

**Consultation**  
LICENSING FRAMEWORK REVIEW



**Proposed Amendments to the Licensing Framework Governing  
the Telecommunications Sector of the Kingdom of Bahrain**

**Consultation Paper**

23 December 2021

Ref: LAD 1221 113

Purpose: To set out the proposed amendments to the current licensing framework governing the telecommunications sector, with a view to ensuring it remains fit for future purposes.

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## **Instructions for submitting a response**

The Telecommunications Regulatory Authority (the “**Authority**”) invites comments on this consultation (“**Consultation Paper**”) from all interested parties. Comments should be submitted to the Authority no later than 4 PM on 17 February 2022.

Responses should be sent to the Authority preferably by email (in PDF format) or by fax or post to the attention of:

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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 cases of responses from individual consumers, name and contact details; and
- a brief statement explaining the interest of the responding entity.

The Authority seeks comments from stakeholders in the telecommunications industry, the business community and the general public on this Consultation Paper and its annexes. All comments should be supported as much as possible by factual evidence, including where relevant, references to specific provisions of the Telecommunications Law or applicable regulatory / legal instruments which the respondent is relying upon.

Further, the Authority invites respondents to provide comments in response to each of the questions.

In the interest of transparency, the Authority will make all submissions received available to the public, subject to the confidentiality of the information received. The Authority will evaluate a request for confidentiality in line with the relevant legal provisions<sup>1</sup> and the Authority’s published guidance on the treatment of confidential and non-confidential information<sup>2</sup>.

Respondents are therefore required to clearly mark any specific information included in their submission which is considered confidential. Where such confidential information is included,

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<sup>1</sup> The Telecommunications Law of the Kingdom of Bahrain, promulgated by Legislative Decree No. 48 of 2002

<sup>2</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.

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respondents are required to provide both a **confidential** and **non-confidential** version of their submissions. If part or all of the submission is marked confidential, reasons should be provided. The Authority may publish or refrain from publishing any document or submission at its sole discretion.

Once the Authority has received and considered submissions on this consultation, the Authority will issue a report on the consultation, together with the finalised amendments to the Individual and Class Licence templates.

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## List of acronyms and definitions

Authority	Telecommunications Regulatory Authority
BRE	Batelco Retail Entity
Code	EU Electronic Communications Code
EC	European Commission
EU	European Union
FCC	Federal Communications Commission (US communications regulator)
IEX	Internet Exchange
IFL	International Telecommunications Facilities Licence
IMTL	Individual Mobile Telecommunications Licence
IoT	Internet of Things
IP	Internet Protocol
ISL	International Telecommunications Services Licence
ISP	Internet Service Provider
M2M	Machine to Machine
NFL	National Fixed Services Licence
NTP4	Fourth National Telecommunications Plan of the Kingdom of Bahrain
Ofcom	Office of Communications (UK communications regulator)
OLO	Licensed Operator's other than BNET and BRE
OTT	Over the top
PAMR	Public Access Mobile Radio
UAE	United Arab Emirates
UK	United Kingdom
US	United States of America
VAS	Value Added Services
VSAT	Very Small Aperture Terminal

# 1 Status of this Consultation Paper

1. This Consultation Paper is issued pursuant to the Position Paper on how TRA Consults issued by the Authority on 17 October 2017 (“**Position Paper on How TRA Consults**”).
2. The information contained in this document is intended to provide background information on amendments the Authority proposes to make to the current licensing framework governing the telecommunications sector in the Kingdom of Bahrain (hereinafter, the “**Revised Licensing Framework**”), including amendments to the current Individual and Class Licence templates.
3. 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.
4. This Consultation Paper 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 new approval framework.
5. Once the Authority has received and considered responses to this Consultation Paper, the Authority will decide whether to proceed as set out herein. If appropriate, the Authority will prepare and publish a further consultation report which summarises and responds to the comments received.
6. The proposals set out in this Consultation Paper, including the Annexes, should be reviewed in its entirety by stakeholders. The defined terms in the revised Individual and Class Licence templates have the same meaning when referred to in the rest of this Consultation Paper, unless context requires otherwise. The Authority welcomes responses on any aspect of the Revised Licensing Framework including proposed amendments to the current Individual and Class Licence templates, as well as specifically on the questions set out in this Consultation Paper.

