



**CONSULTATION ON: PROPOSED TERMS AND CONDITIONS OF THE PUBLIC TELECOMMUNICATIONS LICENSES TO BE ISSUED TO QATAR TELECOM (QTEL) Q.S.C. AND TO A NEW PROVIDER OF PUBLIC MOBILE TELECOMMUNICATIONS NETWORKS AND SERVICES IN THE STATE OF QATAR**

# **EXPLANATORY STATEMENT CONCERNING FINAL PUBLIC TELECOMMUNICATIONS LICENSE TEXTS**

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## 1. Introduction and Background

The Supreme Council of Information and Communication Technology (“**ictQATAR**”) is today publishing the final texts of the following licenses:

Attachment 1: License for the Provision of Public Mobile Telecommunications Networks and Services to be Issued to Qtel (“**Qtel Mobile License**”), and related Spectrum Licenses;

Attachment 2: License for the Provision of Public Fixed Telecommunications Networks and Services to be Issued to Qtel (“**Qtel Fixed License**”), and related Spectrum Licenses; and

Attachment 3: License for the Provision of Public Mobile Telecommunications Networks and Services to be Issued to a New Entrant (“**Q2 Mobile License**”), and Related Spectrum Licenses.

Publication of the final versions of these licenses follows ictQATAR’s public consultation on preliminary drafts of the documents, which were released for comment on 10 June 2007. The period for comment on the preliminary drafts closed on 1 July 2007, and responses were received from 13 parties. A list of the commenting parties is attached as Annexure A, and copies of the responses are available on ictQATAR’s official website at [www.ict.gov.qa](http://www.ict.gov.qa).

ictQATAR appreciates the time and efforts that were invested by the commenting parties in preparing their submissions on the preliminary license drafts. The comments were voluminous and helpfully detailed in many respects, and they have provided extremely useful input considered both individually and in the round. In the interest of administrative efficiency, ictQATAR will not attempt to summarise here all of the various positions but will focus on the key issues and themes that have emerged from the consultation.

Apart from Qtel, which took issue with the proposed structure and content of the licenses, the overwhelming majority of the commenting parties were supportive of the proposed licenses as appropriately reflecting the principles of non-discrimination, fairness and transparency consistent with international best practice. However, several respondents cautioned ictQATAR against taking the non-discrimination principle to an extreme by declining to impose effective asymmetric regulation on dominant service providers where necessary to promote effective competition in the marketplace.

Decree Law (34) of 2006 and the Telecommunications Law provide ictQATAR with the authority and the regulatory toolkit necessary to protect and promote competition in the telecommunications sector. The individual licenses are designed to help ensure that the kinds of bottlenecks -- both procedural and substantive -- that typically arise in a newly liberalizing market can be swiftly overcome. On balance, ictQATAR believes that the range of positions reflected in the comments confirms the basic soundness of its licensing approach. However, the final texts of the licenses include some significant changes that have been proposed or at least inspired by the comments received during the consultation process.

In Section 3 below, ictQATAR highlights the major issues that have been addressed in the final license texts. It should be noted that many of the comments proposed textual changes that are in the nature of clarifications or corrections. ictQATAR has also taken on board a number of these suggestions. As these changes are for the most part of relatively minor significance or are self-explanatory, they are not specifically addressed in this Explanatory Statement.

A number of issues that have been raised by the comments will require further consideration and debate before they can be resolved, and these will be dealt with in regulatory processes over the coming months as part of the natural development of a comprehensive new regulatory framework for the Qatari telecommunications sector. ictQATAR has focused on addressing in the licenses those issues that it considers critical to consumers and to the development of sustainable competition in the near term, while leaving to future processes and consultations the elaboration of more detailed procedures and substantive regulations. ictQATAR has already begun preparing for a number of these initiatives and believes that its consideration of these issues will benefit greatly from the presence of a new licensee that is invested, literally and figuratively, in the process. Some of the key issues that ictQATAR intends to address in future consultations are identified in Section 5 below.

