

27 October 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 Residential Wholesale Bitstream Services (“**WBS**”) tariffs of the BNET Reference Offer (the “**RO**”).

27 October 2022

MCD/10/22/004

The address for responses to this document is:

The General Director
Telecommunications Regulatory Authority
PO Box 10353
Manama
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Alternatively, e-mail responses may be sent to lad@tra.org.bh.

The deadline for responses is 16.00 on 10 November 2022.

Purpose: to seek stakeholders' views on the draft Residential WBS tariffs.

Executive Summary

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 a 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. To this end, we need to ensure that 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.

The BNET Reference Offer is a key element to achieving our objective. To ensure that end-users can benefit as soon as possible from BNET's proposals, we have prioritized the residential broadband markets, in particular the price terms at which BNET offers retail operators the wholesale input used to supply retail broadband services, i.e. Wholesale Bitstream Service ("WBS"). The Reference Offer for the domestic connectivity markets, which provide mainly connectivity services to businesses, will follow shortly.

During the first public consultation, from 28 April to 16 June 2022, we shared our views that the draft Reference Offer mostly met our expectations but emphasized that, as the entities that serve the needs of end users, licensed operators ("LOs") are best placed to comment on the products and services that BNET proposes to offer and the terms and conditions of their supply.

LOs have expressed their views on the Reference Offer, in particular the WBS price terms which are the focus of the present consultation. We have considered these views, including BNET's, and taken them into account to set out what we consider to be remaining concerns that need to be addressed in the final BNET WBS price terms. We have engaged extensively with BNET and provided it with the opportunity to address these concerns. We have also further engaged with LOs.

Having reviewed BNET's final submission for the WBS price terms, we believe that some adjustments are still needed to meet our objective to achieve world class, ubiquitous and affordable broadband services for all Bahrain residents and businesses.

Firstly, BNET proposes to raise broadband entry speeds in Bahrain from 50 Mbps to 100 Mbps. Whilst such intention, together with BNET's proposal to decrease the price of the 100 Mbps from BD/month 16.14 to 8.86 (a 45% decrease) could be viewed as commendable, we consider it of utmost importance that the average entry price for retail broadband does not increase in any significant matter and, at least, not in a short period. For this reason, we consider it would not be appropriate to approve BNET's proposal to discontinue the current 50 Mbps entry level speed within 3 months. Indeed, we believe that it is not reasonable to increase the price of wholesale input in such a short window while retail operators may not be able to amend their offering during the average contractual period of 24-month. We therefore propose that, whilst BNET may stop supplying new 50 Mbps circuits, it should maintain existing circuits (~75% of the demand) at the current price of BD/month 7.02 for 24 months or until such circuits are voluntarily disconnected or upgraded to a higher speed, whichever occurs earlier. We believe that a 24-month timeframe is appropriate for a smooth transition of the retail broadband market. During that time, we will actively monitor developments in that market.

Secondly, we believe that existing customers should benefit from price reductions that apply to any product that continues to be supplied, rather than be forced to migrate to a higher speed and consequently not benefit from the reductions. For this reason, TRA does not agree with BNET's proposal to automatically migrate all existing 100 Mbps circuits to 200 Mbps, unless such circuits are voluntarily upgraded by retail service providers. We believe our proposal

preserves end-users' ability to decide what product suits their needs whilst giving retail service providers more control over their commercial strategy to serve end-users.

We believe that the revisions proposed in this consultation document will be a further step towards enhancing competition in the retail broadband market and ultimately benefit end-users and the Bahraini market. We are keen on stakeholders' comments on TRA's final proposals so that the final WBS price terms can be implemented without undue delay for the ultimate benefit of end users.

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.¹ 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 Reference Offer (below “RO”) that reflects the finding of the determination and the reasonable requirements of licensed operators (below “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 a draft RO which, it said, considered the views and suggestions received during and after the industry workshop.²
- 1.3 A first public consultation was conducted on the draft RO submitted by BNET from 28 April to 16 June 2022. The responses to the consultation were published on 7 July and available on TRA’s website.
- 1.4 Following the public consultation, TRA outlined in a letter sent to BNET on 21 July 2022 its main concerns, and invited BNET to submit a revised RO in light of the TRA and the stakeholders’ comments by 18 August 2022.
- 1.5 On 4 August 2022, BNET has reverted back to TRA and said it has started engaging with LOs to discuss their comments and finalize the RO. To have sufficient time to address the TRA and stakeholders’ comment, BNET proposed to submit its final RO by 20 October 2022.
- 1.6 TRA welcomed BNET’s initiative to engage with LOs to finalize its RO and it invited BNET to prioritize the submission of the residential WBS price terms so that end-users can benefit as soon as possible from BNET’s proposals. BNET submitted its amended price terms for the WBS service on 5 September 2022³ and has submitted the rest of the RO on 20 October 2022.