## 1.1 Proposed measure

7. The Authority proposes to implement the Revised Licensing Framework as described in the Implementation Roadmap set out in Annex D.

## 2 Structure of this consultation

8. 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. In particular, the Authority is seeking views in relation to:
  - i. the amendments it proposes to make to the overall framework to meet the stated objectives for the review; and
  - ii. the proposed substantive amendments to the Individual Licence and Class Licence templates.
9. The remainder of this Consultation Paper describes in more detail the rationale for the Authority's specific proposals. It is structured as follows:
  - i. Section 3 sets out the reasons for the Authority's review of the current licensing framework;
  - ii. Section 4 presents the key proposed amendments to the current framework;
  - iii. Annex A contains the substantive amendments to the Individual and Class Licences proposed by the Authority, with the revised draft Individual and Class Licences templates then being presented in Annex B and Annex C; and
  - iv. Annex D sets out the Authority's proposed Implementation Roadmap.

### 3 Rationale for the review of the current licensing framework

10. Since 2002, the telecommunications market in the Kingdom of Bahrain has undergone a significant transformation in accordance with Government policy to stimulate the national economy. In October 2002, the promulgation of the Telecommunications Law enabled the liberalisation of the telecommunications sector and the formation of the Authority.
11. Pursuant to Article 3(b) of the Telecommunications Law, the Authority undertakes to carry out its duties relating to telecommunications services in the manner best calculated to protect the interests of subscribers and users, promote effective and fair competition among new and existing licensed operators, and ensuring that applicants for the provision of public telecommunications services are able to provide those services.
12. The Minister of Transportation and Telecommunications (the “**Minister**”) is responsible for the formulation of telecommunications policy in Bahrain. Article 15 of the Law sets out the responsibilities of the Minister, which includes preparing a National Telecommunications Plan every three years (the “NTP”). Such plan includes the strategic plan and the general policy of the Government with respect to the telecommunications sector.
13. The fourth National Telecommunications Plan (the “**NTP4**”) sets out Government’s strategic plan and general policy for the Telecommunications sector of Bahrain, covering the three-year period commencing from its issue date of 8 May 2016.
14. Government’s policy as stated under the section titled ‘Review of the Telecommunications Law’ of the NTP4 requires, amongst other things, a review of the existing provisions of the Law in line with international best practice as well as a review of related legal instruments to address industry developments<sup>3</sup>.
15. Such industry developments include, for example, growing convergence within the telecommunications sector, blurring the lines between electronic communications and so called over-the-top (“**OTT**”) services and providers and Government’s strategic direction with regards to the national telecommunications infrastructure.
16. The fifth National Telecommunications Plan (the “**NTP5**”) noted that the licensing regime is at the heart of the legal and regulatory framework of the sector, and acknowledged that over the coming years, there are likely to be new types of services and network suppliers emerging, such as for IoT and 5G services.
17. Government recognised that in this rapidly evolving climate it is necessary to review the regulatory and licensing framework governing the sector to keep pace with changes to the same. NTP5 also noted that the Authority had already, at the time of its publication, commenced the review of the licensing regime and recommended that the Authority suggest to Government, for consideration and approval, any required amendments necessary to ensure that this framework and any template licences are fit for purpose in light of sector developments.
18. Historically, service providers have used different types of networks to deliver voice, video and data offerings and end-users typically used different equipment to receive such

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<sup>3</sup> Telecommunications Regulatory Authority, Fourth National Telecommunications Plan, (8 May 2016), para 49-50

services. Today however, the telecommunications sector is undergoing a radical transformation from an industry based on traditional telecommunications services to one that provides voice, data, and multimedia applications, on both wireless and wireline networks, accessible from a full range of end-user devices.

19. At the heart of these changes is ‘convergence’ i.e. where different technological systems evolve towards similar functions. Convergence has been made possible by digitalisation which allows different types of content (audio, video, text) to be stored in the same format and delivered through a wide variety of technologies (computers, mobile phones, televisions, etc).
20. The licensing framework forms an essential component of the overall regulatory framework governing the communications sector in the Kingdom. In particular, the Telecommunications Law mandates that licensed operators must have either an Individual or a Class Licence to operate a public telecommunications network or to provide a telecommunications service, and there are additional requirements with respect to licences for spectrum and related equipment. The following section provides a brief overview of the current licensing framework in Bahrain.

