



To the attention of:

General Director  
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Zain Bahrain's response to the public consultation in relation to the  
**BNET's proposal to amend its Reference Offer by introducing a new service  
"Closed Bitstream Service" and upgrading the existing WBS Essential and  
WBS Advanced bandwidths**

Issued by the Telecommunications Regulatory Authority on 12 August 2024  
Ref: LAD 0824 044

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Non-Confidential Version



This response is submitted via email to [TCD@tra.org.bh](mailto:TCD@tra.org.bh) by:

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## I. Introduction

Zain Bahrain B.S.C ("Zain") provides its response to the Public Consultation (Ref LAD 0824 044 of 12<sup>th</sup> Feb August 2024) (hereinafter referred to as the "Consultation") issued by the Telecommunications Regulatory Authority (the "Authority") concerning the introduction (and subsequent withdrawal<sup>1</sup>) of a new wholesale service in the Reference Offer of BNET (the "RO") and upgrading the existing WBS services.

At the outset, it is crucial to express Zain's disagreement with BNET's proposal to upgrade the existing WBS speeds without considering the speed upgrades for mobile backhaul which are required to achieve the policy in this regard. Zain firmly believes that increasing the WBS speeds in this way raises many concerns, which we have already outlined in previous communications both with the BNET and Authority. Nevertheless, we consider it crucial to reiterate Zain's position in this consultation and to emphasize our material concerns.

## II. Response

### The Proposed Amendments

#### **1. Do you support the introduction of the Closed Bitstream Service (CBS)? If not, please provide you reasons.**

Zain supports BNET's proposal to remove the CBS from its proposal to amend its Reference Offer. In particular, Zain is of the view that BNET should focus more on its role as a wholesale services provider which will enable the retail service providers to then develop and design the most appropriate suite of products and services for end customers.

Nevertheless, Zain shares the Authority's view that if BNET plans to introduce the CBS (Cloud Business Service), it should not restrict it to "national or public security entities in the Kingdom" Such a service should, if introduced, aim to benefit all enterprise customers, aligning with Bahrain's goal of positioning itself at the forefront of the telecommunications industry, providing reliable, high-speed, and quality services to businesses.

#### **2. Do you support the proposed upgrades to WBS Essential and WBS Advanced bandwidths? If not, please provide your reasons.**

Zain strongly disagrees with BNET's plan to upgrade WBS Essential and WBS Advanced Bandwidth. While we acknowledge BNET's rationale that upgrading WBS services' bandwidth aligns with the government's objectives, we emphasize that the government's vision extends beyond fiber broadband services to encompass all telecommunications sectors, including the mobile market. By focusing solely on fiber broadband, BNET

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<sup>1</sup> As per the announcement issued by the Authority on 9 September 2024

continues to cause an imbalance in the market, overlooking the broader goal of positioning Bahrain at the forefront of all telecommunications services. This disparity in treatment between WBS and MDS-A services also raises concerns in BNET's approach to service improvements.

We firmly believe that Zain's repeated requests to BNET to increase the bandwidth of the MDS-A service without additional costs being passed to the Access Seeker is grounded in a commitment to parity and fairness. The 6th National Telecommunications Plan (NTP) has detailed the government's strategic vision for transforming the Kingdom into a "post-gigabit" society by offering high-capacity and high-quality services ubiquitously available to the entire population and all businesses. Specifically, the 6th NTP articulates the commitment to enabling ***"all customers to access the latest technologies in the different areas of the kingdom with good quality of experience at globally competitive pricing."***

The policy objective states that ***"The Government will promote access to high-speed broadband, offering speeds of over 1 Gbps for residential users and 10 Gbps symmetric speeds for businesses at affordable prices"*** [emphasis underlined]. It does not, however, mandate that all residential subscribers should have a minimum fiber broadband speed of 1 Gbps. This misinterpretation of the policy would inadvertently skew BNET's efforts and alter priorities. BNET expressed its future intention to introduce further speed upgrades in the coming three years to achieve a milestone that is not what the policy states.

Moreover, it is crucial to emphasize that even if BNET plans to upgrade WBS services without additional costs to Access Seekers, we would need to expand the IP Transit capacities and procure new technical equipment/licenses to support the proposed higher bandwidths. This would result in an increased cost on licensed operators of at least BD 2-3 per user and this cost increase would accordingly need to be passed on to the end user.

Considering the above, Zain respectfully urges the Authority to reconsider its position of being minded to approve BNET's proposal in the context of the broader telecommunications environment, emphasizing fairness and efficiency. By prioritizing MDS-A bandwidth enhancements and ensuring equitable treatment across services, BNET can align its actions with governmental goals and industry standards, benefitting customers and fostering the sustainable growth and competitiveness of Bahrain's telecommunications sector.

