NOTIFICATION OF A SPECIAL TEMPORARY MEASURE UNDER ARTICLE 40(BIS)(B) OF
THE TELECOMMUNICATIONS LAW UNDERTAKEN BY THE TELECOMMUNICATIONS
REGULATORY AUTHORITY

1. BACKGROUND TO THE SPECIAL TEMPORARY MEASURE

1.1 Pursuant to Article 40(bis)(b) of the Telecommunications Law, the Telecommunications
Regulatory Authority (the “Authority”) hereby issues this Special Temporary Measure (“STM”) to the Bahrain Telecommunications Company (“Batelco”). This STM is issued to Batelco in furtherance of the Authority’s implementation of the policies set out under the Fourth National Plan for Telecommunications (“NTP4”) in relation to the deployment of a Fixed Telecommunications Infrastructure Network and the implementation of the approach set out in its Report on the New Telecommunications Economic Regulatory Framework for the Kingdom of Bahrain1.

1.2 The STM requires Batelco to supply Licensed Operators upon request with specified products and services during the period of transition to Batelco’s functional separation on fair, reasonable and non-discriminatory terms. The STM also obliges Batelco to achieve certain milestones in regards to fibre deployment with a view to meeting the deployment and performance targets set out under NTP4.

2. DEFINITIONS

2.1 For the purposes of this STM:

a. A meaning or definition provided for any word, phrase or expression under the Telecommunications Law shall also be applicable to such word, phrase or expression in this STM, unless the context requires otherwise.

b. The definitions set out in the body of this STM or in Schedule 1 shall apply.

3. DURATION

3.1 The effective date for this STM is xxx 2018 (the “effective date”) and it will remain valid until it expires in accordance with clause 6 (the “Term”).

4. TRANSITIONAL PRODUCTS AND SERVICES

4.1 Batelco shall provide, by means of its national fixed telecommunications network, the Transitional Products and Services in the Kingdom of Bahrain.

4.2 During the Term, Batelco shall take all necessary actions: (i) leading to the eventual creation of the FSE and (ii) for the prompt commencement of provision of the Transitional Products and Services in accordance with:

4.2.1 Government Policy;
4.2.2 directions issued by the Authority;

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1 Ref: MCD/021/18/005 dated 15 April 2018.
4.2.3 the terms within this STM; and
4.2.4 any undertakings that may be submitted by Batelco and approved by the Authority.

4.3 Batelco may, with the prior written approval of the Authority, provide any of the Transitional Products and Services through an Affiliate provided, however, that Batelco shall continue to be fully liable for any obligation arising in relation to the provision of such Transitional Products and Services. The Authority may revoke its approval at any time by providing reasonable advance notice to Batelco in writing. The prior written approval of the Authority shall not be required if such Affiliate is and remains wholly-owned by Batelco, provided always that the Authority shall be notified of such arrangement.

4.4 The Transitional Products and Services shall be supplied to all duly Licensed Operators upon reasonable request.

4.5 The Transitional Products and Services shall be provided on a fair, reasonable and non-discriminatory basis including in relation to:

4.5.1 Price terms; and
4.5.2 Non-price terms, particularly in relation to:

(a) Quality of service; and

(b) Operational performance as detailed in the connection, activation and fault rectification service levels for each Transitional Product and Service.

4.6 Batelco shall continue to deploy fibre infrastructure in accordance with the “NTP4 Fibre Deployment Milestones” set out in Schedule 3 of this STM.

4.7 Without prejudice to Article 57(f) of the Law, Batelco shall use all reasonable endeavours to ensure the privacy and confidentiality of information and business secrets obtained in the course of its business from any person to whom it provides the Transitional Products and Services by establishing and implementing reasonable internal procedures for maintaining privacy and confidentiality of such information subject to any requirement under law. Batelco shall maintain sufficient information on its privacy and confidentiality procedures to satisfy the Authority, at its reasonable request, that the requirements of this Clause 4.7 are being met and that information provided by other persons for the purpose of access and/or interconnection to the Transitional Products and Services is used for no other purpose other than the purpose for which such information is provided, and that such information is only available to such Batelco staff as are essential to facilitate the provision of such product(s) or service(s).

5. APPOINTMENT OF INDEPENDENT CONSULTANT(S)

5.1 The Authority may appoint one or more independent consultant(s) (the “Consultant(s)”)) to manage and administer all aspects of this STM. In the event of such appointment Batelco shall give all necessary assistance to the Consultant(s) (and/or any third party appointed by the Consultant pursuant to Article 5.3.1) to carry out the objectives of its/their appointment(s) (including the expeditious provision of any documentation requested by the Consultants’ staff and/or access to databases, physical infrastructure, business information or any other technical or non-technical resource held by Batelco).