### 3.1 Current licensing framework

21. The current licensing framework is generally embodied in the following provisions of the Telecommunications Law:
  - a. Article 3(c) – the Authority’s powers in connection with Licences;
  - b. Article 18 – Licence fees;
  - c. Chapter 7 – Licensing and Equipment Approvals;
  - d. Chapter 8 – Timetable for Introducing Competition; and
  - e. Articles 43-46, 50 and 51 – Frequency Licenses.

#### 3.1.1 Licence types

22. The Telecommunications Licences currently available in Bahrain are summarised below<sup>4</sup>:

Licence	Licence Type
International Telecommunications Facilities (“IFL”)	Individual Licence
National Fixed Services (“NFL”)	Individual Licence
International Telecommunications Services (“ISL”)	Individual Licence
Internet Service Provider (“ISP”)	Class Licence

<sup>4</sup> The licences currently available can be found at: <https://www.tra.org.bh/en/category/generic-form-of-licences>.

Value Added Services (“ <b>VAS</b> ”)	Class Licence
Internet Exchange (“ <b>IEX</b> ”)	Individual Licence
Individual Mobile Telecommunications Licence (“ <b>IMTL</b> ”)	Individual Licence
Very Small Aperture Terminal – Individual Licence (“ <b>VSAT</b> ”)	Individual Licence
Fixed Telecommunications Infrastructure Network Licence (“ <b>FTINL</b> ”) <sup>5</sup>	Individual Licence

## 3.2 Reviewing the current licensing framework

23. Whilst the current licensing framework has served the market well thus far, there are several drivers for the review of the current framework, covering both global trends and Bahrain-specific factors.

### 3.2.1 Global trends

24. The Authority recognises that there have been significant developments in global telecommunications markets since the Telecommunications Law was enacted in 2002 and the existing licensing framework was established.
25. In particular:
- a. Demand for data has exploded, with data usage both on mobile and on fixed connections often over 100-fold greater now than in 2002. Alongside this, demands for greater connection speeds and reliability have risen and communications networks have become part of the critical national infrastructure.
  - b. Wired and wireless networks have converged – connections are a mix of wired and then wireless, with different boundaries between the two. This means that differentiating between fixed, wireless and fixed-wireless businesses is increasingly challenging, as is (on a service basis) differentiating between fixed, nomadic and mobile services.
  - c. Different types of networks are also converging – handsets move seamlessly from cellular to Wi-Fi networks.
  - d. Traffic is converging – most traffic is now IP-based including voice calls carried over IP. From a network viewpoint all traffic broadly appears the same. This means that having specific licences for data services and other licences for voice services has become increasingly outdated.
  - e. Conversely, content and network ownership is separating, with OTT players providing content to be delivered across networks that increasingly look like "bit-pipes".

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<sup>5</sup> This refers to the licence issued to BNET under Article 40(bis) of the Telecommunications Law. This licence is not subject to review under this consultation.

- f. With the advent of 5G services and IoT, the demand for citizen consumer access and the reliance upon networks for the transport of many commercial OTT services as part of everyday citizen lives will place an ever-greater reliance upon the quality, assurance and safety of communication services.
26. All of these tendencies are shifting the focus of a regulatory authority's role – from a primary focus on prices paid by consumers to the promotion of investment in state-of-the art telecommunications infrastructure, expanding the reach of the network to cover all residents and businesses, and ensuring that broadband availability is delivered consistently, reliably and securely at prices that consumers can afford. In the context of Bahrain, these objectives are embodied in NTP4 and NTP5 (discussed further in the next sub-section).
27. The question of whether licences (as opposed to generic regulations) remain a useful tool in an increasingly competitive marketplace is one that has led some jurisdictions, like the European Union (“EU”), to limit their use as much as possible, and replace individual licences with a "general authorisation" framework, with licences reserved for cases where scarce resources are involved that must be rationed and assigned via the granting of individual rights of use.
28. The Authority notes, however, that there are other, sector-specific imperatives that pull in a different direction. These include, for example, the critical importance of telecommunications infrastructure to national security in an all-digital world and an increasing focus on e-privacy/cyber safety. As such there is further a need to ensure that licences are modified to include key obligations in this regard.

