

16 November 2022



Telecommunications Regulatory Authority of Bahrain

Consultation Paper

A consultation document issued by the Telecommunications Regulatory Authority of the Kingdom of Bahrain (“**TRA**”) on the draft Mobile Data Service - Active (“**MDS - A**”) price terms and service description of the BNET Reference Offer (the “**RO**”).

16 November 2022

MCD/10/22/005

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 22 November 2022.

Purpose: to seek stakeholders’ views on the draft MDS - A price terms and service description.

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. To this end, we need to ensure BNET, the national broadband network of Bahrain, 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.

The BNET Reference Offer is one element in achieving this objective. To ensure that eligible licensees and end-users can benefit as soon as possible from BNET's proposals, TRA's strategy has been to prioritize certain services, rather than wait until the process of reviewing all services is completed. We have previously prioritized the residential broadband markets, in particular the price terms at which BNET offers retail operators the wholesale services used to supply retail broadband services, i.e. Wholesale Bitstream Service ("WBS"), which we consulted on in October.¹

The present consultation focuses on the Mobile Data Service Active ("MDS - A"), which was part of the services of the BNET Reference Offer submitted to the TRA on 20 October 2022. This is a wholesale service which Mobile Network Operators rely upon for "backhauling" i.e. connecting mobile towers to the rest of the network and a critical component of the mobile market in Bahrain. As for the WBS service, we believe it is more appropriate to conduct a separate consultation for the MDS - A service in order to fast track its approval and allow stakeholders to have sufficient time to respond to our subsequent consultation. We will continue the review of the other data connectivity services and will share our views in a consultation before the end of November.

Licensed operators have expressed their views on the Reference Offer. We have considered these views, including BNET's, and taken them into account to set out what we consider to be remaining concerns that we wish to see addressed in the final BNET MDS - A price and non-price terms.

Having reviewed BNET's final submission for the MDS - A, we note that some amendments proposed by BNET result in 14% to 35% price decrease, which should benefit the industry and mobile customers. We however, believe that further adjustments, both in relation to prices and non-price terms are needed to support our objective to achieve world class, ubiquitous and affordable connectivity services in Bahrain.

We believe that the revisions proposed in this consultation document will be a further step towards sustaining competition in the retail mobile market and ultimately benefit mobile customers. We are keen to receive stakeholders' comments on TRA's final proposals so that the final MDS - A price and non-price terms can be implemented without undue delay.

¹ See TRA, 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.
Available at https://tra-website-prod-01.s3-me-south-1.amazonaws.com/Media/Documents/docs/20221027150543820_3vafjxr_xhy.pdf.
Stakeholders' responses are expected by 20 November 2022.

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.² In its 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 (“RO”) that reflects the finding of the determination and the reasonable requirements of licensed operators (“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.³
- 1.3 A first public consultation was conducted on the draft RO submitted by BNET from 28 April to 16 June 2022 (“the April Consultation”). 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
- 1.5 BNET has submitted a revised RO on 20 October 2022. Prior and after the submission of BNET, TRA has received requests from mobile operators to prioritize the review and issuance of the Mobile Data Service Schedules⁴ (“the MDS - A Schedules”) so that the affected licensees may benefit from the revised terms as soon as possible.
- 1.6 TRA considers that certain modifications proposed by BNET to the MDS - A Schedules might be contentious to mobile network operators – the ultimate

² 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_mvndq1vc_fkh.pdf

³ BNET subsequently submitted a number of amendments to the draft RO including submissions received on 6 January 2022 and on 14 April 2022.

⁴ The MDS – A Schedules include the MDS – A Service Description, the MDS – A Operation Manual and the MDS – A price terms as part of Schedule 3 - Pricing

users mobile services. The areas of concern are outlined in this consultation document.