### **Non – Price Terms**

- 3. Do you consider that the non-price terms outlined in the proposed amendments are fit for purpose and meet the reasonable requirements of Los?**

Given the exponential increase in fiber broadband speeds resulting from both the previous upgrades and the intended future upgrades, the 1Gbps and 10Gbps aggregation links are no longer a viable or efficient choice. With the government's strategic vision for transforming the Kingdom into a "post-gigabit" society, dimensioning for the aggregation links should be scalable and easily accommodating the surge in fiber broadband traffic/throughputs. We, therefore, request that default aggregation links for WBS services commence at 100Gbps, rendering the availability of 10Gbps unnecessary moving forward.

### **Price Terms**

#### **4. Do you agree that the proposed price terms for the CBS and the upgraded WBS services meet the FRAND requirements?**

While Zain agrees with BNET's approach to remove the CBS from its proposal to amend its Reference Offer, Zain has reservations that the proposed upgrades to the WBS services do not meet the FRAND requirements for the reasons set out below.

- **Fair:** Contrary to the Authority's assertion, the proposed WBS upgrades do indeed create an imbalance of market power by favoring and unconditionally allowing frequent upgrades to the WBS Service at the expense of MDS-A. An imbalance is, in fact, being created between the fiber broadband market (WBS as an input) dominated by Batelco and the mobile broadband market (MDS-A as an input). The absence of a long-overdue market review in the broadband market gives Batelco a significant advantage in weakening competition and creating switching barriers, even at the expense of its mobile broadband services. It is a well-known fact that mobile network operators require ongoing heavy investments for which the returns on investment are not realized. Focusing on a single side of the policy, which is fiber broadband in this case, impedes the overall government vision and renders the market unfair.
- **Reasonable:** The Authority suggests that a price could be considered "reasonable" if it allows to compete effectively in the downstream market while also providing sufficient incentives for the access provider to continue developing services over time. This approach has led the Authority to compare retail tariffs in other markets and examine pricing trends.

However, the price benchmark should have been done with the wholesale prices in the relevant benchmarks as the retail prices reflect not only input costs but other cost structures in addition to adjustment decisions led by market, competition strategies and other socioeconomic factors. We are also concerned that retail price comparison between benchmarked countries would inadvertently lead the Authority to consider that a wholesale price is reasonable.

Moreover, we are still of the view that the Authority must follow the best regulatory practice in applying a cost model to BNET as the main regulatory tool, as it would

assist greatly in regulating a legal monopoly. This would ensure reasonable pricing that allows BNET to recover its costs in tandem with allowing access seekers to compete effectively in the downstream market. Finally, it would highlight any cross-subsidization between BNET's wholesale products that could grant undue advantage to the market predominated by Batelco (which shares the same ownership structure as BNET).

- Non-discriminatory: We believe that the treatment and prioritization of WBS over other BNET services is discriminatory in nature. For example, the retail benchmark is being adopted for WBS, while cost considerations are given when deciding on changes to the MDS-A service. Moreover, many self-initiatives have been led by BNET related to the WBS service and none to the MDS-A service over the past few years.

### **Other Comments**

- 5. Do you have any other comments regarding BNET's proposal? If you do, please explain these in relation to (a) their impacts on competition; and (b) their impacts on consumer.**

Building upon Zain's concerns in the previous paragraphs, it is imperative to highlight the significance of aligning the bandwidth upgrades between the WBS and MDS-A services. Failing to do so will impede mobile licensed operators from offering end-users services at competitive retail rates despite their high speeds, mirroring the existing situation with the fiber broadband sector. Consequently, consumers might opt for fiber services over mobile alternatives based on the technical superiority of the fiber broadband in addition to the pricing disparity rather than informed decisions. Hence, this undermines the government's efforts to foster an environment where customers can make decisions based on value and quality rather than merely affordability. Equally concerning is that the repercussions of such a disparity could be negative for the mobile market, jeopardizing its ability to compete effectively against the fiber broadband sector.

Furthermore, we reiterate that even if BNET intends to upgrade WBS bandwidth without imposing additional costs, licensed operators will inevitably face financial implications. Upgrading their equipment to accommodate higher speeds will require additional investment, which we anticipate will result in a cost increase of at least BD 2 per user will be passed on to the retail prices. Licensed operators are not able to absorb these costs, along with increased regulatory and taxation levies, without passing them on to the customer. This consideration is crucial for the Authority when evaluating BNET's proposal.