### Targeted benchmarking of licensing frameworks elsewhere

As part of its review of the current licensing framework, the Authority has conducted a targeted benchmarking exercise by reviewing the legislative and regulatory frameworks applicable to licencing in the following six jurisdictions:<sup>6</sup>

1. **Australia** defines providers of regulated services as either: (i) “carriers”, who operate key telecommunications infrastructure and require a licence; and (ii) “service providers” who use carriers' facilities to provide phone, internet services and/or content services, such as Pay TV, to the public.<sup>7</sup> Australia also offers a useful benchmark given the introduction of a NBN in Australia.
2. The **EU** telecommunications framework has recently been updated and consolidated in a new EU Electronic Communications Code and is being transposed into national law in each EU Member State. This provides a current benchmark that can be used to analyse recent trends in telecommunications regulatory frameworks.

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<sup>6</sup> The benchmark countries were chosen to provide a wide range of benchmarks in terms of the licensing framework in general and the specific licence conditions.

<sup>7</sup> An operator could fall into both categories; e.g. this is the case with mobile network operators.

3. **Hong Kong** has adopted a unified licence framework that is split between (i) “carriers” owning telecommunications infrastructure used to supply fixed, mobile and/or converged services to the public; and (ii) “service providers” who supply telecommunications services using the fixed or mobile networks established by unified carriers. There are four different classes of service-based operators. Hong Kong also offers a useful benchmark as a smaller jurisdiction.
4. The United Arab Emirates (the “**UAE**”) uses a licensing framework split into “Class” and “Individual” licences, depending on whether the services to be provided require the use of scarce resources, e.g. spectrum.
5. The United States of America (the “**US**”) uses a sophisticated licensing framework to regulate telecommunications broadcasting, radio etc. based on the service to be provided. This provides a good benchmark for the niche requirements for specific types of services.
6. The United Kingdom (the “**UK**”) acts as both an example of an EU Member State and a system where there is a general authorisation framework where licences are not required (except for the use of scarce resources such as certain spectrum bands).

This was used to assist in comparing the current licensing framework in Bahrain to frameworks in selected benchmarking countries. This, in turn, allowed the Authority to identify any prevailing gaps in the current and expected market structure in Bahrain, relative to international practice. The key observations from this benchmarking exercise are summarised in Section 4.

### *Bahrain-specific factors*

29. Further to the general trends discussed above, there are also a number of specific local concerns and market developments, which have motivated the review of the current licensing framework to ensure it facilitates the Authority's / Government's policy and strategic objectives going forward, as well as its economic and security requirements.
30. In line with the policies set out in the NTP4 and NTP5, the Government has determined that the existing licensing framework for the sector requires review and reform to reflect a number of important developments.
  - a. The restructuring of the sector by means of the separation of Batelco has necessitated the issuance of new licences to these entities and other licenced operators (“**OLO**”) to reflect the new rights and obligations associated with Batelco's restructuring. The terms and conditions on the Separated Entity (i.e. BNET), Batelco Retail Entity (“**BRE**”) and OLO’s licences was an initial step in changing the licensing framework to reflect the new position following the separation of the former incumbent operator.
  - b. Further changes to the licensing framework are likely to promote the Authority's broader objectives for the sector. This includes, for example, a range of separate, interrelated projects undertaken by the Authority, such as the review of the Mergers and Acquisitions Regulation. The Authority further sees merits in developing a future proof licensing

framework which may be consistent with any changes to the Telecommunications Law which could occur in the foreseeable future.

31. A key, overall objective set out in NTP4 and NTP5 is to ensure that Bahrain's telecommunications infrastructure is fit for purpose for the Kingdom's position as a financial services hub for the region.
32. This means, in practice, that regional and international content providers, as well as telecommunications operators, would be encouraged to use the Kingdom as a transit hub, with data centres / servers in Bahrain used by local licensees (in Bahrain and beyond) to deliver that content as close to consumers as possible. The Authority considers Amazon Web Service's recent investment in Bahrain<sup>8</sup> a good example of a global company choosing to locate in the Kingdom; although the Authority recognises for Bahrain to truly become a hub, it will also need to attract other providers. In turn, this requires Bahrain to be an attractive market in which to locate or co-locate.
33. There are many factors which make a market attractive to investors and these will include some which go beyond the remit of the Authority (such as those affecting the general business climate, including, for example, tax levels and the stability of the political and business environment).
34. However, when making Bahrain attractive as a hub location for international telecommunications licensees and content providers, the Authority has an important role to play. For example, as recognised by the NTP4, parties will be more likely to locate in Bahrain if it is served by a diversity of international links, with sufficient capacity to cater for future growth, and with parties being able to access that capacity at reasonable prices, consistent (or better than) those available elsewhere. This is particularly important given the Kingdom's geographic position and population size, and in light of increasing demand for data.<sup>9</sup>
35. Finally, the Authority notes that another important aspect in promoting sustainable and effective competition is ensuring that the Authority has in place a strong ex post framework to deal with allegations of anti-competitive behaviour. However, the Authority is of the view that such a framework is already in place, with conditions in the current Telecommunications Law and Licences being complemented by the Authority's Competition Guidelines.

