

Second Consultation on Licensing Framework

Responses Submitted to ictQATAR

2 July 2009

On 10 May 2009, the Supreme Council of Information and Communication Technology (“ictQATAR”) published a consultation document on “Licensing Framework” and requested written comments from interested parties.

Seven responses were submitted by the following parties (listed in alphabetical order):

- ExxonMobil Qatar
- Qatar Telecom (Qtel)
- RigNet
- United Development Company (UDC)
- Viacloud
- Vodafone Qatar
- WSP Group

As part of the consultation process and in the interest of transparency and public accountability, ictQATAR is herein publishing all the responses submitted in the above order.

ExxonMobil Qatar Inc

Thank you for the opportunity to respond to the License Framework regulations being proposed.

Regarding comments on the License Framework, we are very pleased to see the clarifications provided in the document from what had previously been posted in your web site. One comment that we have is with Section 10 of Appendix B regarding that ictQatar can enter and inspect work sites....., we would request that also you include a statement that ictQatar will keep Licensee's data and information confidential and not release to any other entities/parties except as required by law.

Regards,

Orlando M. Erickson
ExxonMobil Qatar Inc
IT Manager



Date: 9th June 2009
Reference No.: Qtel/GS/Reg-548/2009-06

William Fagan
Executive Director
The Supreme Council of Information & Communication Technology
ictQATAR
The Regulatory Authority
P.O. Box 23264
Doha, Qatar

Dear William,

Re: ictQATAR's Second Licensing Framework Consultation Document

Please find attached Qtel's response to the above-mentioned consultation.

Yours sincerely,

Yousuf Abdulla Al Kubaisi
Divisional Manager, Regulatory Management

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RESPONSE TO ICTQATAR'S SECOND LICENSING FRAMEWORK CONSULTATION DOCUMENT

June 9, 2009

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Introduction

Qatar Telecom (Qtel) QSC thanks ictQATAR for the opportunity to participate in ictQATAR's second consultation on the proposed licensing framework for Qatar (Second Consultation).

Qtel endorses ictQATAR's recognition of the importance of ensuring that Qatar's telecommunications licensing framework furthers the interests of end-users, the telecommunications industry and the State of Qatar more generally in accordance with the objectives of the Telecommunications Law (Decree Law no. (34) of 2006)). Qtel is pleased that ictQATAR have recognised the importance of conducting a second consultation given the far reaching impact that changes to the licensing framework will have.

Qtel takes the following specific positions in response to the positions set out in the Second Consultation. Qtel considers that ictQATAR should:

- postpone consideration of the issues considered in the Second Consultation until it can conduct a full review of the telecommunications market and the prospective impact of the relevant licensing proposals;
- not issue class licenses for resale of telecommunications services by residential towers and compounds, because such action would fragment the market for telecommunications services and create a disincentive for investment by facilities-based operators;
- not issue licenses for "passive telecommunications networks", because such action would stifle investment in telecommunications facilities, fragment the market for telecommunications services and would likely lead to diminished network reliability and lower quality of service;
- ensure that its efforts to reconcile existing practices with the Telecommunications Law would not allow introduction of service-based competition, which would result in fragmentation of the market and other compromises;
- not issue any private network licenses that would enable license holders to utilize such networks as a means to distribute public telecommunications services to unaffiliated third parties.

Qtel is pleased to be able to provide this submission to ictQATAR and is happy to elaborate on its suggestions or to discuss any other aspect of the proposals for the licensing framework with ictQATAR. Annexed to this submission is a report by telecommunications regulatory specialists, Gilbert and Tobin, on key aspects of ictQATAR's licensing proposals that Qtel has asked be prepared in response to the Second Consultation ("Gilbert & Tobin Report").

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General Comments

Objectives

The Second Consultation sets out a number of objectives for the proposed telecommunications licensing framework. These include to: address urgent business/market needs; legalize certain current telecoms activities and practices in Qatar as appropriate; align the current licensing practices with the Telecommunications Law; develop a comprehensive, forward looking licensing framework; and simplify the licensing processes by the introduction of Class Licenses.