¹ See 2020 Determination of Dominance in Wholesale Fixed Broadband and Domestic Connectivity Markets. Available at https://tra-website-prod-01.s3-me-south-1.amazonaws.com/Media/Documents/Determinations_&_Decisions/20210427131208650_mvngd1vc_fkh.pdf

² BNET subsequently submitted a number of amendments to the draft RO including submissions received on 6 January 2022 and on 14 April 2022.

³ Refer to Annex 1.

1.7 While TRA is cognizant of BNET’s efforts to take stock of the stakeholders’ views in its revised submission, TRA considers that further amendments are required before it can be approved. These are outlined in this consultation document.

2 PURPOSE OF THIS CONSULTATION PAPER

2.1 This consultation focuses on the price terms of the residential WBS service. TRA has prioritised this service over the remaining part of the RO, so that potential benefits are passed onto end-users as soon as possible.

2.2 In addition, TRA has received a request from BNET to clarify the demarcation between residential and business WBS. This was also an area highlighted by the TRA in its feedback to BNET. The present consultation also addresses this point.

2.3 TRA welcomes views and comments, supported with evidence where available, on the draft WBS price terms, available in Annex 1, including the issues raised in this document and in particular on the questions set out in Annex 2.

3 RESIDENTIAL WBS PRICE TERMS

3.1 The amendments proposed by BNET in the draft RO, consulted upon and its final proposal for the residential WBS price terms are outlined in Table 1 below:

Table 1: overview of current WBS prices and BNET’s proposals

Current RO		RO consultation		BNET final proposal	
Speed	Price	Speed	Price	Speed	Price
50 Mbps	7.02				
100 Mbps	16.14	100 Mbps	10.86	100 Mbps	8.86
		150 Mbps	16.14		
				200 Mbps	16.14
250 Mbps	21.52	250 Mbps	21.52		
				300 Mbps	21.52
500 Mbps	32.28	500 Mbps	32.28	500 Mbps	32.28
1 Gbps	50	1 Gbps	75	1 Gbps	75
10 Gbps Aggregation link	358.5	10 Gbps Aggregation link	450	10 Gbps Aggregation link	450

- 3.2 In reviewing BNET's proposed WBS price terms, TRA has identified the following points of concern which require amendments before TRA can approve the proposal:
- (a) The removal of the 50 Mbps speed currently priced at BD/month 7.02, combined with;
 - (b) The mechanism proposed by BNET which consists of upgrading within 3 months:
 - (i) All the existing circuits at 50 Mbps or below to 100 Mbps;
 - (ii) All the existing 100 Mbps circuits to 200 Mbps;
 - (iii) All the existing 250 Mbps to 300 Mbps.
 - (c) The increase of the prices for the 1 Gbps speed and 10 Gbps Aggregation link.
- 3.3 TRA acknowledges BNET's proposal to further reduce the price for the 100 Mbps speed from BD/month 16.14 to 8.86, instead of the BD 10.86 originally proposed. TRA however considers this further price reduction, alone, is not sufficient to address its concerns regarding the removal of the 50 Mbps.
- 3.4 More than 75% of all WBS circuits are currently provisioned for the 50 Mbps speed, at BD/month 7.02. The combination of this and the short timeframe of 3 months proposed by BNET to upgrade all existing 50 Mbps circuits and below to 100 Mbps charged at BD/month 8.86, may yield an undesired outcome in the retail markets, in the form of constraining some LOs' ability to compete.
- 3.5 Some LOs have indeed been offering, for some time, 50 Mbps retail broadband services at prices that are close to the current wholesale price of the WBS circuits. Given that these services are typically offered under a 24-month contract, it is desirable to offer a transition period (for upgrading to the 100 Mbps speed) that enables LOs sufficient time to adapt their retail offers. Indeed, we note that, should BNET's proposal come into effect, LOs may not be able to modify their terms and conditions to affected existing end-users until, at least, their contract has reached its term.
- 3.6 TRA is therefore of the view that, while the 50 Mbps and below WBS speeds can be discontinued for new requests and for these to start at a speed of 100 Mbps at BD/month 8.86, BNET should maintain the 50 Mbps speed priced at BD/month 7.02 for all existing circuits for a period of 24 months from the date of issuance of the final WBS pricing, or until such circuits are voluntarily upgraded to a higher speed or disconnected, whichever is the earliest.
- 3.7 TRA is of the view that the same principle should apply to any speed that BNET is proposing to discontinue, such as the 250 Mbps. BNET should continue to maintain the existing 250 Mbps circuits at the current price of BD/month 21.52 for a period of 24 months from the date of issuance of the

final Residential WBS pricing, or until such circuits are voluntarily upgraded to a higher speed or disconnected, whichever is the earliest.

