



Submission to the Telecommunications Regulatory Authority by VIVA BAHRAIN in response to the Public
Consultation issued on 15 December 2015:

“Market and Competition Review of the Retail Markets for Access to
Call Services including Domestic Calls from a Fixed Location (Ref:
MCD/12/15/097)”

CONFIDENTIAL VERSION

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Introduction

VIVA welcomes the opportunity to respond to this market review. The market under consideration is the baseline fixed telecommunications market. Despite the limited decline in fixed telephony access amongst residential consumers, connection to the PSTN remains the most common fixed telecommunications service purchased at the retail level.

In this context the importance of a properly functioning market for this service cannot be minimized. It is clear that Batelco does have a monopoly in the mass market and that there is not perfect competition where it's inappropriate to include mobile products as perfect substitute of fixed services.

In this light at a high level, VIVA agrees with the preliminary conclusion reached by TRA that Batelco exercises SMP on the premium market which however we believe shall include business PSTN access product. In the mass-market, VIVA disagrees with the TRA definition which we believe shall exclude business PSTN access and mobile voice access. TRA's recommendation is not supported by empirical evidence and in fact the Hypothetical Monopolist Test (SSNIP) contradicts with the TRA position, is not in line with international benchmarks and market share distribution within the respective markets confirms that Batelco is still dominant in these markets.

VIVA detailed views are set out below but in general we would view that TRA, in making its market assessment, has given Batelco the benefit of the doubt in weighing the constraints upon it and therefore TRA's high level conclusions are not robust.

1. Response to Question 1

Do you agree with the Authority's definition of the markets for mass-market access and premium access to domestic calls from a fixed location in Bahrain? If not, please explain why.

VIVA Answer:

VIVA disagrees with the Authority's definition of the market for mass-market and premium access to domestic calls from a fixed location in Bahrain.

TRA has defined two relevant markets for the provision of access to domestic calls from fixed location in Bahrain: the mass market and the premium market. VIVA has serious concerns with TRA's conclusion that relevant mass market shall include both residential and business customers. Also VIVA does not agree that mobile services shall be included in the same market as PSTN services.

VIVA believes that the two segments and the products shall not be combined in one market based on the following reasons:

Relevant customer market

TRA recognized that there is little evidence on the substitutability between business PSTN and residential PSTN products since subscriber numbers for business PSTN have remained fairly stable.

However TRA stated that both segments are in the same market based on the lack of barriers for customers to access the two relevant products.

While in theory business consumers could subscribe to residential product, it is not a viable option for some business customers, considering that the subscription to other essential business add-on services to reflect business identity like .bh domain names, email and hosting services are only offered to business customers subscribing to Batelco PSTN product. Also consumer needs are different between business and residential segments; an SME would require more daytime calls whilst a resident would more than likely require more evening minutes. Thus, VIVA believes there are separate fixed voice access markets for residential and business customers.

The lack of switching, confirmed by TRA, is evidence that PSTN services, Business and Residential, are in separate markets in the absence of empirical evidence. VIVA considers that defining a single market for business and residential PSTN products would be a premature decision by TRA which stated in Para 73 of the consultation:

“However, the Authority is cautious in defining the market as such and will continue to monitor the developments in the business PSTN product to ensure that there is no competition problem in the future”

Relevant product market

In reference to Para 85 and 86 on the decline of PSTN subscribers and traffic, VIVA is concerned about TRA’s position in assuming strong degree of substitutability between PSTN and mobile services in the absence of empirical evidence based on a comprehensive market research.

Despite the fact that the highlighted trend of subscriptions to fixed and mobile services does not show any evidence of substitutability between the two products, TRA has based its analysis on the concept of “Chain of Substitution”, where it assumes that since mobile product is substituting residential PSTN, which is substituting business PSTN then it concludes that mobile service is substituting business PSTN product. VIVA disagrees with the TRA conclusion based on the following:

- Given the high retail mobile penetration in Bahrain, VIVA believes that the dynamic of overall voice retail market is not a substitution between mobile retail voice access services and retail fixed voice access but rather an independent judgment by consumers on whether the additional utility that they get from having fixed voice access in addition to their mobile voice access justifies the incremental cost. A portion of consumers are not choosing between fixed and mobile in terms of substitution but rather this market segment increasingly views mobile service as the baseline and fixed voice access as incremental and optional and are adjusting this optional cost.