2 PURPOSE OF THIS CONSULTATION PAPER

- 2.1 This consultation focuses on the price terms and non-price terms of the MDS - A service. TRA has, after the Wholesale Bitstream service- the key input into retail broadband services, prioritised this service over the remaining part of the RO, given it is a critical input into mobile networks, so that potential benefits are passed onto eligible LOs (and ultimately retail mobile customers) as soon as possible.
- 2.2 TRA welcomes views and comments, supported with evidence where available, on the draft MDS - A price terms and non-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 MDS-A PRICE TERMS

- 3.1 TRA notes that BNET has addressed its concerns regarding the removal of speeds (namely 500, 1,500 and 2,500 Mbps) and welcomes the revisions submitted by BNET.
- 3.2 Nevertheless, it appears that BNET has maintained its proposed price for the 100 Gbps aggregation, (set at BD/month 1,200), which constitutes a 5% increase compared to the equivalent aggregation link of the previous Mobile Backhaul Service ("MBS")⁵ and a 67% increase compared to the equivalent aggregation link of the previous Data Service ("DS")⁶.
- 3.3 As mentioned in its previous consultation document⁷, TRA is not amenable to approve any price increase in this RO review, unless duly justified by BNET. In the absence of such a justification, TRA is unable to express its view on whether BNET's proposed price is fair and reasonable.
- 3.4 As the MDS - A is in essence the combination of two existing products, MBS and DS, TRA believes that, unless BNET has a valid justification for choosing an alternative approach, a conservative approach would have been to use the lower price of the merged services for the new service. With such approach, the price for the 100 Gbps aggregation link would be set to match the minimum between the existing price of the 100 Gbps aggregation links

⁵ The 100 Gbps aggregation link of MBS is currently priced at BD/month 1,141.17

⁶ The 100 Gbps aggregation link of DS is currently priced at BD/month 718.15

⁷ 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, Ref: MCD/04/22/003, Par 5.1.1

of the MBS and DS, e.g. BD/month 718.5. TRA is keen to receive BNET and the LOs' views on this point.

- 3.5 In addition, TRA notes that certain mobile operators have, in response to the initial consultation, outlined that more than four 10 Gbps aggregation links should be included as part of the monthly recurring charge. This comment does not seem to have been addressed in BNET's submission.
- 3.6 TRA also notes that the volume discounts that were proposed by BNET in the April 2022 Consultation are not included in this proposal.

Question 1: Do you have any comments on TRA's views regarding the 100 Gbps aggregation link or any other aspect of the MDS - A price terms proposed by BNET?

4 NON-PRICE TERMS

- 4.1 TRA notes, amongst other things, the introduction of the limitation in the right to use the MDS - A in clause 3.2 of the MDS - A Service Description as submitted by BNET, which has not provided any appropriate justification for the introduction of this limitation. While it may be appropriate for BNET to set out the limitations of a particular service (for example connection to cell sites), TRA does not agree that it is for BNET to determine what traffic should be carried over a network. Furthermore, BNET should not effectively limit the technology a mobile network operator can use. This is a matter for the operators' licence.
- 4.2 TRA therefore considers that the proposed clause 3.2 should be deleted.
- 4.3 TRA also notes that BNET has added a clause 1.5 to its MDS - A Service Description which effectively removes the continuous monitoring of the services characteristics defined in clause 1.4 once the MDS - A has been commissioned and is in service.
- 4.4 TRA considers that clause 1.5 should not be inserted, as it seems to not be aligned with the current Service Level Agreement defined in Schedule 7 – Service Levels and clause 9 of the Schedule 9 – Supply Terms.
- 4.5 TRA welcomes BNET's effort in enhancing its protection levels, as briefly described in section 3 of the "Optional Levels of Protection available for the MDS - A Service", in particular the addition of the "Geo-redundancy" protection level. TRA requests that BNET includes a more detailed service description of this feature to avoid any potential preferential treatment among mobile network operators ("MNOs"), or any misuse by the MNOs of this new service.

Question 2: Do you have any comments on TRA's above views or any other aspect of the MDS - A non price terms and service description proposed by BNET ?

5 INSTRUCTIONS FOR SUBMITTING A RESPONSE

5.1 TRA invites comments on this consultation document from stakeholders. Comments should be submitted no later than 16.00 on 22 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, but also to any other aspect of the proposed MDS-A Schedule.

5.5 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 2017.⁸
- 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.

⁸ <http://www.tra.org.bh/media/document/Position%20Paper%20on%20how%20TRA%20consults1.pdf>

ANNEX 1

BNET DRAFT RESIDENTIAL MDS - A PRICE AND NON 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 have any comments on TRA's views regarding the 100 Gbps aggregation link or any other aspect of the MDS - A price terms proposed by BNET?

Question 2: Do you have any comments on TRA's views or any other aspect the MDS - A non price terms and service description proposed by BNET?