Question 1: Are there any comments about the objectives of the proposed Licensing Framework?

Qtel respectfully submits that the objectives of ictQATAR's telecommunications licensing proposals are required to be based on the specific provisions of the Telecommunications Law.

The Telecommunications Law sets down the following objectives for ictQATAR to achieve and which Qtel considers are relevant to ictQATAR's formulation of the telecommunications licensing regime in Qatar:

- establishing a fair, objective and transparent licensing regime for service providers;
- promoting the telecommunications sector in order to consolidate national, social and economic development;
- enhancing the telecommunications sector's performance in the State of Qatar through encouraging competition and fostering use of telecommunications services;
- encouraging the introduction of advanced and innovative information and telecommunications technologies to meet the needs of customers and the public;
- increasing customers' benefits and safeguarding their interests;
- encouraging sustainable investment in the telecommunications sector;
- relying, where possible, on market forces to safeguard the interests of customers and the public;
- ensuring that the regulation of the telecommunications sector remains in line with international rules; and
- ensuring the orderly development and regulation of the telecommunications sector,

(article 2 of the Telecommunications Law).

Qtel notes that, in particular, the objectives of establishing a fair licensing regime, encouraging sustainable investment in the telecommunications sector, ensuring that regulation of the telecommunications sector remains in line with international rules and ensuring the orderly development and regulation of the telecommunications sector are the most relevant objectives by which licensing proposals for the industry should be carefully assessed.

Qtel therefore suggests that it is desirable and necessary for ictQATAR to undertake a thorough assessment of the prospective impact of the licensing proposals that it has included in its

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Second Consultation, against the above objectives in the Telecommunications Law, prior to any of the proposals being implemented. Such an assessment would analyse the impact of each proposal with respect to its fairness, and likely impact on social and economic development, competition in the sector, innovation, sustainable and efficient investment in infrastructure and the orderly development of the telecommunications sector. Secondly, the Telecommunications Law also requires the licensing proposals to be assessed against international rules and best practice. Qtel notes that such assessments have yet to be carried out.

In particular Qtel suggests that it is critical for the “orderly development and regulation of the telecommunications sector” (article 2(13) of the Telecommunications Law) that ictQATAR ensure its new licensing framework is consistent with its stated policies and programs.

The provision of regulatory certainty to the industry is a key determinant of this objective. Of particular importance are the statements in ictQATAR’s *Consultation on Liberalization* document to the effect that ictQATAR does not propose to encourage service-based competition prior to the “Strategic Sectoral Review” planned for three years following market opening (*Consultation on Liberalization of the Telecommunications Sector in the State of Qatar: Consultation Document, 23 April, 2007 (“Consultation on Liberalization”),* page 27). ictQATAR reiterated this point in July 2007 when it summarized its approach to liberalization of the market:

The objective is to create sustainable competition based upon network infrastructure. Worldwide this has proven to be the most sustainable form of competition. The objective here is not to create a duopoly or any other form of oligopoly but rather to achieve competition which works to the benefit of the economy and consumers. It is clearly stated that it is currently intended to carry out a Strategic Sector Review in about 3 years time to ascertain whether the proposed market structure is working. In the event that clear evidence of market failure emerges before that time ictQATAR will bring forward the date of the review and consider all available options at that time.

(*Consultation on Liberalization of the Telecommunications Sector in the State of Qatar: Summary of Comments and Response of ictQATAR, 10 June 2007 (“Liberalization Consultation Response”),* page 4).

Qtel submits that ictQATAR’s focus in that context on infrastructure-based competition should remain the guiding principle for its licensing activities. Indeed, the Gilbert & Tobin Report confirms ictQATAR’s assessment that this is the most sustainable form of competition.

