

28 April 2022



Telecommunications Regulatory Authority of Bahrain

Consultation Paper

A public consultation document issued by the Telecommunications Regulatory Authority of the Kingdom of Bahrain (“**TRA**”) on the draft Reference Offer of BNET (the “**RO**”).

28 April 2022

MCD/04/22/003

The address for responses to this document is:

The General Director
Telecommunications Regulatory Authority
PO Box 10353
Manama
Kingdom of Bahrain

Alternatively, e-mail responses may be sent to lad@tra.org.bh.

The deadline for responses is 16.00 on 2 June 2022.

Purpose: to seek stakeholders' views on the draft RO.

Executive Summary

Good quality broadband and digital connectivity is essential. Businesses and consumers need access to high performance, resilient broadband and connectivity capabilities at competitive prices. This is delivered via a well-functioning competitive retail market. Bahrain's retail market is supported by the National Broadband Network provider BNET.

In December 2021, BNET submitted, for the TRA's review, a draft RO for Wholesale Broadband and Domestic Connectivity services. The draft RO sets out the terms and conditions BNET proposes to provide wholesale services to Retail Network Operators who provide services to consumers and businesses.

The draft RO results in wholesale prices reducing, for example the cost of a wholesale 100Mbps consumer broadband line would reduce by 33%. To enable everyone to get the full benefit for a fibre connection, BNET proposes to remove a number of slower speed services which are currently offered. Speeds offered in this RO will help to ensure Bahrain is one of the world's leading broadband markets.

TRA's strategic objective is to ensure Bahrain is one of the best-connected places in the world. World leading broadband services for consumers and connectivity for business will ensure Bahrain is a digital hub providing services both in Bahrain and to the wider region. BNET is key element in delivering this objective. We need to ensure BNET not only delivers world class services the country needs today but also tomorrow's so that Bahrain remains one of the most advanced and well-connected countries in the world.

We also need to ensure we have a vibrant retail market – where operators effectively compete against each other to deliver innovative services and pricing plans to both consumers and businesses. For us, we need to ensure we have effective retail operators, not just re-sellers of wholesale services.

We recognise that following the establishment of BNET, the market is in a period of transition. BNET is negotiating the terms under which all licenced operators' fibre assets are transferred to BNET. We will ensure that the arrangements agreed between BNET and the Licensed Operators ("LOs") ensure that all operators can continue to operate their networks effectively, and that prices in the mobile market remain globally competitive. We will also ensure that the broadband market is competitive and that the agreements concerning asset transfer do not provide an ongoing competitive advantage to any market player.

We welcome the views of stakeholders on the draft RO and, in particular, to share any concerns you might have about both the services provided, and the terms and conditions on which they are offered.

Achieving a competitive world class broadband and connectivity market in Bahrain requires BNET and its customers to work together, to ensure that what BNET offers continues to meet both consumer and business customers requirements.

TRA is continuing its own programme of work to meet the government's telecommunications policy set out in the 5th National Telecommunications Plan. As part of this, TRA will consider the regulatory model which is appropriate for regulating BNET to enable it to offer the services required, continue to innovate to meet the needs of all users in Bahrain, while being a sustainable business that is able to make a reasonable return. TRA recognises, with BNET being the sole provider of fibre services in the Kingdom, that we are in a unique position and therefore we need to adopt the appropriate regulatory solution.

1 BACKGROUND TO THE ISSUANCE OF THE RO

- 1.1 On 27 April 2021, TRA concluded its review of the Wholesale Fixed Broadband and Domestic Connectivity Markets. In its final determination, BNET was designated as an operator enjoying a dominant position in these markets. Consequently, BNET was required, amongst other things, to submit to TRA a draft RO that reflects the finding of the determination and the reasonable requirements of LOs.
- 1.2 Between 28 November 2021 and 1 December 2021, BNET conducted an industry workshop to engage with operators, seeking to capture industry requirements. On 23 December 2021, BNET submitted the draft RO which considered the views and suggestions received during and after the industry workshop.¹
- 1.3 We have reviewed BNET's submission. Our initial view is that the draft RO mostly meets our expectations. The proposed tariffs represent some significant reductions in wholesale prices. We therefore believe that the industry at large should benefit from such reductions as soon as reasonably possible so that end customers can ultimately benefit from them.
- 1.4 TRA therefore proposes to consult on the draft RO submitted by BNET. We have highlighted some areas of potential concern. However, we will take into account the submissions that will be received before reaching a final decision on the materiality of these concerns.