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<sup>8</sup> See for example: <https://bahrainedb.com/latest-news/amazon-web-services-launches-middle-east-region-in-bahrain/>

<sup>9</sup> Under the NTP4, the Authority also needs to ensure that licenced operators comply with their National Security obligations as per Articles 78 and 79 of the Telecommunications Law and the provisions of Resolution No (5) of 2017 Promulgating the Regulation on Critical Telecommunications Infrastructure Risk Management.

## 4 Key proposed changes

36. This section sets out the key changes the Authority is proposing to make to the licensing framework in light of the global and Bahrain specific developments discussed in Section 3 above.
37. First, the Authority sets out its proposed approach to amending the current licensing framework (Section 4.1). This is followed by an overview of the proposed amendments to the terms and conditions of the Individual and Class Licenses (Section 4.2 and Annex A), and the Authority's proposal to consolidate the revised Licence templates (Section 4.3, Annex B and Annex C).

### 4.1 Licensing framework

38. The Authority has taken into account the current state and recent market developments, the Authority's review of licensing frameworks elsewhere (as set out in the benchmarking text box below) and the Authority's overall objectives set out in the previous section.
39. At this stage, no proposals are made that would require amendments to the existing Telecommunications Law. However, the Authority is cognisant<sup>10</sup> that a new Telecommunications Law will almost certainly be necessary in the medium term, as the nature of communications and the associated services, such as IoT communications (including connected automobiles, healthcare monitoring systems and remote sensors, data and cloud-based services, and associated cyber-security aspects including encryption) have all developed considerably since the current Telecommunications Law was enacted. The communications landscape has developed well beyond what has previously been encompassed by telecommunications regulation.

#### **Key trends in licensing frameworks elsewhere**

As mentioned in Section 3, as part of its review of the current licensing framework, the Authority has conducted a targeted benchmarking exercise by reviewing the legislative and regulatory frameworks applicable to licencing in six jurisdictions.

The key observations from this benchmarking exercise are summarised below.

#### **Key licensing trends observed**

A number of trends can be observed across the benchmarked countries.

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<sup>10</sup> In this regard, see paragraphs 49 and 50 of NTP4, including the Government Policy which is stated as follows:

*"Government, in coordination with the Authority, will undertake a review of the existing provisions of the Telecommunications Law in line with international best practice, and will also consider the need to update the legislation and related legal instruments to address industry developments."*

Government also makes similar remarks in NTP5, specifically in section 6 'The Legal and Regulatory Framework'.

1. The first trend is the consolidation of licence categories based on technology neutrality. As a result, the number of licences is reduced and the services included expanded.
2. A second trend consists of introducing a unified licence system, in which a single licence or authorisation is created that covers an extensive range of services. In some countries, the unified authorisation framework requires a prior notification or other form of administrative act. In other countries, such as the UK, there is no such requirement.
3. The third trend emerging is the reduction or elimination of administrative and formal requirements for obtaining licences. This trend follows various stages, from enhancing the scope of general authorisations or implementing a notification or registration system to the deregulation of services. The registration or notification system replaces the process of granting licences or general authorisations, making the process for obtaining licences simpler and, in some cases, automatic, while the deregulation of services eliminates the requirement of obtaining a prior licence or concession. Each of these stages has the following characteristics:
  - a. Individual licenses include specific conditions of the service, specifying the rights and obligations of the licensed service. In addition, each individual licence is approved on a case by case basis for a particular service and licensee. General authorisations, however, establish a general system of rights and obligations that applies to all the operators by means of the same authorisation, and the process of awarding them is more straightforward, not requiring an exhaustive examination of the request as in the case of the individual licence.
  - b. The registration system implies a step beyond the authorisation, where general service conditions are applied to operators that only require the registration of their request to provide the service. The analysis and approval of the operator's request is minimised to almost a mere formality.
  - c. Finally, notification is the last step prior to deregulation of the service. In this stage, an operator does not even have to wait for the administrative agency's approval to provide service, being free to provide the service as soon as the notification has been filed. The service terms and conditions are also of general application.<sup>11</sup>