Qtel also notes that the proposed three year timeframe for its “Strategic Sector Review” was based on the assumption that fixed and mobile licenses would be awarded by the end of 2007 (*Consultation on Liberalization, pages 10, 18*). ictQATAR has not provided any indication that “clear evidence of market failure” has emerged, and indeed given the timing of the fixed and mobile licenses, it is doubtful that any such evidence exists that would justify a finding of “market failure” that would justify acceleration of the review. In light of the fact that Vodafone

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Qatar is just now beginning to offer commercial mobile services and the fact that the new fixed operator has yet to be issued with its license, Qtel suggests that ictQATAR consider delaying the “Strategic Sectoral Review” until July 2012. This would allow the impact of infrastructure-based competition to be experienced for at least a full 3 years before a review of the licensing approach were to take place, as was originally envisaged by ictQATAR.

Qtel also considers that “encouraging sustainable investment in the Telecommunications Sector” (as required by article 2(5) of the Telecommunications Law) requires Qtel to reassess the proposals in the Second Consultation to issue class licenses for resale of telecommunications services in residential compounds and towers. Such a measure will merely result in an increase in new competitors for a range of services, with little infrastructure investment or service innovation as a result. The impact of issuing such licenses on investment and on the development of the telecommunications market needs careful consideration in relation to this proposal.

Similarly, there appears to have been little analysis undertaken as to the impact and likely ramifications of ictQATAR’s proposed “passive telecommunications network license.” Such licenses are particularly relevant for large new residential and commercial developments “New Development Zones”. The projected high growth rates for New Development Zones in Qatar coupled with their expected affluent demographics will likely mean that residents of such developments will be responsible for a high proportion of overall telecommunications revenues in Qatar within a short time frame.

In light of the potential for a substantial impact of issuing the proposed licenses on the future development of the telecommunications market in Qatar, Qtel urges ictQATAR to conduct thorough assessment of the impact of its licensing proposals on the level of investment and competition in the fixed and mobile telecommunications markets before moving forward with its licensing proposals.

Additionally, in achieving its objectives of “establishing a fair, objective and transparent licensing regime for service providers” (article 2(8) of the Telecommunications Law), Qtel considers that ictQATAR should not legitimize activities that are currently illegal, simply to comply with its desire to “legalize certain telecoms activities and practices in Qatar.” Rather, a thorough and objective review of the conditions in the market should be undertaken, along with an assessment of the potential impact of any new policy or regulation.

Scope

The Second Consultation sets out a proposed scope for the licensing framework that includes resale of telecommunications services by various entities, establishment and operation of private networks, “provision of passive infrastructure networks”, and “provision of individual public fixed and mobile networks and services”.

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Question 2: Are there any comments about the scope of this consultation?

Qtel believes that rather than undertake the proposed measures in the Second Consultation, that ictQATAR should consider development of an overall timeline and milestones for issuing new licenses. Rather than issue all of the proposed licenses all at once, ictQATAR should consider sequencing the major changes to its licensing framework. Such measures should not be simultaneously introduced – their impact on competition, investment and other factors relevant to the development of the market will be difficult to assess and their combined effect may be detrimental to the market.

Unlicensed activities

The Second Consultation identifies several situations where telecommunications services are purportedly being offered to the public outside any licensing framework, including by hotels to guests, by residential towers and compounds, and by public call offices and Internet cafes. The Second Consultation also identifies the ownership and operation of private networks as outside the licensing process.

Question 3: ictQATAR welcomes any information about other telecommunications activities that are outside the current licensing regime.

Qtel understands that a number of unlicensed entities are offering a variety of telecommunications services in Qatar illegally. Such services include the termination of international traffic on to the public switched network in Qatar in a manner that bypasses international gateways of established telecommunications operators, the sale of unauthorized “calling cards”, the sale of low-rate VoIP-based international calling services from internet cafes and other locations and the offering of other services that are outside of the legal framework. Qtel submits that ictQATAR should enforce the requirements of the existing licensing regime as it currently exists under the Telecommunications Law and prohibit such practices. Going forward, careful consideration needs to be provided as to whether to legitimize such practices, based on investment, competition and consumer protection objectives of the regulatory regime in Qatar.

