

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- a. The main cost categories that can be directly allocated to network elements or Individual Products;
  - b. The approach used to identify the appropriate cost drivers to allocate indirectly attributable costs;
  - c. The main cost categories where a Licensee has had to use an EPMU to allocate un-attributable costs; and
  - d. Any sampling techniques used.
- vii. **The approach to asset valuation.** For each asset class, Affected Licensees should submit:
- a. Gross Replacement Costs (opening and closing values);
  - b. Net Replacement Costs (opening and closing values);
  - c. Gross Book Value (opening and closing values); and
  - d. Net Book Value (opening and closing values).
- a. Additions;
  - b. Disposals;
  - c. Reclassifications;
  - d. Post capitalization; and
  - e. Price trends.

The Affected Licensee should also submit descriptions of:

- f. The assets;
  - g. Detail of the price indices used to value these assets;
  - h. Why the specific price indices used were considered the most appropriate;
  - i. The reason for not valuing certain assets on a CCA basis, for example due to short asset lives;
  - j. The percentage of the asset base that is valued on a CCA basis, based on the net book value of the assets; and
  - k. Explanation for using any asset lives which are not the statutory asset lives, and the impact this has on the accounts.
- viii. **The approach to depreciation including the asset lives used.** If the Affected Licensee uses different asset lives to those used in its Statutory Financial Accounts (either because the Authority has required it do so or because the Authority has given it permission to do so), then the Affected Licensee should explain this. The Affected Licensee should also explain how it has calculated supplementary depreciation and holding gains or losses in its CCA accounts.
- ix. **Capital costs.** The Affected Licensee should confirm that it has used the WACC, as determined by the Authority or set out its own calculation of the WACC, in the event that the Authority has not determined a WACC to be used by the Affected Licensee, to estimate the Capital Costs.

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- x. **The approach to internal Transfer Charges.** The Affected Licensee should explain for which services it has been able to use external prices to determine the internal Transfer Charges and the approach used to estimate Transfer Charges for other services.
- xi. **Methodology and data used to determine any efficiency adjustments.** The Affected Licensee should explain the logic for any efficiency adjustments included in its Regulatory Accounts and how it determined such adjustments.
- xii. **Table of routing factors.** The Affected Licensee should include a table of routing factors for each level of separation. This table should detail how the costs of network elements have been allocated to each separated Individual Product, Product Group or Relevant Market. The table should allow the linking of the volume of services with the consumption of network elements and the total network costs attributed to Individual Products, Product Groups and Relevant Markets. When the volumes of services that use the same network element(s) are expressed in different units (e.g. minutes, calls, MB, sessions, SMS etc.), the Affected Licensee must convert such volumes into a common unit, using conversion factors. The methodology and assumptions used to derive such conversion factors should be detailed and justified.
- xiii. **An overview of new services that have been added since the previous reporting year and the impact of this.** If the new services have replaced legacy services, then the Affected Licensee should describe these.
- xiv. The approach to allocating the revenues and costs for any jointly sold separated Individual Products or jointly sold Individual Products from different Relevant Markets or Product Groups.

## 5 Audit of Regulatory Accounts

- 63. The audit of the Regulatory Accounts relates to the examination and verification of an Affected Licensee's Regulatory Accounts Statements and APM. This includes systematic checking and verification of the accounting information to ensure that the Regulation has been correctly applied and that the APM has been accurately implemented.
- 64. The Regulation requires an Affected Licensee's Regulatory Accounts to be subject to an independent Audit. As part of the Audit, the Affected Licensee should ensure that its Auditor has access to all information used to prepare the Regulatory Accounts, APM, source systems and related documentation, including confidential information.
- 65. The elements covered by the audit should include:
  - i. The scope of costs, revenues, assets and liabilities included in the Regulatory Accounts and the scope of those allocated to separated Relevant Markets (Product Groups or Individual Products);
  - ii. Reconciliation between the Regulatory Accounts and Statutory Financial Accounts;
  - iii. The correctness of figures, including operational data; and

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### ANNEX B – Draft Guidelines for the preparation of Regulatory Accounts