## 2. Relationship to Dominance Consultation

The license texts that are being published today represent the final versions of the licenses that ictQATAR expects to grant to Qtel and to the new mobile entrant, with one qualification: Four of the annexures to the licenses (or sections thereof) deal with issues relating to market dominance. These include Annexures D (Tariffs), F (Interconnection & Access), I (Dominant Service Provider Obligations) and J (Transitional/Fast-Track Interconnection). These clauses, which are set out in italics in the attached licenses, are being issued on a provisional basis pending completion of the *Consultation on Relevant Markets and Designation of Dominant Service Providers in the State of Qatar* ("**Dominance Consultation**"), which ictQATAR is launching today. All other provisions of the attached license, however, are final. The Dominance Consultation document, ICTRA 05/07, is available on ictQATAR's website.

Comments in response to the Dominance Consultation document are due no later than 16 September 2007. Following review of the comments submitted in that proceeding and in consideration of their impact, if any, on the provisional license sections, ictQATAR will formally issue Qtel's fixed and mobile licenses and the final version of the Q2 Mobile License on or before 8 October 2007. In order to accommodate the Dominance Consultation timetable, ictQATAR has decided to grant Qtel a limited extension to the six-month grace period prescribed by Article (5) of Decree Law (34) of 2006 for Qtel to comply with the requirements of the Telecommunications Law.

There is a possibility that some aspects of the dominance-related provisions of the licenses could change pending completion of the Dominance Consultation. However, key elements of the market review and dominance designation process have already been the subject to consultation in connection with the preliminary license drafts as well as the *Consultation on Liberalization of the Telecommunications Sector in the State of Qatar*. Moreover, ictQATAR has had a number of bi-lateral consultations with Qtel on the subject of the market review process and dominance designations. Comments from both Qtel and potential entrants on dominance-related issues in those proceedings have been taken into account by ictQATAR in conducting the market analysis, preparing the draft dominance designations, and formulating the associated (provisional) sections of the final license texts. Thus, although ictQATAR will keep an open mind, it does not anticipate

any substantial modifications to the dominance-related provisions of the licenses unless unexpected data comes to light during the Dominance Consultation process.

### **3. Major Issues Raised in Comments on the Preliminary License Drafts**

In this section, ictQATAR discusses the major issues raised in the comments that it has concluded can and should be addressed in the final versions of the licenses. Most of these issues were raised by multiple respondents but, not surprisingly, there was a marked divergence of views on many of the issues and how they should be dealt with. A brief summary of the issues and the way in which ictQATAR has decided (or not) to address these points in the final License texts is set forth below.

#### **3.1 Quality of Service (“QOS”) Obligations**

These obligations are considered by ictQATAR to be of critical importance. The regulatory objective is to apply uniform minimum standards to all public telecommunications operators in order to ensure the highest quality of service for customers. ictQATAR has taken into account the comments received from Qtel, potential licensees and other parties in determining the final position in relation to QOS.

Both Qtel and the new mobile licensee will be required to meet the same QOS standards. However, as there are different factors affecting the incumbent and the new entrant in terms of both reporting and implementing compliance with the QOS standards, these differences in circumstances have been reflected in various revisions to the standards themselves, as well as the reporting and publication timescales set out in Annexure E of the licenses.

The licenses define several processes for both the incumbent and new mobile licensee to follow, including:

- (a) Reporting of compliance with QOS standards (the grace periods for Qtel and the new entrant have been extended);
- (b) Implementation of final reporting arrangements;
- (c) Publication of results of QOS reporting; and
- (d) Consultation with ictQATAR in respect of identified QOS issues, and an opportunity to remedy the situation before proceeding to a process for determination of breach.

The objective of these requirements will be to improve QOS over a defined period of time in order to bring consumers in the State of Qatar up to the highest international level of service quality. The imposition of penalties will be used only as a last resort, but ictQATAR will not hesitate to utilize its legal powers to ensure that consumers receive the benefits of improved QOS as a result of this process.