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<sup>11</sup> For example, the new EU Electronic Communications Code, which must be transposed by each Member State by December 2020, maintains a general authorisation regime, whereby any operator can provide its services across the EU without the need for an individual licence. The general authorisation regime requires each operator to self-assess and comply with the applicable regulatory terms and conditions under the national telecommunications laws where the services are provided. However, competent authorities may require the registration of certain operators (e.g. number-based interpersonal communications service providers) as a

## Approaches to authorisations

In light of the regulatory issues that flow from convergence and the transition to a next generation environment, regulators around the world have moved away from a traditional, service-specific approach to authorisation and licensing. There are three broad approaches to authorisation emerging from the Authority's benchmarking study:

1. **Service specific authorisation:** These authorisations allow the licensee to provide a specific type of service. Usually, the authorised party is required to use a specific type of network and technological infrastructure. However, some service specific authorisation frameworks are technology neutral. These types of authorisations are sometimes issued as individual licences and sometimes as general authorisations.
2. **Unified authorisations:** These authorisations are technology and service-neutral. They allow licensees to provide all forms of service under the umbrella of a single authorisation, using any type of communications infrastructure and technology capable of delivering the desired service. In most countries, unified authorisations are issued as individual licences. However, in some countries, the process of issuing the unified authorisation blends aspects of general authorisation processes and competitive licensing frameworks. These hybrid processes can best be described as non-competitive individual licensing processes: while applicants do not compete for a limited number of authorisations, they must meet a variety of criteria to qualify for a licence and their applications are subject to close scrutiny.
3. **Multi-service authorisations:** These authorisations allow service providers to offer multiple services under the umbrella of a simple authorisation, using any type of communications infrastructure and technology capable of delivering the services in question. However, multi-service authorisations are more limited than unified authorisations; licensees are permitted to provide any of a designated set of services, but not any and all services. Multi-service authorisations are sometimes issued as general authorisations, and, in other cases, as individual licences. It is not uncommon for a country to have both general authorisation frameworks and individual licence frameworks for their multi-service authorisations. Individual multi-service authorisations are often issued using a non-competitive individual licensing process.

The Authority further observes that some countries have effectively eliminated authorisations as well as notifications and registrations for the provision of certain services, arguing that such services are beyond the regulator's scope of jurisdiction or, merely based on an explicit decision of the regulator, exercising its discretion not to regulate a specific service. In general, this is the approach followed in the United States with regard to internet access, which has been classified by the FCC as an information service not regulated under the Communications Act, with the purpose of providing the continuous development of the internet.

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condition to benefit from the general authorisations to provide services in their territories. The use of certain media spectrum bands (e.g. 4G and 5G) continues to be subject to the need for individual rights of use.

40. It may also be desirable for the Authority to also reduce or eliminate administrative and formal requirements for obtaining licences and introduce its own authorisation framework. However, the Authority is cognisant that this would require amendments to the existing Telecommunications Law, including with respect to the provisions described in paragraph 21 above.<sup>12</sup> The remainder of this section is therefore focused on amending the licensing framework within the bounds of the Telecommunications Law.<sup>13</sup>

## 4.2 Proposed amendments to the terms and conditions of Individual and Class Licenses

41. First, the Authority proposes amending the existing licence terms and conditions to ensure consistency, enforceability, and future proofing. For example:

- a. Following from the international benchmarking exercise, the Authority has considered Annex I to the new EU Electronic Communications Code ("**Code**")<sup>14</sup>. This Annex essentially serves as a checklist for the maximum conditions which may be attached by an EU Member State to general authorisations for the various types of electronic communications networks and services. To this end, the Authority proposes inserting new obligations on Licensees to:
  - i. take appropriate and proportionate technical and organisational measures to **manage risks posed to the security** of its licensed services and networks. Having regard to the state of the art, those measures will ensure a level of security appropriate to the risk presented. In particular, measures will be taken to prevent and minimise the impact of security incidents on users and on other licensed networks and services;
  - ii. ensure to the fullest extent possible the **availability of their networks and telecommunications services** in the event of catastrophic network breakdown or in cases of force majeure; and
  - iii. make arrangements for the provision or **rapid restoration of telecommunications services in disasters**, on the request and in consultation with the relevant authorities and government departments.
- b. A related obligation in the Code is the requirement for providers of voice communications services to take all necessary measures to ensure uninterrupted access to emergency services and uninterrupted transmission of public warnings. The Authority has proposed a minor amendment with respect to **uninterrupted access to emergency services**. However, the Authority has not at this stage proposed imposing

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<sup>12</sup> As noted in paragraph 14 above, the Government, in coordination with the Authority, has been tasked under NTP4 to review the existing provisions of the Telecommunications Law in line with international best practice.

<sup>13</sup> Note that the focus is on amending the service licences only. The Authority has not addressed possible amendments to the spectrum licences, which would be undertaken under separate cover.

<sup>14</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.

any obligations on Licensees to ensure uninterrupted transmission of public warnings. Under the Code, this requirement must be implemented by 21 June 2022, and will likely require consultation with various authorities in charge of public safety answering points and other stakeholders. Given that such a public warning system may require extensive consideration beyond the scope of this consultation, the Authority does not consider it appropriate to introduce any specific provisions in this regard at this point in time.

c. Further, given that numbers are a scarce resource, the Authority proposes to clarify that Licensees **using numbering resources do so effectively and efficiently**, especially since this obligation is also not expressly stated in the National Numbering Plan.

42. Annex A summarises, in a tabulated format, the proposed substantive amendments to the current Licence templates. For each proposed change, the table specifies the relevant Licence and section, followed by a description of the proposed amendment. Annex B and Annex C set out these proposed changes in the new proposed licence templates.

**Q1. Do you have any general comments on the Authority's proposal to amend the terms and conditions of the current Individual and Class Licence templates (including as summarised in Annex A)?**

### **4.3 Consolidation of the terms and conditions of the Individual and Class Licences**

43. The Authority also proposes to consolidate the terms and conditions of the Individual and Class Licences in two templates, respectively, as a stepping-stone towards a framework that is technology and service-neutral.

44. Annex B is a draft consolidation of the Individual Licences as applicable to OLOs. These consolidated terms do not include the FTINL, as BNET is the sole holder of this licence.

45. The applicable terms for the OLO Individual Licences have been reviewed and consolidated as follows:

a. First, the terms applicable to all Individual Licences have been amended for consistency and consolidated into the General Terms.

b. Second, service-specific terms are contained in separate Service Schedules, and numbered with an "S" prefix as follows:

i. Schedule S1 – Fixed Services

ii. Schedule S2 – Mobile Services

iii. Schedule S3 – International Telecommunications Services

iv. Schedule S4 – International Telecommunications Facilities

v. Schedule S5 – Internet Exchange

vi. Schedule S6 – Earth Station Services

- c. Third, other terms that apply to more than one Service Schedule, but not to all Service Schedules, are contained in separate Schedules numbered with a “T” prefix as follows:
- i. Schedule T1 – Billing
  - ii. Schedule T2 – Subscriber Relations
  - iii. Schedule T3 – Service Availability
  - iv. Schedule T4 – Radiocommunications
  - v. Schedule T5 – Interconnection
  - vi. Schedule T6 – Emergency Calls & Numbering
  - vii. Schedule T7 – Land Access & Facility Sharing

46. The structure of the form of consolidated terms of Individual Licences is also illustrated in Figure 1 below, which highlights the distinction between the General Terms, the Service Schedules and the other schedules that may or may not apply to the provision of particular services, networks or facilities. Each Service Schedule will clearly specify the terms and other Schedules that apply. As there are defined terms used across the various components of the consolidated Licences, the order of precedence for the interpretation of any defined term is: Service Schedule, other Schedule, General Terms, and Telecommunications Law.