VoIP

The Second Consultation includes a statement of ictQATAR’s policy on VoIP as issued on 20 July 2008. It also states that ictQATAR does not intend to issue VoIP-specific licenses.

Question 4: ictQATAR welcomes any comments with supporting rationale about the licensing position on VoIP.

Qtel agrees with ictQATAR’s proposed position that VoIP-specific licenses should not be issued, as this would be out of step with ictQATAR’s technology neutrality policy.

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Passive Infrastructure Licenses

The Second Consultation requests comments on ictQATAR issuing individual licenses for the “provision of wholesale passive telecommunications network”. Such “Networks” would be eligible for a license where they are part of a national, regional or public utility “project” or within a “New Development Zone”. The latter is defined as:

a large defined development area, authorized by the relevant competent authorities in Qatar in accordance with the applicable Qatari laws, which consists of different types of properties including residential towers or villas, commercial establishments (such as shops, Hotels), businesses, banks, leisure facilities, etc. (For clarification, The Pearl is an example of a New Development Zone.).

Licensees would be allowed to offer such infrastructure to licensed operators, but not offer telecommunications services to the public or such infrastructure outside of an authorized area.

Question 5: Are there any comments about licensing Passive Telecommunications Network and about the proposed eligibility criteria?

Qtel believes that the proposed passive infrastructure license is unnecessary, would stifle investment in and lead to fragmentation of the market for fixed telecommunications services. Moreover, issuance of such licenses would likely lead to network reliability and quality of service issues for end-users connected to such networks. Qtel believes that insufficient consideration has been given to such issues and urges ictQATAR to conduct a closer and more comprehensive review of the current market dynamics regarding provision of telecommunications services in large new developments.

Qtel believes that prior to taking any steps to issue licenses for “passive infrastructure” a comprehensive review should be undertaken, particularly with respect to telecommunications infrastructure deployment in large new residential and commercial developments. As noted in the Gilbert & Tobin Report, international experience indicates that granting a license for property developers to lease such passive infrastructure to telecommunications operators would likely result in the creation of network bottlenecks, exclusivity arrangements with established service providers, and require in-depth management by ictQATAR.

Moreover, in Qtel’s experience property developers have little or no experience in the design and deployment of telecommunications infrastructure or in the management of telecommunications networks. Allowing property developers to own and control telecommunications infrastructure would invariably lead to poorly managed, substandard installations, with little accountability for quality of service, reliability issues and repair and upgrade problems. Qtel believes that the issuance of such licenses would therefore do little to advance ictQATAR’s objectives in the Telecommunications Law of “encouraging the introduction of advanced and innovative information and telecommunications technologies to meet the needs of customers and the public,” (Article 2 (3)) or of “increasing customers’ benefits and safeguarding their interests.” (Article 2(4)).

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The issues involved in access to large residential developments are complex and challenging. They include issues of investment incentives, competition, technical standards and private property rights. As noted in the Gilbert & Tobin Report, regulators in many markets have struggled with achieving the best way to resolve these issues for many years. Qtel urges ictQATAR not to rush to a conclusion that issuance of “passive infrastructure licenses” is the best way to address these complex issues. Instead, we would urge ictQATAR to take the time to carefully consider the issues at stake here before taking any action to issue licenses to commercial property owners.

Qtel believes that the current proposal to issue “passive infrastructure licenses” is also legally flawed, because the Telecommunications Law does not require a license to offer the types of infrastructure defined as “Passive Telecommunication Networks” to telecommunications operators on a wholesale basis. Article 9 of the Telecommunications Law requires a license to “own or operate a telecommunications network used in the provision of telecommunications service.” “Passive Telecommunications Network” as defined in the consultation does not necessarily constitute a “Telecommunications Network” as defined in the Telecommunications Law.