#### **3.2 Roll-out Obligations and Performance Bonds**

Various comments were received in respect of the coverage (roll-out) obligations set forth in Annexure G of the draft licenses. Some respondents thought that the objectives were achievable, whereas others felt they would be difficult to achieve. Others sought clarification of the definition of terms such as ‘major roads’. There was also some concern raised with regard to the ultimate requirement to achieve 100% geographical coverage.

Qatar is a small country with no major topographical obstacles that would significantly affect network deployment. Achieving both the population coverage and geographic coverage targets should not be unduly onerous. In relation to the 100% geographic coverage obligation, which is an important policy objective of the State of Qatar, ictQATAR is prepared to allow the target to be met (over and above the 98% population coverage threshold) jointly by the licensed mobile operators through the implementation of mutual roaming agreements, infrastructure sharing, or other cooperative arrangements as appropriate. All such agreements would be subject to regulatory approval but in principle, ictQATAR would favour such arrangements for meeting the final coverage obligation. ictQATAR has also decided to reduce the value of the performance bond for failure to comply with 100% geographic coverage to QAR 10 million. However, as is the case with all of the coverage milestones, penalties may also apply if the obligation is not fulfilled.

The other performance bonds in respect of population and road coverage remain the same, but greater clarity has been provided in respect of the stipulated obligations.

### **3.3 Release of Spectrum by Qtel, Performance Bonds and EGSM Frequencies**

Qtel raised a number of issues in relation to performance bonds in respect of its spectrum release obligations. Qtel has expressed the view that the performance bond is a fine and that the amount of the bonds is excessive and not in accordance with international best practice. Despite Qtel's views, which are unsupported by any Qatari legal precedents or authority, it is clear that performance bonds may be imposed by ictQATAR as a condition of issuing a license under the terms of Article 11 of the Telecommunications Law.

ictQATAR is conscious of the fact that until early 2007, Qtel continued to perform regulatory functions in the area of spectrum management and during that time, it assigned 100% of the valuable 900 GHz spectrum to its own mobile operations. While this is not entirely unprecedented, it is unusual that an operator with fewer than 1 million customers in a country the size of Qatar would require the use of this entire band, whereas operators with more than 50 million customers in very large countries require only a fraction of the same band. This does not indicate efficient use of the spectrum, which is a national resource belonging not to any operator but to the State of Qatar.

ictQATAR now has the responsibility to manage spectrum on behalf of the State and a duty to ensure that such spectrum is used efficiently. Before the licensing process commenced, ictQATAR entered into extensive discussions with Qtel and agreed the spectrum release schedule set forth in Qtel's draft license. Some comments received from potential licensees were to the effect that the release period is too long and gives an unfair advantage to Qtel. The objective for ictQATAR is to achieve fair competition and ensure that all service providers can compete on equal terms. Qtel has indicated to ictQATAR that it will be difficult for it to meet the timetable agreed, but it is committed to achieving it.

ictQATAR has considered the various comments received as well as the fact that during part of 2008, the second mobile licensee will be in the process of building its own network. ictQATAR has, accordingly, reached the following decisions:

- (a) The timetable for the release of spectrum by Qtel will remain unchanged.
- (b) There will continue to be performance bonds in respect of any spectrum not yet released by Qtel.

- (c) ictQATAR has received commitments from Qtel that it should have met at least two of the completion deadlines for release of spectrum before the extended date for the grant of its license. If Qtel does release some or all of the designated spectrum prior to the grant of its license, the value of the applicable performance bond will be reduced accordingly. Qtel will be required to pay spectrum fees on all spectrum assigned to it during any transitional 'release' period. If the agreed timetable for release is not met, ictQATAR may elect to seek imposition of the maximum penalties allowed under the Telecommunications Law for breach of Qtel's license and probable violation of the competition provisions of the Telecommunications Law.