- iv. Methodologies used for cost allocation, asset valuation, depreciation, return on capital, internal Transfer Charges, efficiency adjustments, the approach used for separating out revenues and costs for Individual Products sold jointly from different Relevant Markets or Product Groups.
66. An Affected Licensee should make available to the Auditor the appropriate resources to explain and respond to questions arising during the review.
67. If needed, an Affected Licensee, its Auditor and the Authority should agree meetings and discussions between the three parties at different stages of the Audit.
68. For each Financial Year, the Affected Licensee should require its Auditor to provide a publishable statement which shall relate to the overall conclusion of the Auditor. This statement will be published, alongside the Regulatory Accounts, in the case that the Authority decides to make an Affected Licensee's Regulatory Accounts publically available.
- i. For each Financial Year, the Auditor should also be requested to provide to an Affected Licensee a statement, which shall cover the following, at a minimum:
  - ii. all identified irregularities;
  - iii. recommendations made by the Auditor with a description of the expected impact on the Regulatory Accounts;
  - iv. a full description of the verification methodology followed; and
  - v. aggregate financial and accounting data (such as CCA adjustments, main assumptions made on attribution methodologies, levels of costs allocated and the level of the granularity of the model); and
  - vi. the Affected Licensee should make this document available to the Authority.
69. In addition, the Auditor should be required by the Affected Licensee to provide a summary of its approach and conclusions in a statement included in the Affected Licensee's Regulatory Accounts.

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### ANNEX B – Draft Guidelines for the preparation of Regulatory Accounts

## 6 Glossary

ABC	Activity Based Costing
APM	Accounting Procedures Manual
CCA	Current Cost Accounting
EPMU	Equi-proportionate mark-up
FAC	Fully Allocated Cost
FCM	Financial Capital Maintenance
LRAIC	Long Run Average Incremental Cost
HCA	Historical Cost Accounting
MCE	Mean Capital Employed
OCM	Operational Capital Maintenance
P&L	Profit and Loss
ROCE	Return on Capital Employed
WACC	Weighted Average Cost of Capital

## Consultation document

### ANNEX C –Draft Determination of regulatory accounting obligations



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

## Regulation

### Regulatory accounting

## Consultation document

### ANNEX C – Draft Determination of regulatory accounting obligations

Purpose: to set out the specific obligations applying to Licensees, arising from the New Regulation and previous Market Review findings.



## Consultation document

### ANNEX C –Draft Determination of regulatory accounting obligations

#### Obligations arising under the Regulatory Accounting Regulation

1. This Determination is issued by the Authority pursuant to its powers under Article 3(c)(1) of the Telecommunications Law and Article 17 of the Regulatory Accounting Regulation (the “Regulation”).
2. This Determination applies to Bahrain Telecommunications Company B.S.C (“Batelco”), which has been determined by the Authority to hold a Dominant Position in several wholesale telecommunications markets by way of the following determinations:
  - i. the Dominance in Interconnection Markets Determination issued 9 August 2003;
  - ii. the Dominance Determination in Wholesale Markets by Batelco issued 22 January 2006;
  - iii. the Dominance Determination in Wholesale Broadband Markets issued 14 September 2009;
  - iv. the Determination of Significant Market Power and Determination of Dominant Position in the Markets for Provision of Broadband Internet Access from Fixed Location issued on 27 March 2014; and
  - v. the Determination of Significant Market Power and Determination of Dominant Position in the Markets for Domestic Data Connectivity Services issued on 10 April 2014.
3. This Determination obliges Batelco to prepare and maintain Regulatory Accounts, in accordance with the requirements set out in the Regulation, separated for the following wholesale telecommunications markets in which Batelco has been determined by the Authority to hold a Dominant Position:
  - i. the wholesale broadband access market for the supply of business broadband internet access services from a fixed location to be separated at Product Groups level (i.e. (1) Business Wholesale DSL with a distinction between copper and fibre accesses and (2) Business Bitstream with a distinction between copper and fibre accesses); and
  - ii. the wholesale market for the supply of domestic data connectivity services in Bahrain, with the exception of Amwaj Islands to be separated at Product Groups level (i.e. (1) Wholesale Local Access (“WLA”) with a distinction between copper and fibre accesses and (2) Wholesale Data Connection (“WDC”));
4. In addition, Batelco is required to provide a separation in its Regulatory Accounts for the following retail markets which are related to the wholesale markets set out above because Batelco notionally uses inputs of one of the above wholesale telecommunications markets for the provision of the retail services:
  - i. the retail market for the supply of business broadband internet access services from a fixed location, where the wholesale product used for the purpose of internal transfer charge is the Business Bitstream product, with a distinction between copper and fibre access.
  - ii. the retail market for the supply of domestic data connectivity services in Bahrain, with the exception of Amwaj Islands, where the wholesale products used for the purpose of internal transfer charge are:

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### ANNEX C –Draft Determination of regulatory accounting obligations

- a. WLA copper-based product for copper-based Local MPLS (now referred to as “MPLS based IP-VPN” in Batelco’s website) and for other copper-based local connections using legacy technologies;
  - b. WLA fibre-based product for fibre-based Local MPLS (now referred to as “MPLS based IP-VPN” in Batelco’s website); and
  - c. WDC product for other domestic fibre-based leased connections using Batelco’s SDH and/or DWDM networks;
- iii. the retail market for the supply of international data connectivity services in Bahrain, with the exception of Amwaj Islands, where the wholesale products used for the purpose of internal Transfer Charges are:
- a. WLA copper-based product for the domestic part of the copper-based Global MPLS and for the domestic part of other copper-based international connections using legacy technologies;
  - b. WLA fibre-based product for the domestic part of the fibre-based Global MPLS; and
  - c. WDC product for the domestic part of other international fibre-based connections using Batelco’s SDH and/or DWDM networks;
- and
- iv. the retail mobile product groups; where the wholesale product used for the purpose of internal transfer charge is:
- a. WDC product for the backhaul of mobile radio sites (one WDC Connection per mobile radio site); and
  - b. WDC product for the mobile core network links (one WDC Connection per mobile core network link).
5. For the avoidance of doubt and as required under Sub-article 3.3 (b) of the Regulation, Batelco must also separate its Regulatory Accounts for its remaining telecommunication services into:
- i. other retail; and
  - ii. other wholesale.

### **Timeline and other requirements for the first submission of Regulatory Accounts**

6. Batelco shall submit its Accounting Procedures Manual and Pro-forma that will apply to the 2016 Regulatory Accounts within four months of publication of this Determination.
7. Prior to submission, the Accounting Procedures Manual and Pro-forma Accounts shall be reviewed by an independent Auditor who shall certify their compliance with the Regulation.
8. The Authority shall review the submitted Accounting Procedures Manual and Pro-forma within three months and it may:
  - i. Approve it without change; or
  - ii. Conditionally approve it subject to requirements specified by Decision under the Regulation; or

## **Consultation document**

### **ANNEX C –Draft Determination of regulatory accounting obligations**

- iii. Reject it and require Batelco to re-submit the Accounting Procedures Manual and/or Pro-forma within the time period given by the Authority after taking into account the Authority's reasons for rejection.
9. As part of the Decision to approve or conditionally approve the initial Accounting Procedures Manual and Pro-forma, the Authority will set the date of submission of the first Regulatory Accounts.
10. Once initial Regulatory Accounts have been submitted to the Authority's satisfaction, the annual submission process as outlined in the Regulation shall apply.

**Consultation document**  
ANNEX D – Consolidated list of questions



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

**Regulation**  
**Regulatory accounting**

**Consultation document**

**ANNEX D – Consolidated List of Consultation Questions**

Purpose: to set out the consolidated list of questions for this consultation.

**Consultation document**  
ANNEX D – Consolidated list of questions

- Q1. Do you agree with the way in which the Authority plans to impose obligations for preparing and maintaining Regulatory Accounts?**
- Q2. Do you agree with the proposed obligations set out in the draft New Regulation for Regulatory Accounts to be prepared on FAC HCA and FAC CCA standards? Do you agree with the removal of the requirement to prepare Regulatory Accounts based on the LRAIC standard?**
- Q3. Do you agree with the Authority's proposal in relation to the audit standard of the Regulatory Accounts?**
- Q4. Do you agree with the Regulatory Accounts Statements being separated based upon Relevant Markets and Product Groups and Individual Products within those Relevant Markets and other provisions made in that regard?**
- Q5. Do you agree with the regulatory timeline and the provisions in the Regulation made in that regard?**
- Q6. Do you agree with the Authority's proposal in relation to the appointment of an Affected Licensee's Regulatory Accounts Auditor?**
- Q7. Do you agree with the Authority's proposal in relation to publishing Regulatory Accounts?**
- Q8. Do you have any other comments in relation to the draft New Regulation?**
- Q9. Do you have any comments in relation to the draft Guidelines? In your response, please specify the paragraph to which your comment relate.**

**Consultation document**  
ANNEX D – Consolidated list of questions

**Q10. Do you agree with the obligations set out in the draft Determination under the Regulation? In particular, the Authority welcomes comments on the proposed degree of separation; the wholesale products proposed for internal Transfer Charges; and the proposed timing for the submission of the first Regulatory Accounts under the New Regulation.**