The consultation proposes to define “Passive Telecommunications Network” as:

a telecommunications infrastructure that consists of passive network elements including, but not limited to, dark fibers, ducts, trenches, towers and masts that can support the placement of active network components

The Telecommunications Law defines “telecommunications network” as:

any wire, radio, optical or electromagnetic systems for routing, switching and transmitting telecommunications services between network termination points including fixed and mobile terrestrial networks, satellite networks, electricity transmission systems or other utilities (to the extent used for telecommunications), circuit or packet switched networks (including those used for Internet Protocol services), and networks used for delivery of broadcasting services (including cable television networks).

The passive network infrastructure referenced above (dark fibres, ducts, trenches, towers and masts) by itself does not constitute a “system for routing, switching and transmitting telecommunications services between network termination points”, but rather physical pieces of infrastructure that can be used as a part of a telecommunications network, but not in and of itself a “telecommunications network”, as defined by the Telecommunications Law. Indeed such infrastructure may have substantial non-telecommunications uses as well. Ducts and trenches might be used for placement of other infrastructure, such as for conveyance of electricity or water. Masts and towers could be used for lighting or remote observation purposes. The lease of such facilities to a telecommunications operator should be considered the same the lease of real estate, buildings or other pieces of infrastructure that are acquired from non-telecommunications operators, and which require no authorization other than required for construction purposes.

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Of course, to the extent to which an entity seeks to allow a third party to utilize its telecommunications network (as distinguished from passive infrastructure) to provide telecommunications services, providing such use requires a license pursuant to article 9 of the Telecommunications Law, because it would constitute ownership of a telecommunications network used to provide telecommunications services to the public, and article 9 of the Telecommunications Law requires a license to “own or operate a telecommunications network used for the provision of telecommunications services to or for the public in return for a direct or indirect fee.”

ictQATAR, however, has stated in the *Consultation on Liberalization* that it “does not intend to award additional infrastructure-based licenses” until after its strategic review. Qtel believes that any action that would authorize the provision of wholesale telecommunications services by an entity owning such infrastructure would be inconsistent with ictQATAR’s articulated policy.

ISPs

The Second Consultation proposes not to issue additional Internet service provider licenses.

Question 6: Do you support the plan not to license new ISPs before the Strategic Sector Review?

Qtel supports ictQATAR’s proposal regarding Internet service providers. Qtel believes that issuance of additional ISP licenses is premature at this time and should await finalization of ictQATAR’s strategic sector review of the impact of the issuance of such licenses on the fixed and mobile telecommunications markets.

Class Licenses

The Second Consultation proposes to establish two new types of “class licenses” for resale and private networks.

Question 7: ictQATAR invites comments about the establishment of these Class Licenses.

The issue of class licenses is an accepted and straightforward means for authorizing service providers in developed mature telecommunications markets. Resale of telecommunications services is common in European, North American and many Asian markets. Qtel opposes the issuance of the proposed resale and private networking licenses at this time, however, because of the potential of issuing such licenses to lead to a proliferation of new competing operators and to fragment the telecommunications market. Qtel believes that a thorough evaluation of the telecommunications market and the impact of any liberalization on investment, competition and consumer protection safeguards should be taken before ictQATAR issues any such new licenses.

If ictQATAR does nevertheless decide to proceed with authorizing the proposed activities, Qtel believes that ictQATAR needs to maintain a strong oversight role to ensure that all entities

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offering telecommunications services do in fact register with ictQATAR and pay the relevant fees and that all entities offering service pursuant to a class license understand and comply with the established terms and conditions of such licenses. Qtel also urges ictQATAR to ensure that it has an effective enforcement mechanism in place to ensure compliance with any class licensing framework that is developed and an outreach program to make sure that all relevant stakeholders are adequately informed of any new licensing approach.

Resale

The proposed class license for resale of telecommunications services would allow certain limited parties to “resell all telecommunications services, regardless of the technology used.”