Some commenters raised concerns regarding the availability of ESM-compatible handsets in the market and perceived technical limitations of EGSM spectrum vs. PGSM spectrum. ictQATAR conducted a detailed analysis of EGSM handset capability in the State of Qatar before issuing the draft licenses and estimated that more than 98% of the handsets in the State are EGSM-compatible. ictQATAR also determined that there are no other technical disadvantages arising from the use of EGSM compared with PGSM. Additionally, ictQATAR's research indicates that use of the EGSM band is common in the region (e.g. Bahrain, the Kingdom of Saudi Arabia and Egypt). Thus, ictQATAR is satisfied that technically and commercially, the proposed spectrum allocation for the second mobile license is equitable and viable.

#### **3.4 Fees and Contributions**

A number of respondents raised issues in relation to the proposed license-related fees. The License Fee of 1% of net revenue is not atypical internationally. Some respondents raised concerns about possible changes in this fee, which is designed to cover the cost of ictQATAR's regulatory functions. The change provision was intended to enable the amount of the fee to go down or up depending on the cost of ictQATAR's regulatory functions, the number of contributions over time, and similar factors. Based on international experience, it would not appear that there should be any large or precipitous variations in the size of this fee over time. Licensees will be given notice, an opportunity to comment and full transparency on any proposed changes. This has now been clarified in the license.

With regard to the Industry Fee, one respondent characterized the fee as a 'tax' because it is based on net revenue less operating expenses (characterized as net profit). No authority under Qatari Law was provided for this claim, and it is clear that under Article 3 of the Telecommunications Law of 2006, ictQATAR is authorized to set fees without any limitation on the method of calculation.

Some respondents questioned the size of the Industry Fee (12.5%) and suggested that a lower percentage should be adopted. The fee level is not, however, unusually high by the standards of this region, and operating expenses may be deducted from the base amount upon which the fee will be calculated. In such circumstances, ictQATAR does not at this time intend to reduce the fee, which has been approved at the highest level.

Finally, a number of commenters proposed simplification of the procedures for payment of the fees, and the licenses have been revised to require payment in arrears for the License and Industry Fees based on unaudited accounts and subject to 'true-up' as necessary. Spectrum fees will be payable annually in advance.

#### **3.5 Tariff Filing Requirements and Bundling**

Comments were received from various parties in relation to the tariff filing requirements for both non-dominant and dominant service providers.

In relation to the requirements for the offerings of non-dominant service providers (*i.e.*, services in a market in which a licensee has not been designated as 'dominant'), a number of potential licensees questioned the need to inform ictQATAR of price change proposals three weeks in advance of implementation. It was felt that this timescale was too long to respond quickly to competitive pressures. Some respondents felt that there should be no price notification or control measures whatsoever in respect of non-dominant service providers. Upon consideration of the comments, ictQATAR has decided to revise the license provisions in respect of non-dominant service provider tariff filings as follows:

- (a) Until ictQATAR completes the initial dominance designation process, all service providers must file any tariff changes, including price increases, decreases, changes in terms and conditions, and bundled offerings at least three weeks in advance of the effective date of the tariff, as per the existing draft licenses. In the case of tariff increases, a minimum of 14 days' notice (or such other period as ictQATAR may specify) must be given to customers before any increase takes effect.
- (b) Following the initial dominance designation, in the case of tariffs for services offered by a licensee that has not been designated as dominant, the license must simply notify ictQATAR on or before the effective date. ictQATAR reserves the right to issue a direction terminating or amending the tariff changes within a period of three weeks after the date of notification. In the case of tariff increases, a minimum notice period of 21 days (or such other period as ictQATAR may specify) must be given to customers before the modification can take effect.

ictQATAR will continue to monitor the market and the evolution of competition both in advance of and at the time of the Strategic Sectoral Review to determine whether any changes are required in respect of the tariff filing procedures for non-dominant service providers.