5.2 The Consultants’ role may include preparing all documentation necessary for Batelco to execute the performance of Batelco’s obligations under this STM, including, but not limited to, all legal, accounting, corporate, economic, regulatory, commercial, industry communications and
consultations, financing and other associated activities. The Authority may direct Batelco to act in accordance with the documentation prepared by the Consultant(s).

5.3 Where an appointment is made by the Authority in accordance with clause 5.1:

5.3.1 the Consultant(s) may appoint any other third party to assist with the Consultant’s activities in accordance with the terms of their appointment;

5.3.2 the Consultant(s) shall be solely accountable to the Authority and not to Batelco for the completion of its activities;

5.3.3 the Consultant(s) shall operate independently of Batelco and Batelco shall have no right to direct or manage the Consultant(s) as to its activities;

5.3.4 all costs and expenses of the Consultant(s) shall be borne by Batelco; and

5.3.5 notwithstanding the appointment of the Consultant(s), the Authority shall retain all regulatory oversight over Batelco and the operation of this STM in accordance with the Telecommunications Law.

6. MODIFICATION, REVOCATION AND EXPIRATION

6.1 This STM may be modified or revoked in any of the following ways at any time:

6.1.1 by written agreement between the Authority and Batelco;

6.1.2 by the Authority if the Authority determines that such modification or revocation is necessary for the purpose of safeguarding equivalence between Licensed Operators or otherwise implementing Government Policy, provided that the Authority shall have:

(a) given Batelco one (1) month written notice of the proposed modification or revocation; and

(b) consulted with Batelco.

6.2 The STM shall automatically expire on the later of:

6.2.1 8 May 2019, being the conclusion of the NTP4 implementation period; or

6.2.2 the effective date of a Fixed Telecommunications Infrastructure Network Licence .

7. COMPLIANCE AND ENFORCEMENT

7.1 Without prejudice to any other reporting obligations imposed upon Batelco in furtherance of Government Policy, Batelco shall provide written updates to the Authority concerning its compliance with this STM every month.

7.2 Batelco shall report on a monthly basis in accordance with the Interim Fibre Deployment Monitoring Framework having utmost regard to the NTP4 Fibre Deployment Milestones set out in Schedule 3.

7.3 In accordance with the provisions of Article 35 of the Law, the Authority may impose fines upon Batelco should it fail: (i) to meet the targets for the launch of the Transitional Products and Services set out in Schedule 2; and/or (ii) to meet the NTP4 Fibre Deployment Milestones set out in Schedule 3.
DRAFT – Subject to approval and formal issuance by the TRA

SCHEDULE 1
DEFINITIONS

Affiliate means, as used with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, that person. In the case where one person owns, directly or indirectly, 50% or more of the share capital, voting rights, securities, or other ownership interest of another person, both such persons shall be deemed an affiliate of the other.

Interim Fibre Deployment Monitoring Framework means the framework for the Authority to monitor the deployment of fibre infrastructure by Batelco during the period of transition to the new industry structure set out under NTP4.

FSE means the functionally separated entity which will own, operate and deploy a Fixed Telecommunications Infrastructure Network.


Telecommunications Law means The Telecommunication Law of the Kingdom of Bahrain, promulgated by Legislative Decree No. 48 of 2002 as amended.

Transitional Products and Services means the products and services set out in Schedule 2.
SCHEDULE 2
TRANSITIONAL PRODUCTS AND SERVICES AND TIMELINES

1. TRANSITIONAL PRODUCTS AND SERVICES
   [ ]

2. TRANSITIONAL PRODUCTS AND SERVICES TIMELINES
   [ ]
Paragraph 17 of NTP4 provides the following deployment and performance targets:

*For residential customers: ultra-fast broadband access enabling downstream data rates of a minimum 100Mbit/s for 95% of households; and*

*For business customers and public radio communications Stations: ultra-fast broadband access enabling symmetric and uncontended data rates of minimum 1 Gbit/s, with 100% coverage.*

These deployment and performance targets are to be met by the end of the NTP4 implementation period. In order to achieve these targets, Batelco is obliged to meet the following fibre deployment milestones set out in the table below. These targets are based on the information available to the Authority at the time of issuance of this STM.

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