Question 8: ictQATAR invites comments with a supporting rationale about the resale of telecommunications services.

Qtel believes that it is premature to issue resale licenses at this time, as allowing resale of telecommunications services in the manner proposed in the Second Consultation is likely to lead to fragmentation of the fixed telecommunications market, poor quality of service, and lack of reliability and accountability for service quality issues. Further examples and details of the negative impact of such steps are set out in the Gilbert & Tobin Report.

ictQATAR has already decided to postpone the advent of “service-based competition” pending the “strategic sector review” described in the *Consultation on Liberalization*. ictQATAR stated its rationale at the time to “provide the new entrants with adequate incentives to invest in state-of-the art infrastructure.” (page 27).

Qtel favoured ictQATAR’s approach at the time, because it would allow sufficient time for the market to develop and enable a thorough assessment of the impact of possible further market opening steps in advance of taking action. Qtel believes that the policy approach ictQATAR has articulated has merit and is one to which ictQATAR should adhere.

ictQATAR’s phased approach to licensing has a precedent in the liberalization experience of many countries. In many markets such as the U.K, Australia, Singapore, Hong Kong and others, a limited number of facilities-based operators were allowed time to develop their businesses and invest in infrastructure before service-based competition was introduced. Qtel would urge ictQATAR not to diverge from this accepted path by introducing class licenses at this time.

Qtel also believes that consumers are likely to be negatively impacted by the issuance of resale licenses, due to the lack of accountability of such operators for quality of service or network reliability. Resellers are likely to have an incentive to offer low-cost services with compromised quality of services. This is particularly likely to be the case for Internet services, in the case of low upstream bandwidth speeds and high levels of subscribership, which anecdotal evidence indicates is common in many residential units in Doha today. Facilities-based operators will have no control over such quality of service matters, as the reseller will likely control the way services are offered to end users.

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Such dangers are particularly acute with respect to the proposal to issue resale class licenses to owners of residential complexes. The high proportion of residents of Qatar that live in such complexes and the incentives of owners reselling telecommunications services to prevent individually licensed operators from independently providing service to such residents mean that owners of residential properties can effectively exercise monopoly control over the services provided on their properties.

In light of the complexity of these issues described above, Qtel believes that ictQATAR should not take this step without undertaking an assessment of the impact of the proposed class licenses on Qtel and the future fixed licensee. Qtel believes that ictQATAR should undertake a comprehensive review of the telecommunications market and the potential impact of the issuance of class licenses on incentives for investment and innovation in affected markets prior to any final decision to issue such licenses.

Question 9: In particular, ictQATAR welcomes views about whether the proposed Resale Class License will alleviate the current unlicensed activities sufficiently.

Qtel understands that one of ictQATAR's goals with the Second Consultation is to reconcile the activities currently taking place in Qatar with the requirements of the Telecommunications Law. Qtel considers, however, that ictQATAR should not seek to expand the ability of entities to compete on a service-basis with Qtel and the new licensees simply because they have been doing so or because they have not adjusted their positions according to the provisions of the Telecommunications Law. Rather, as noted above, in order to ensure that its licensing proposals do not result in fragmentation of the market and that investment and quality of service to end users is not compromised, ictQATAR should conduct a market impact assessment to develop a view, and also seek input from the industry and public of how the market should develop.

Question 10: ictQATAR invites comments with a supporting rationale about the licensing of hotels to resell telecommunications services.

As discussed in its previous submission to ictQATAR in respect of the licensing consultation, Qtel considers that hotels should not be required to have a resale license to offer temporary guests the ability to make telephone calls and access the Internet during their stay. Any telecommunications services provided to hotel guests are ancillary to the primary service of lodging. Moreover, any service that is provided to hotel guests only and not to members of the public. As such, Qtel believes that hotels are not providing "telecommunications service to the public" pursuant to article 9 of the Telecommunications Law and therefore should not be required to have a telecommunications license.