2 PURPOSE OF THIS CONSULTATION PAPER

- 2.1 TRA would like to receive views and comments on all aspects of the draft RO including the issues raised in this document, by 4pm on 2 June 2022.
- 2.2 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 2.

¹ BNET subsequently submitted a number of amendments to the draft RO including submissions received on 6 January 2022 and on 14 April 2022.

3 OVERVIEW OF BNET RO

- 3.1 BNET's RO sets out both the price and non-price terms and conditions on which BNET will make its products and services available to LOs.
- 3.2 In its Draft RO, BNET proposes to maintain the following services:
- Wholesale Bitstream Service ("**WBS**");
 - Wholesale Data Connectivity Service ("**WDC**");
 - Transmission Managed Service ("**TMS**")²;
 - Fibre Fronthaul Service ("**FFS**");
 - Exceptional Facility Access Service ("**ExFAS**").
- 3.3 BNET also proposes to merge the Data Service ("**DS**") and Mobile Backhaul Service ("**MBS**") into a single service referred to as Mobile Data Service ("**MDS**").
- 3.4 We note that some services descriptions are not included in BNET Draft RO, namely:
- Unbundled Metallic Path ('UMP') Service;
 - Service Node Facilities Management;
 - UMP Backhaul Service;
 - UMP Specific Information Services.
- 3.5 TRA understands that these legacy services were included in the previous BNET RO but made available only to existing customers³. TRA is seeking confirmation from LOs on whether all the existing circuits from 2019 have now been migrated to one of the services listed in paragraph 3.2 above.
- 3.6 The suite of products and services that BNET should supply is, ultimately, driven by the various needs of end-users. As the entities that serve the needs of end users, LOs are best placed to comment on the products and services that BNET proposes to offer and the terms and conditions of their supply. We therefore invite stakeholders to comment on their suitability.

² Previously referred to as "Optical Wavelength Service" in the 2019 BNET RO

³ Ref: LAD 0619 178, An Order issued by the Telecommunications Regulatory Authority on the Reference Offer of NBNNetCo BSC(c), Par 35.1.3

NON-PRICE TERMS

- 4.1 In its review, TRA has predominantly focused on the proposed terms and conditions covering Wholesale Bitstream Services (WBS), Mobile Data Services (MDS) and the Transmission Managed Service (TMS). The terms and conditions of the other wholesale services have not materially changed from the current BNET RO and, as such, we do not have specific concerns with them.
- 4.2 Transparency of fibre coverage and availability are important for promoting fair and effective competition. Our view is that service descriptions should include coverage information. We also think that digital maps should be made available to LOs, for all BNET products.
- 4.3 We believe that a monitoring tool is beneficial to LOs because without it LOs capability for core connectivity links may be restricted, impacting their quality of service. Therefore, TRA's view is that BNET should offer online tools or capabilities for LOs, to monitor on a real-time basis the high-capacity connectivity products that are offered by BNET active networks.
- 4.4 TRA notes that BNET proposes to maintain a minimum service period of 12 months for WBS. We do not agree. Our view is that when an access seeker terminates a WBS circuit, BNET would still be in a position to monetize this circuit as the underlying retail demand still exists. We therefore propose to request BNET to remove this requirement.
- 4.5 We believe that it is important that LOs have access to high-capacity products that provide flexibility when used in Data Center-to-Data Center connectivity and Data Center-to-International Landing Station connectivity. TRA is aware of a demand for optical wavelength as an alternative to passive products, allowing LOs to have more granular management capabilities and quicker time to market. We therefore consider that BNET should make these products available.
- 4.6 TRA notes that BNET has submitted revised versions of the Main Body Terms and of the Supply Terms. The amendments made to these schedules reflect the feedback given by to BNET during the RO Week. We do not think that these schedules are contentious. We do however, ask LOs to consider whether the process of resolving disputes set out in Clause 22 of Schedule 9 is acceptable and in particular whether the

requirement to go through an escalation process before a dispute is referred to the TRA is acceptable, particularly where a LO is threatened with a suspension or termination of service (beyond the instances referred to in Clause 12.3).

5 PRICE TERMS

5.1 In reviewing BNET's proposed price terms, TRA has identified the following main areas of potential concern:

5.1.1 Price Variation for both Monthly Recurring Charges ("MRC") and Non-Recurring Charges ("NRC"):

BNET has proposed price increases for some services. TRA is likely to reject any price increase – unless BNET is able to point to an increase in the underlying cost of supplying that particular service.