Individual Licences		Schedule S1	Schedule S2	Schedule S3	Schedule S4	Schedule S5	Schedule S6
		Fixed Services	Mobile Services	International Telecommunications Services	International Telecommunications Facilities	Internet Exchange	Earth Station Services
Service Specific Terms in each Service Schedule	Applicable Terms & Definitions	✓	✓	✓	✓	✓	✓
	Licensed Services	✓	✓	✓	✓	✓	✓
	Coverage		✓				
	Technology approval		✓				
	Expiration, Termination or Revocation of Frequency Licences		✓				
	Location of International Telecommunications Facilities				✓		
	Connection to Internet Exchange					✓	
Schedule T1	Billing	✓	✓	✓	✓		✓
Schedule T2	Subscriber Relations	✓	✓	✓			✓
Schedule T3	Service Availability	✓	✓		✓	✓	
Schedule T4	Radiocommunications	✓	✓	✓			
Schedule T5	Interconnection	✓	✓				
Schedule T6	Emergency Calls & Numbering	✓	✓				
Schedule T7	Land Access & Facility Sharing	✓	✓				
General Terms		✓	✓	✓	✓	✓	✓

Figure 1: Structure of the form of consolidated terms of Individual Licences

47. The Class Licence for Internet Services and the Class Licence for Value Added Services have similarly been consolidated into one single template in Annex C. This comprises a similar structure as follows:

- a. General Terms

- b. Schedule S1 – Internet Access Services
- c. Schedule S2 – Value Added Services
- d. Schedule T1 – Service Availability

48. The structure of the form of consolidated Class Licences is also illustrated in Figure 2 below.

Class Licences		Schedule S1	Schedule S2
		Internet Access Services	Value Added Services
Service Specific Terms in each Service Schedule	Applicable Terms & Definitions	✓	✓
	Licensed Services	✓	✓
Schedule T1	Service Availability	✓	
General Terms		✓	✓

Figure 2: Structure of the form of consolidated terms of Class Licences

49. The consolidated terms ensure consistency across all service types and provide an aspirational line of direction towards one single Individual Licence and one single Class Licence template, were such templates to be required under any future modifications to the Telecommunications Law.
50. Any new telecommunications services that will be licensed going forward will then require the Authority to add the appropriate schedule to the Individual or Class Licence templates accordingly. For example, if the Authority determines that a new type of telecommunications service offered in the Kingdom may be authorised by way of a Class Licence, it can prepare a new Service Schedule S3, setting out terms specific to this new type of service. The same overarching General Terms would apply to the licensing of this new service as they apply to the licensing of the existing Internet Access and Value Added Services, thus ensuring consistency across the licences granted to all Licensees.
51. Finally, the review and consolidation of the Individual Licences also means that it is possible, in some instances, for the provision of certain types of telecommunications services, networks and/or facilities to be authorised under a fewer number of Service Schedules. For example, a Fixed Services Licensee would be authorised to provide Fixed Telecommunications Services, Telegraph Services, International Telecommunications Services and International Telecommunications Facilities. In this case, only Service Schedules S1 (Fixed Services) and S4 (International Telecommunications Facilities) would be required. Service Schedule S3 (International Telecommunications Services) would not be required since all applicable terms relating to this service would be covered under Service Schedule S1.
52. In order to avoid having parallel licensing frameworks in operation, the Authority is of the view that the consolidated terms should apply to existing and new Licensees.

**Q2. Do you agree with the Authority's proposed amendments to the Individual Licence template in Annex B? If not, please explain why and propose alternative terms where relevant.**

**Q3. Do you agree with the Authority's proposed amendments to the Class Licence template in Annex C? If not, please explain why and propose alternative terms where relevant.**

#### **4.4 Implementation of the modifications to the Individual and Class Licences**

53. Annex D sets out the Authority's Implementation Roadmap for modifying the Individual and Class Licences and migrating to the Revised Licensing Framework.

### **5 Preliminary conclusions**

54. The Authority is of the view that amending the terms and conditions of the Individual and Class Licence templates in line with the proposals set out in Annex A to Annex C addresses the key issues identified with the current licensing framework in a timely manner, thus making the licence framework in Bahrain more suitable for the internet communications age.

55. Two important considerations are service flexibility and technology neutrality, as these will both be essential ingredients of any new licensing framework, especially as the regulatory landscape evolves following the separation of the former incumbent operator.

56. In terms of next steps, the Authority refers to Annex D which outlines the proposed migration to the Revised Licensing Framework.