In respect of the tariff requirements for the offerings of dominant service providers, (*i.e.*, services in a market in which a licensee has been designated as dominant), ictQATAR has decided that the initially proposed procedures and timescales for effecting tariff changes or implementing new tariffs are necessary and proportionate at this stage of the sector's development. As the sector evolves, it may be the case that price cap regulation or other more flexible regulatory solutions will suffice. However, during the initial phase of liberalization, individual tariff review and prior authorization and approval will continue to be necessary for markets that are not subject to effective competition.

A number of respondents raised concerns regarding the treatment of bundled service offerings. ictQATAR is not against bundling *per se* and recognizes that in many cases, bundling creates convenience and value for consumers and, indeed, encourages competition. It is, however, the case that bundling may also be used for anti-competitive purposes through the application of cross-subsidies and the imposition of tying arrangements. ictQATAR may in the future develop a set of rules, guidelines or other requirements in respect of bundled service offerings and tariffs. In the meantime, ictQATAR will require the notification of all bundling proposals as tariff changes in respect of offerings from both dominant and non-dominant service providers. In any case where a bundle includes a product or service in a market in which the operator has been designated as dominant, the bundle or the change in the bundle will be dealt with following the same procedures that apply to price changes in markets in which an operator has been designated as dominant.

Finally, a number of commenters pointed out that the licenses appeared to require itemized billing for pre-paid mobile customers and opposed the requirement that itemized

bills be provided without charge to post-paid customers. Clarification was also requested with respect to the monthly billing requirement. The final license texts have been revised to clarify that itemized bills are not required for pre-paid customers and, where they are required, they must be provided free of charge to residential and single-line customers only. Monthly invoicing will be required but in accordance with individual customers' billing cycles.

### 3.6 **Breach of the License and Appeal Process**

A number of respondents raised issues about the process for determining whether a breach of the License has taken place. ictQATAR intends to apply due process in the event of apparent breaches, and the license has been clarified to confirm that a consultation will be held before any determination is made. At the same time, a number of commenters expressed concern with respect to the timing and efficacy of ictQATAR's enforcement mechanisms, particularly with regard to monitoring Qtel's compliance with its license obligations. ictQATAR intends to initiate a consultation process in the near future regarding enforcement procedures and timescales in order to provide additional clarity and certainty on these important issues.

A number of commenters also raised concerns about an apparent lack of any appeal mechanism in the license. There is no provision in the Telecommunications Law for a statutory appeal process and there is no authority to refer matters under ictQATAR's jurisdiction to arbitration. ictQATAR is aware that an appeal process is a common feature of many other telecommunications regimes. As in most emerging markets, the administrative procedures of the State of Qatar are evolving over time, and interested parties are encouraged to seek their own legal advice on legislative developments that may be pertinent to their rights and obligations in this regard. ictQATAR intends to review this matter in the context of the laws of the State of Qatar and practice elsewhere in relation to both statutory and non-statutory appeal mechanisms. It intends to present its proposals in the form of a consultation. In the meantime, ictQATAR will take all necessary steps to ensure it follows due process and applies transparency in its decision-making processes.

### 3.7 **Timeframes in Respect of Interconnection and Domestic Roaming Issues**

A number of issues have been raised in respect of the timeframes relating to interconnection. The two major concerns focused on: (1) the time before an interconnection dispute could be referred to ictQATAR for resolution; and (2) the period following a request from ictQATAR within which a dominant service provider must provide a draft Reference Interconnection Offer ("**RIO**").

ictQATAR does not view the existence of a RIO as an essential prerequisite to the establishment of interconnection arrangements in a sector consisting of only two or three licensed operators. Indeed, during the initial stages of the liberalization process, ictQATAR fully expects that bilateral interconnection negotiations between service providers will be the norm, regardless of whether they are dominant or non-dominant. On the other hand, a RIO may bring with it the advantages of transparency and consistency, and would greatly assist in the longer-term development of full competition.