In this context some operators around the world are offering a Solution to their business customers where key functionality associated with the product is that incoming calls to business landline numbers can be received on employees’ mobiles. This product is marketed as an integrated fixed and mobile voice communications Solution. We consider this as a Fixed Mobile Convergence solution rather than a Fixed Mobile Substitution Solution.



Residential PSTN product

VIVA disagrees with the TRA that residential PSTN could be substitutable with Mobile service for the reasons stated above.

Business PSTN product

The Business survey conducted by TRA indicates (Para 90) that only 16% of respondents would switch to mobile services if price of domestic calls from fixed line increases by 10%. This is a clear strong indication generated by the application of the Hypothetical Monopolist Test (SSNIP) showing that mobile products are not included in the relevant business access market. VIVA believes that this proportion is too low to conclude on the substitutability between PSTN and mobile amongst business consumers, and hence there is no potential competition, and no countervailing buyer power, that may limit the ability of Batelco to act independently of its competitors or customers and exercise market power. This is also in line with [TRA Telecommunications Market Survey Report – Business Results 2014](#) (page 20), where it states that 92% of business respondents will “definitely not/will not switch” from landline product to mobile services.

Furthermore, Ofcom’s [review of the fixed narrowband services markets](#) conducted in 2013, found that there are other considerations that would limit the extent of switching to mobile by business customers. Ofcom report suggests that mobile calls cannot replicate the quality or “air of professionalism” and reputability, which a fixed landline confers upon businesses. As such VIVA believes that such non-price criteria are strongly applicable to business customers in Bahrain.

In summary, VIVA believes that it is more appropriate to conclude that there is no direct substitution between PSTN and mobile products, due to the lack of empirical evidence as it could potentially lead to anti-competitive behaviour. VIVA suggests that the market access to domestic calls in Bahrain shall exclude mobile access and shall be separated into the following two markets:

- Retail mass-market access to domestic calls from a fixed location in Bahrain for residential customers, and
- Retail premium-market access to domestic calls from a fixed location in Bahrain for non-residential customers (including PSTN product for business segment)

This approach is adopted in other countries such as UK in accordance with [Ofcom’s 2013 review of the fixed narrowband services markets](#) where the retail fixed voice markets were defined as two separated markets: residential and business fixed narrowband calls.



2. Response to Question 2

Do you agree with the Authority's view that that no operator holds SMP in the retail market for mass-market access to domestic calls from a fixed location? If not, please explain why.

VIVA Answer:

Since VIVA disagrees with the Authority's definition of the relevant markets and recommends to separate business and residential segments in two different markets, and to exclude mobile product, we believe that:

- 1- Batelco exercises SMP position in the retail mass-market access to domestic calls from a fixed location in Bahrain for residential customers.
- 2- VIVA agrees with the TRA that Batelco holds an SMP position in the retail-premium market access to domestic calls from a fixed location in Bahrain for business customers. This market shall include the PSTN product for business segment.

In 2014, Batelco PSTN market share is almost 95% of the total wired fixed services and 64% of total fixed subscriptions, which shall be almost the same market share in the business and residential segments.

VIVA believes that there was no much dynamics in the fixed market during 2015 and Batelco market share remains fairly stable comparing to 2013 market share of 90% (Para 208 of Strategic Market Review Report).

3. Response to Question 3

Do you agree with the Authority's view that Batelco has SMP in the retail market for premium access to call services including domestic calls from a fixed location? If not, please explain why.

VIVA Answer:

Notwithstanding VIVA above positions in responses to Questions 1 and 2, VIVA agrees with the Authority that Batelco has SMP in the retail market for premium access to call services including domestic calls from a fixed location, including PSTN access services.

4. Response to Question 4

Under what circumstances do you think such market (i.e. retail market for premium access to call service including domestic calls from a fixed location) could be deregulated?

VIVA Answer:

Notwithstanding our response to Question 1 above, VIVA believes that premium access market to call services including domestic calls from a fixed location shall continue to be regulated by the TRA due to the following reasons:



1. Batelco enjoys significant market shares (more than 80%) since 2010 in the offering of premium services (mainly ISDN service), and more than 90% in the provision of PSTN services to all consumers;
2. OLOs' inability to offer substitutable services to Batelco's premium services leading to ineffective competition in this market.

5. Response to Question 5

Do you agree with the Authority's overall conclusions and the resulting implications? If not, please explain why.

VIVA Answer:

VIVA disagrees with the Authority's overall conclusions and the resulting implications in accordance with VIVA position to Questions 1, 2, 3 and 4.