5.1.2 Removal of Speeds/Bandwidth

TRA notes that BNET has proposed to remove certain speeds/bandwidth for the following services:

- MDS, removal of 500Mbps, 1,500Mbps, 2,000Mbps.
- WDC, removal of sub 10Mbps speeds, 15 and 20 Mbps.
- WBS, removal of sub 100Mbps speeds for both residential and business.

TRA believes that BNET needs to clarify whether, if as a result of a speed removal existing circuits will be automatically migrated or whether it intends to keep the existing circuits without migrating them to new speeds. BNET should also specify whether any conditions would be applicable. BNET should also ensure, that no undue discrimination would occur as a result.

TRA does not object to BNET removing certain low speeds for fibre-based wholesale broadband and domestic connectivity services. We are keen to ensure, however, that the removal of such speeds does not result in an increase in prices for existing customers subscribing to these services. We also

want to make sure that the diverse needs of LOs and their customers are taken into account, and that they are not compelled to pay higher prices if their needs are met by lower speeds at lower prices. BNET proposes to remove all speeds below 10 Mbps for WDC circuits. Current prices for speeds under 10Mbps range from BD 53 to BD 147. Under the current proposal, the price for the entry level package (for 10 Mbps) will increase significantly (by up to 299% depending on the existing speed). The Authority welcomes stakeholders' views on this matter.

TRA is also concerned by the impact of increasing the entry price for residential WBS (from BD/month 7.02 for 10 Mbps to BD/month 10.86 for 100 Mbps), on certain consumer groups. We are currently working on a Universal Service Regulation to address the needs of vulnerable consumers. We believe that a lower speed at an affordable tariff should be made available to this consumer group. Our view is that BNET should to make available the appropriate underlying WBS speed and price (which will be determined as part of the work on the Universal Services Regulation).

5.1.3 Inclusion of speeds/bandwidth:

BNET proposes to include new speeds/bandwidth for the following services:

- TMS (former OWS), inclusion of OTU2/GE, 25Gbps and 50Gbps.
- WDC, inclusion of 25Gbps and 50 Gbps.
- WBS, inclusion of 150 Mbps for residential.

We are in favour of such changes because we believe that including new speeds/bandwidths is in general beneficial to the industry as long as the prices for new speeds are consistent with the existing gradient of prices.

5.1.4 Inclusion of discount schemes.

BNET has proposed two types of discount schemes in its submission:

- MDS (former DS, MBS) – inclusion of a volume-based discount; and
- WDC – inclusion of a time-based discount.

Regarding the volume discount for MDS circuits, TRA notes that a similar discount scheme was already in place for the MBS. We do not, therefore, have any particular concern in maintaining such discount for MDS.

Regarding the time-based discount for WDC circuits, TRA understands that WDC circuits are primarily used by licensees for 2 purposes:

- Backhaul and transport; and
- Business end users.

The current minimum service period in place for WDC is 12 months⁴. BNET is proposing a 20% discount for a 3-year commitment. We do not disagree with the inclusion of a time-based discount and believe that it may allow BNET to operate with higher commercial certainty while rewarding operators for their long-term commitment. We have taken into account the fact that in any case, the two predominant use cases for WDC will likely rely on multi-year service periods.

5.1.5 Inclusion of service protection levels with associated charges

BNET has proposed to include additional Protection Levels for each domestic connectivity active services (MDS, WDS and OWS) which is presented in the table below:

Type of Protection Level	Monthly Recurring Charge (BD)
Silver Protection Level	Additional 30% charge on top of the applicable MRC of the requested Bandwidth per connection or per

⁴ Section 2, Schedule 6.2, BNET 2019 RO

	aggregation link
Gold Protection Level	Additional 50% charge on top of the applicable MRC of the requested Bandwidth per connection or per aggregation link

TRA does not object to the inclusion of Protection Levels as long as this does not result in a downgrade of the existing SLAs/ QoS requirements for the circuits which are not covered by the Protection Level.

TRA is keen on receiving the views of stakeholders on the incremental charge to the MRC associated to the Protection Levels (30% and 50%).

6 INSTRUCTIONS FOR SUBMITTING A RESPONSE

6.1 TRA invites comments on this consultation document from all interested parties. Comments should be submitted no later than 16.00 on 2 June 2022.