Taking these factors into account, and in an effort to balance the divergent views on the issue, ictQATAR has decided to adjust both of these timescales. In respect of requests for interconnection, unresolved issues may be referred to ictQATAR for resolution after 60 days (reduced from 90 days) following the date of the original request. As regards the draft RIO, this must be submitted to ictQATAR within 90 days (increased from 60 days) from that date on which ictQATAR requests its submission. On receipt of the draft RIO, ictQATAR may enter into discussions with the dominant service provider and/or other

relevant parties, hold a public consultation, set up an industry working group, or take whatever other action it deems necessary before approving the final RIO.

Some respondents raised concerns regarding the process for disputes with respect to Domestic Roaming and questioned how they would be resolved. ictQATAR intends that such disputes should be settled in accordance with the same procedures and timescales as will apply in respect of interconnection agreements, and the final texts of the licenses make this clear.

### **3.8 License Terms (including those for related spectrum licenses), Renewal Requests, and Renewal Periods**

Several comments were received in relation to the length of the licenses and the renewal procedures. Some respondents questioned why there are different periods proposed in respect of the fixed and mobile licenses (25 and 20 years, respectively). This decision was made after consideration of the different investment requirements and commercial risks involved in building-out fixed and mobile infrastructures, and also by reference to practices elsewhere. ictQATAR is aware that in a convergent “NGN” environment these factors may become less significant in the future, but as the licenses for the second fixed and mobile operators are being offered separately, the distinction is reasonable and appropriate in the current environment.

Several commenters made the case that spectrum licenses should have the same period of validity as the individual licenses to which they relate. This was the intent of the preliminary drafts, and the final versions of the spectrum licenses have been clarified in this respect.

A number of respondents sought a wider period within which a request for individual license renewal could be made. ictQATAR considered this matter further, and has decided to increase the application ‘window’ in question from six months to two years. Licensees will be able to request renewal of an individual license at any time between three years and one year prior to the date of termination of the license.

Finally, several commenters also contended that a five-year renewal period is too short. It should be noted, however, that this is a minimum period and the renewal period actually approved by ictQATAR may be longer, at its discretion. Given the dramatic changes that have impacted the telecommunications sector on a rolling basis over the past two decades, any attempt to pre-determine what will be appropriate in terms of the length of the renewal period, the applicable fees, or other relevant provisions twenty years from now would be unwise. ictQATAR has thus decided not to revise the renewal provision of the individual licenses other than with respect to the application window.

### **3.9 Efficient Use of Spectrum**

A number of commenters raised concerns about the application of the general spectrum release obligation contained in the license in the event that the spectrum assigned to the licensee is not being used efficiently. The chief concern appeared to be how ictQATAR would define “spectrum efficiency” and the lack of detailed procedures to deal with the application of this principle.

Although these concerns are understandable, there is no definitional solution as the resolution of such issues will be situation-specific, and the circumstances of each case will affect the assessment and the outcome. As many of the commenters have observed, the mobile licenses to be granted to Qtel and the new entrant will give them free rein to utilize their assigned spectrum to support any technology or mobile service that they

choose. With this right comes an obligation to utilize the spectrum efficiently and for the public good. If a question arises as to the best and most efficient use of a particular frequency band, ictQATAR will initiate a public consultation to evaluate all relevant evidence and viewpoints before making its determination, and will provide the spectrum license holder at least 90 days' notice before requiring it to comply with a spectrum release order. The final license texts have been revised to reflect these enhanced procedures.

### 3.10 **Provision of Fixed Telecommunications Services**

Some of the comments suggested changes in the mobile license that would broaden its scope to include fixed networks and services. ictQATAR is well aware of the trend toward fixed-mobile convergence and hybrid services, but these are still in an early stage of commercial development even in more mature markets. ictQATAR's policy priority for the next three years is to license two strong competitors to Qtel, one to provide mobile and the other to provide fixed services. During this period, ictQATAR will encourage the new mobile entrant and the new fixed entrant to focus on building up their respective core businesses and delivering on their coverage and QOS commitments.