Moreover, it is relatively uncommon in other markets for telecommunications regulators to require hotels to have a license to offer their guests the convenience of access to telecommunications services. Such a requirement is thus at odds with best international practice.

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Qtel also considers that requiring hotels to have a telecommunications license does little to advance objectives of a telecommunications licensing regime. Indeed, concerns about compliance with license terms and payment of the proposed license fees are likely to lead many hotels to either ignore the requirement to seek a resale class license. Such a result would be directly contrary to ictQATAR's obligations set out in article 2 of the Telecommunications Law of "ensuring the orderly development and regulation of the telecommunications sector" (para 13), and "fostering the use of telecommunications services" (para. 2).

Question 11: ictQATAR invites comments with a supporting rationale about these two options in relation to Residential Complexes.

Qtel reiterates the points made in its earlier submission on ictQATAR's initial licensing consultation regarding the provision of telecommunications services by landlords and other commercial property owners to their tenants. Qtel continues to believe that issuance of class licenses to property owners should not be undertaken at this time, because, as noted in the Gilbert & Tobin Report, there is a real potential for market fragmentation and development of a market based on services-based competition. Development of such a market structure would likely lead to disincentives for investment in infrastructure and would be detrimental to end-users.

Moreover, the prevalence of large residential and commercial developments in Qatar that will house tens of thousands of people means that owners of such residential complexes would have effective control over a huge portion of the residential telecommunications market in Qatar. Such property owners could, by virtue of a class license authorization, become large telecommunications monopolies in their own right.

Qtel appreciates ictQATAR's rationale in its proposal to only allow resale by owners of residential complexes only to the extent that they do so on a non-exclusive basis and allow individual licensees to offer service to their tenants in competition with the property owner's offering. Qtel believes that while such a proposed solution works in theory, the reality is that such property owners are unlikely to allow physical access to such residential complexes by Qtel or the second fixed licensee or to allow the use of any of their own internal cabling that would enable a competing solution. ictQATAR appears to be unable to take any action to require access by telecommunications operators to private property. Therefore, Qtel believes that any proposal that relies on a promise of non-exclusivity is likely to prove unworkable in practice.

In addition, control of physical infrastructure and services to end-users by property owner/resellers is likely to mean that the property owner/reseller will be fully responsible for quality of service and network reliability matters. Qtel's recent experience with in-building telecommunications infrastructure provided by property developments indicates a wide range of standards of quality for deployment and ongoing management of such infrastructure, many of which are substandard. If the property owner provides service as a reseller, Qtel considers it

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highly likely that poor levels of service quality and network reliability will result, with little accountability for property owners or likely recourse for dissatisfied end-users.

As stated in its earlier submission to ictQATAR on the initial licensing consultation, Qtel believes that the best solution to these issues is, rather than issuing resale licenses to owners of residential complexes, to allow licensed operators and owners of residential complexes to work with individually licensed operators to enable them to provide telecommunications services directly to their residents. ictQATAR should foster commercial agreement between owners of residential complexes and licensed operators that preserve the integrity of the licensing structure, while ensuring quality services are available to residents of such developments.

Question 12: Are there any comments, concerns or suggestions about the proposal to license persons to own and operate Public Call Offices in Qatar?

The consultation defines “Public Call Offices” only generally as “an office that makes certain telecommunications services available to the public for a fee.” This definition would appear to include the currently illegal practice of Internet cafes allowing customers to access low-rate VoIP calling using their Internet connections. Qtel does not support the licensing of public call offices, as such entities are currently offering service illegally in Qatar and should not be rewarded with a license that legitimizes such activity. This proposal would also appear to violate ictQATAR’s July 20, 2008 Policy on VoIP, because it would allow such businesses to “sell VoIP calls or services to the public.”

Allowing continued operation by public call offices constitutes “service-based competition,” which ictQATAR has stated it would not introduce prior to its strategic review, and which Qtel believes, for the reasons discussed above, would provide a disincentive for facilities-based competition in the telecommunications sector.

