



Zain Bahrain's response to the public document regarding

**"Market and Competition Review of the Retail Markets for Access to
Call Services including Domestic Calls from a Fixed Location"**

Issued by the Telecommunications Regulatory Authority on 15 December 2015

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Zain Bahrain Ref. RI/1602/019

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This response to the Draft Determination is submitted via email to MCD@tra.org.bh, by:

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The following is our feedback on the raised questions:

Q1. 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.

1. Generally, Zain 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.
2. The access component of the local network has bottleneck characteristics, in that it is not economically feasible to duplicate it, and these characteristics are unlikely to change over time. Mobile and broadband technologies are enabling alternative service providers to address demand for fixed access service on a commercially sustainable basis. Nevertheless, business customers who rely on this service have no alternative means of communication short of moving to mobile services. They therefore have no practical choice under the same or similar terms and conditions, and, in the absence of ex ante regulation would potentially be exposed to the reduced quality of service or increased prices. In this case it is important that any exercise of dominant market power be prevented at source rather than addressed after the event.
3. Batelco's business PSTN subscribers for this instance are constraint not to switch service providers for other considerations, other than tariffs plan. Business solutions offered by Batelco such as website/mail hosting, data-centers, connectivity solutions ... etc are tied with a PSTN number/subscription as a prerequisite. This exert a constraint on switching the business PSTN subscriber's call service behavior.

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4. The fixed line consumers in the Kingdom of Bahrain still did not perceive other service providers as a substitute for Batelco. This is evidence in the fixed number portability transactions since the introduction of Number Portability Regulation in 2011, where only 1,390 fixed subscriber ported out from Batelco out of 109,822¹, which represents approximately only 0.013% of total number portability transactions since 2011. This figure represents also close to only 1% of Business PSTN subscribers numbers (in reference to Figure 19).
5. This could be interpreted that users seeking an alternative means of accessing the public telephone service at a fixed location do not have the choice of a similar service in terms of price and other service characteristics, or that there are other constraints related to managed services associated with PSTN subscription. It is a competition concern that should be addressed in this assessment.
6. The consultation document highlighted similar concern in Paragraph 136, with point of view that this shall be monitored pursuant to an *ex-post* approach. Zain is of the view that due to a potential substitutability barriers, is not now and will not tend over time to be subject to competitive market forces sufficient to protect the interests of customers, and is one where *ex-post* controls unlikely to address the potential harm from dominance.
7. Therefore, Zain request the Authority to take into consideration while defining the market of access to call services all non-price terms that could affect the substitutability of services, including a breakdown between Business and Residential to identify the pattern of each category.

Q2. 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.

8. Zain does not 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. With reference to Zain's answer to Q1, the consultation document highlighted a concern in Paragraph 136,

¹ As of 10/02/2016



where there is little evidence showing switching between business PSTN and mobile. The Authority have point of view that this shall be monitored pursuant to an ex-post approach. Zain is of the view that due to a potential substitutability barriers, is not now and will not tend over time to be subject to competitive market forces sufficient to protect the interests of customers, and is one where ex-post controls unlikely to address the potential harm from dominance.

9. Accordingly, Zain request the Authority to take into consideration while defining the market of access to call services all non-price terms that could affect the substitutability of services, including a breakdown between Business and Residential to identify the pattern of each category. This category could have separate market definition or be included in the premium access market definition, based on which, Batelco could have an SMP in the relevant market.

Q3. Do you agree with the Authority's view that 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.

10. Zain agree with the Authority's view that that Batelco has SMP in the retail market for premium access to call services including domestic calls from a fixed location.

Q4. 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?

11. In order to effectively compete with Batelco in retail market for premium access to call service including domestic calls from a fixed location, access to infrastructure-based wholesale services, such as FTTx services is obligatory. Since most of the Business solutions required by ISDN and IP-Solutions customers require a form of physical connectivity for value added service with multiple access points. The enterprise customers in Bahrain still have high value for wired connectivity over wireless solutions. The main concern arise is when mobile operators extend their service into areas with limited or no fixed telecommunications infrastructure. It is the ex-ante regulation of that market, rather than of the retail market, that would address the concern associated with dominance in



this case. This is in line with “fit to purpose” wholesale remedy principle that the Authority is following in SMR.

12. The LLU wholesale product failed to address this market because of the investment required in the network side and the limited high speeds that could be generated by this technology. Therefore, Zain is of the view that this can be addressed by fibre based wholesale connectivity solutions at right pricing terms.

Q5. Do you agree with the Authority’s overall conclusions and the resulting implications? If not, please explain why.

13. Zain does not agree totally with the Authority’s overall conclusions and the resulting implications.
14. Zain agrees that there is no Licensed Operator with SMP in the retail market for mass-market access to call services. And that Batelco has an SMP in Retail Market for premium access to call services, and accordingly subject to RTN Regulation.
15. Nevertheless, with reference to aforementioned concerns, Zain request the Authority to take into consideration while defining the market of access to call services all non-price terms that could affect the substitutability of services, including a breakdown between Business and Residential to identify the pattern of each category. This category could have separate market definition or be included in the premium access market definition, based on which, Batelco could have an SMP in the relevant market.

Should you require further details, please do not hesitate to contact us.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Mohamed Yusuf", is written over a faint, light blue circular watermark or stamp.

Mohamed Yusuf
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