As a consequence, the fixed and mobile licenses have been drafted with the aim of ring-fencing the services that may be offered by each. In the case of the mobile license, an exception has been made to enable the licensee to self-provision its fixed backbone infrastructure and to lease capacity to either Qtel or the new fixed entrant. However, the mobile licensee may not carry domestic or international calls that originate on a fixed network, provide leased line or other fixed network services to retail customers, or provide fixed wireless access services. The new mobile entrant is not precluded from applying for the second fixed network license and will be eligible to apply for any future fixed network licenses that may be issued.

### 3.11 **Mobile Number Portability**

Several commenters suggested that the transitional provision requiring initial cooperation in the provision of mobile number portability should be strengthened. The license has been modified to make clear that a basic form of mobile-to-mobile number portability must be operational by the time the new entrant launches its commercial service, and both the Qtel mobile license and that of the new entrant require the licensees' mutual cooperation to achieve that goal. At an appropriate time, ictQATAR may initiate a public consultation process to determine whether and how a fully automated number portability system should be developed for the State of Qatar. The primary responsibility in this regard will, however, rest with the licensees in accordance with their license obligations.

### 3.12 **MAP-Related Transitional Provisions**

A number of changes have been made to the final text of the license for the new mobile entrant relating to the undertakings and potential commitments associated with the Mobile Licensing Application Process ("**MAP**"). In particular, Annexure G has been revised to provide for possible enhanced commitments with respect to the coverage obligations, and a new "technology commitment" and bond section have been provisionally added (equally to Annexure K).

In addition, the transitional provisions of Annexure J now contain a new section (7) which contains a number of miscellaneous license conditions relating to the MAP, including payment of the Premium Mobile Service Opportunity ("**PMSO**") Fee, delivery of a bank guarantee for payment of the second instalment of the PMSO fee, completion of the Initial Public Offer, execution of the Management Agreement, and modification of the Management Agreement. These provisions have been inserted in the Q2 Mobile License

in order to ensure that all of the commitments and undertakings associated with the MAP are enforceable after grant of the license.

#### **4. Spectrum Licenses**

A number of changes have been made to the spectrum licenses that accompany the individual mobile and fixed licenses that will be granted to Qtel and the new entrants. These changes are summarized below.

##### **4.1 Spectrum License Structure Changes**

Several new spectrum licenses have been developed to address various issues that have been raised by the comments and to reflect circumstances that have developed since the preliminary drafts were finalized in early June. These include the following:

- (a) Transitional Qtel licenses for two blocks within the 3.5 GHz band have been added. These blocks are to be released for use by other (fixed network) operators. The relevant transition plan has been added to Annexure C of Qtel's Fixed License.
- (b) Transitional Qtel Mobile License (TETRA/TMR) has been extracted from the Omnibus License and scheduled for release over time. A transition plan for the release of various parts of the 400 MHz band has been added to Annexure C of the Qtel Mobile License, and associated transitional licenses for Qtel's use of the spectrum to be released have been created.
- (c) Qtel Omnibus License has been separated into fixed and mobile-related Omnibus Spectrum Licenses and revised accordingly.
- (d) Qtel's and Q2M's microwave spectrum license have been split into a block license and a Master Microwave Spectrum License pursuant to which individual links may be authorized on a case-by-case basis.
- (e) Spectrum fees that previously were not included in some of the licenses have now been provided (Microwave Block Licenses and Omnibus Licenses).

##### **4.2 Availability of Low Frequency Microwave Links for Q2M**

Various respondents requested the allocation of low frequency microwave spectrum (e.g., below 13 GHz), in addition to the large blocks being awarded at 15 GHz and 22 GHz. ictQATAR does not issue microwave spectrum blocks below 13 GHz under any circumstances. However, microwave frequencies for such links are available on a first-come-first-served basis and will be issued under the normal spectrum application procedures in accordance with a Master Microwave Spectrum License that has been created for this purpose (see Section 4.1(d) above). The Supreme Council will assess the validity and viability of all requests based on availability, suitability and the relevant radio licensing regulations, which is the usual international process followed by applicants for microwave spectrum.