- 3.8 In addition, TRA is not in favour of BNET’s proposed upgrade scheme for the existing 100 Mbps circuits. TRA considers that it is not BNET’s role to force upgrades or downgrades of circuits and, indirectly, end users' speeds. BNET would otherwise be directly limiting retail LOs’ ability to be in full control of their commercial strategy, thereby shaping retail markets when this role should be left to retail LOs.
- 3.9 In general, TRA is of the view that existing circuits on speeds that continue to be provided in the new RO, which prices have been reduced, should continue to be made available at the reduced price as soon as the new RO is issued, until such circuits are voluntarily upgraded to a higher speed or disconnected. TRA therefore considers that existing 100 Mbps WBS circuits should benefit from the reduced 100 Mbps prices, if LOs wish to maintain these circuits and not upgrade to 200Mbps. BNET cannot and should not force automatic upgrades to 200 Mbps.
- 3.10 Finally, as outlined in the previous consultation document, TRA is minded to reject any price increase unless duly justified by BNET. Given the strategic position of BNET as sole fixed services wholesale provider and in light of BNET’s submission, TRA does not consider that BNET has managed to adequately justify its proposed price increases and that as such it is inappropriate to increase the prices of the 1Gbps speed and 10 Gbps aggregation link. TRA therefore requires that those prices be maintained at their current level.
- 3.11 TRA’s proposal regarding the WBS price terms is summarised in Table 2 below.

Table 2: TRA’s Proposal on WBS prices

Current RO		New RO	
Speed	Price	Speed	Price
50 Mbps	7.02	50 Mbps*	7.02*
100 Mbps	16.14	100 Mbps	8.86
		200 Mbps	16.14
250 Mbps	21.52	250 Mbps*	21.52*
		300 Mbps	21.52
500 Mbps	32.28	500 Mbps	32.28
1 Gbps	50	1 Gbps	50
10 Gbps Aggregation link	358.5	10 Gbps Aggregation link	358.5

* The 50Mbps and 250 Mbps will be retained only for existing circuits, for a period of 24 months from the date of issuance of the final Residential WBS pricing, or until such circuits are voluntarily upgraded to a higher speed or disconnected, whichever is the earliest.

Question 1: Do you agree with the Authority’s views regarding the WBS price terms, and its proposal as summarized in Table 2?

4 **NON-RESIDENTIAL WBS**

On 28 September 2022, BNET informed the Authority that it had completed a verification exercise focusing on the use of WBS Residential service by end users, which were not residential in nature, but which have a Commercial Registration Certificate. In BNET's view "the use of the WBS Residential Service for Non-Residential end users is in clear breach of the terms of the BNET's RO".

- 4.1 TRA believes that it is opportune to clarify the matter through this RO review process. The introduction of residential and non-residential packages is a business practice that has been adopted in many jurisdictions. Notionally the difference between the two packages lies in better quality of service in terms of customer support and contention ratios. TRA believes that it is firmly up to the end-customers to decide if they are content with subscribing to a package that affords better quality of service (or otherwise). That choice should not be made on the end-customer's behalf. Indeed, contrary to BNET's assertion there is no provision within the current Reference Offer that prohibits a WBS residential package being sold to a non-residential customer and for a non-residential package to be sold to a residential subscriber.
- 4.2 As such it is the TRA's firm view that the choice in whether subscribers should subscribe to residential or non-residential WBS packages should exclusively lie with the end-customer irrespective of whether that end-customer is a corporate person that submits a Company Registration number or any natural person that submits an Identity Card upon submission of a service application form. Furthermore, we are concerned that BNET should not have knowledge of the detailed information of end-users except that information that is fundamentally essential to install end user equipment on the retail operators' behalf.

Question 2: Do you have any comment in respect of the position that has been clarified by the Authority?

5 INSTRUCTIONS FOR SUBMITTING A RESPONSE

5.1 TRA invites comments on this consultation document from all interested parties. Comments should be submitted no later than 16.00 on 10 November 2022.

5.2 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

5.3 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.

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

5.5 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 provisions⁴ and its published guidance on the treatment of confidential and non-confidential information⁵.

- 5.6 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.

6 STATUS OF THIS CONSULTATION DOCUMENT

- 6.1 This consultation document is issued pursuant to the Position Paper on “*How TRA Consults*” issued on 17 October 2017.⁶
- 6.2 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.
- 6.3 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.
- 6.4 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.

⁴ Including Article 23 of the Law.

⁵ http://www.tra.org.bh/media/document/Confidentiality_Guidelines_Final.pdf

⁶ <http://www.tra.org.bh/media/document/Position%20Paper%20on%20how%20TRA%20consults1.pdf>

ANNEX 1

BNET DRAFT RESIDENTIAL WBS PRICE TERMS

Annex 1 contains BNET submission to the TRA.

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.

Question 1: Do you agree with the Authority's views regarding the WBS price terms, and its proposal as summarized in Table 2?

Question 2: Do you have any comment in respect of the position that has been clarified by the Authority?