6.2 Responses should be sent to TRA preferably by email (either Word or PDF format) or by fax or post to the attention of:

The General Director
lad@tra.org.bh
Telecommunications Regulatory Authority
PO Box 10353
Manama
Kingdom of Bahrain

6.3 Responses should include:

- the name of the responding entity;
- the name of the principal contact person;
- full contact details (physical address, telephone number, fax number and email address);
- in the case of responses from individual consumers, name and contact details; and
- a brief statement explaining the interest of the responding entity.

6.4 Respondents are invited to provide comments in response to each of the questions listed for reference at Annex 2.

6.5 In the interests of transparency, TRA intends to provide a summary of all submissions received available to the public, subject to the confidentiality of the information received. TRA will evaluate requests for confidentiality in line

with the relevant legal provisions⁵ and its published guidance on the treatment of confidential and non-confidential information⁶.

- 6.6 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 (in soft copies and not scanned copies). If part or all of the submission is marked confidential, reasons should be provided. We may publish or refrain from publishing any document or submission at its sole discretion.

7 STATUS OF THIS CONSULTATION DOCUMENT

- 7.1 This consultation document is issued pursuant to the Position Paper on “*How TRA Consults*” issued on 17 October 2017.⁷
- 7.2 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.
- 7.3 This consultation document does not represent a decision of TRA. 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.
- 7.4 Once TRA has received and considered responses to this consultation document, the Authority will proceed with finalising the relevant documents subject to this consultation. If appropriate, TRA will prepare and publish a consultation report which summarises and responds to the comments received.

⁵ Including Article 23 of the Law.

⁶ http://www.tra.org.bh/media/document/Confidentiality_Guidelines_Final.pdf

⁷ <http://www.tra.org.bh/media/document/Position%20Paper%20on%20how%20TRA%20consults1.pdf>

ANNEX 1

BNET DRAFT REFERENCE OFFER

ANNEX 2

QUESTIONS

In responding to the below questions, stakeholders are encouraged to provide comments that are fully substantiated and supported as far as possible by evidence. TRA will give greater weight to those submissions where stakeholders substantiate and quantify their positions. Stakeholders should reference international benchmarks and/or industry standards relevant to demonstrating the reasonable requirements of all LOs.

COMPREHENSIVENESS AND SUITABILITY OF THE PROPOSED PRODUCT AND SERVICES SET

1. Do you support the inclusion in the BNET RO of all the product schedules included in the draft? If not, please set out which product schedules you consider should be excluded, and why.
2. Do you have any comments in relation to the inclusion / exclusion of the current products in the draft RO? (such as TMS, MBS, etc.)
3. Please indicate if you consider any products are missing from the draft RO. Please provide a high-level product specification and explain why you believe such products should be included in the RO, considering for example, how such products will enable Licensed Operators to continue to provide their current retail product set, and to compete effectively.
4. Please provide comments on any other areas of concern you have regarding any of the product descriptions included in the draft.

NON-PRICE TERMS

5. Do you consider that the non-price terms, as set out in the schedules to the draft RO, including the supply terms and the definitions, are fit for purpose and meet the reasonable requirements of LOs?

PRICE TERMS

6. What are your views on the area of potential concern identified by TRA? Have you identified any other issues and if so what are these issues and why?

SPECIFIC ISSUES IDENTIFIED BY THE AUTHORITY ON THE NON-PRICE TERMS

7. Do you agree with the areas of concern identified by TRA in relation to the WBS service description? Please sequence your responses in accordance with the list of concerns set out in this consultation document.
8. Do you agree with the areas of concern identified by TRA in relation to the TMS service description? Please sequence your responses in accordance with the list of concerns set out in this consultation document.
9. Do you agree with the concern identified by TRA in relation to the availability of digital coverage maps and the monitoring tool? Please sequence your responses in accordance with the list of concerns set out in this consultation document.

SPECIFIC ISSUES IDENTIFIED BY THE AUTHORITY ON THE PRICE TERMS

10. Do you agree with the areas of concern identified by TRA in relation to:
 - Price Variation
 - Removal of Speeds/Bandwidth
 - Inclusion of Speeds/Bandwidth
 - Inclusion of discount schemes
 - Inclusion of service Protection Levels with associated charges

I. OTHER COMMENTS

11. Do you have any other comments not considered specifically above that you wish to raise?
12. If so, please sequence your comments according to sections in the Consultation document or specific aspects of the draft RO.