##### **4.3 Spectrum for Mobile TV Services**

A number of commenters requested that the one-year "use or lose" provision for the spectrum assigned to Q2M for the development of mobile television services should be extended to three years. ictQATAR will be flexible in allowing Q2M to exploit the spectrum assigned for at least three years after grant, and this change has been reflected

in the license. At any time during the initial license period or authorized extension period, the licensee will be able to convert the license into one that is coterminous with its individual 20-year license. However, it will be required to utilize the spectrum within a reasonable period or become subject to the spectrum release provisions.

#### **4.4 Spectrum Fee Payments**

The spectrum licenses have been revised to clarify that all spectrum fees must be paid in advance of the start of each year commencing on the date of issue of the license.

#### **4.5 Exclusivity and Coordination**

A number of commenters have requested clarification of the assignment hierarchy, usage rights and coordination obligations that they will have under their respective spectrum licenses. ictQATAR intends to issue a comprehensive Radio Regulation, after a public consultation, that will cover these issues in a more comprehensive way. The spectrum license templates follow international best practice with respect to the classification and assignment of the rights of spectrum license holders, and ictQATAR will provide advice and guidance to operators in relation to its approach at the time it issues the spectrum licenses.

### **5. Issues to be Dealt With in Future Regulatory Processes**

As pointed out in a number of the comments, it is important that the appropriate balance be struck between matters to be resolved in a license and matters to be dealt with by regulation.

ictQATAR has attempted to deal in the licenses with the core issues that are of most importance to protecting consumers and promoting sustainable competition based on the observed experience of other successful regulatory regimes. Over time, the license provisions will be supplemented by a comprehensive regulatory framework that will evolve with the sector and remain in place until market conditions are such that economic regulation can be relaxed and ultimately withdrawn. The regulatory framework will involve a number of features.

An Executive By-Law, which will be largely procedural in nature, is expected to be approved and, possibly, enacted before the end of 2007. The Executive By-Law is a legislative instrument and, as such, will not be subject to public consultation. It will provide a procedural framework for ictQATAR's administrative processes that will expand upon those already provided in the Telecommunications Law and the licenses. The absence of an Executive By-Law has no impact on ictQATAR's authority to issue licenses under the Telecommunications Law.

As discussed in Section 3 above, ictQATAR has launched a Dominance Consultation Process that is expected to result in a Notice and Orders designating Qtel as a dominant service provider in a number of relevant retail markets. That consultation will be followed by further procedures to determine whether any service provider should be designated as dominant in any relevant wholesale markets, as soon as the new mobile (and/or fixed) operator has been authorized to provide services and the relevant markets can be confirmed.

In addition, ictQATAR plans to initiate public consultations in connection with the development of detailed regulations in a number of areas, many of which were identified as important in the comments submitted on the preliminary license drafts. These may include, for example:

- Access and Interconnection
- Dispute Resolution Procedures
- Enforcement Procedures
- Appeals Procedures
- Radio Regulations
- Pricing and Tariffs
- Accounting Separation
- Licensing
- Numbering (including Number Portability)
- Carrier Pre-Selection
- Consumer Protection
- Universal Service
- Equipment Standards and Type Approval

Until the various planks of the Applicable Regulatory Framework are in place, ictQATAR will continue to deal with issues as they arise in a fair and impartial manner based on consultation with industry participants and other stakeholders, reference to best international practices, and common sense.

**ANNEXURE A:****List of Commenting Parties**

1. 2connect WLL
2. Argos Consortium
3. AT&T
4. Bahrain Telecommunications Company
5. Digicell (Middle East) Limited
6. Emirates Telecommunications Corporation (Etisalat)
7. Energy City Qatar
8. MTC and Partners Consortium
9. Orascom Telecom Holding S.A.E.
10. Qatar Telecom (QTEL) Q.S.C.
11. QUIC Consortium
12. Reliance
13. Vodafone