Qtel shares ictQATAR’s objective of making telecommunications accessible to all people in Qatar, regardless of their social and economic circumstances. Qtel offers a variety of affordable access options for prepaid mobile, maintains a number of public pay telephones, and indeed offers domestic landline service at very affordable rates. Qtel services are already widely available in Qatar, and Vodafone Qatar is in the process of launching its services, which are expected to further expand access to telecommunications services. Qtel considers that absent a clear conclusion from ictQATAR, based on a facts-based analysis, as proposed in its strategic review that further service-based competition is warranted, Qtel believes that there is no justification for taking this proposed step.

Question 13: Views are invited about whether Internet Cafés should be licensed as resellers or have separate licenses.

Qtel considers that the existing individual licensing framework for Internet cafés has worked well, because Internet café owners have a simple and consistent process to acquire a license and a clear set of rules that must be followed. The Second Consultation has not offered any reason why the existing licensing framework should change. The licensing of Internet cafés

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does not pose the same risk of disincentives for facilities-based competition as issuance of other licenses, as the authorized activities are limited to providing retail access to the Internet at an established location, and existing individual licensees do not operate in such a market.

Regardless of the licensing framework, however, Qtel believes that the important issue is that Internet cafes should not be authorized to resell voice service or other telecommunications services, other than access to Internet service. Allowing Internet cafes to become international voice service resellers would create the same service competition issues as discussed above and would likely lead to market fragmentation and disincentives for investment in the telecommunications sector.

Question 14: ictQATAR invites comments about the proposal to license the commercial Wireless Internet Zones.

Currently, Qtel is the only entity to offer publicly available commercial Wifi service, pursuant to its license authorization to provide “Internet Services”, as set out in Annex B of its fixed license. Presumably the new fixed entrant in Qatar will be authorized to offer a similar service. The Second Consultation does not provide any justification for its proposal to issue new licenses to establish commercial “Wireless Internet Zones” or a reason why it should be undertaken at this point in time. Qtel considers that the issue of an unlimited number of licenses to offer commercial WiFi service has the potential to saturate the market and act as a disincentive for established operators such as Qtel and Vodafone Qatar to invest further in providing such services.

Qtel also suggests that ictQATAR undertake a careful review of this market bearing in mind the objectives in the Telecommunications Law to ensure “the orderly development and regulation of the Telecommunications Sector” (article 2(13)) and that its policies “encourage sustainable investment in the Telecommunications Sector.” (article 2(5)). In particular, such a review should undertake an analysis of the impact of its proposals on prospective investment by individually licensed fixed network operators.

Question 15: Are there any comments about the proposed process and fees for the Resale Class License?

Qtel considers that all telecommunications licensees should be subject a fee regime that ensures fairness and avoids a competitive distortion. If ictQATAR does go forward with its proposal to issue class licenses, such licensees should be required to pay a significantly higher set of fees that are based on revenue and profit in a similar manner to such fees that are applicable to Qtel and Vodafone Qatar.

Private Network License

The Second Consultation proposes to introduce a class license for entities to own and operate a private telecommunications network. Such licenses would automatically apply to any entity owning and operating such a network. Such networks would apply for internal communications needs of “Closed User Groups”, and would be limited to the internal communications needs of

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such closed user groups. The draft license would allow connection of such private networks via a “gateway”, which is defined as a means of connecting a private network to a public network.

Question 16: ictQATAR invites comments about the scope of the Private Network Class License.

Qtel understands that certain large corporate entities in Qatar currently operate their own private networks for internal communication. Such entities are Qtel customers in respect of public telecommunications services, and Qtel considers that allowing such entities to continue to operate and use such networks is entirely justified as long as such networks do not become vehicles to facilitate competition with facilities-based operators outside of the existing regulatory framework.

The proposed private network class license has the potential for far broader application than the examples addressed above, and by its terms could serve as a distribution network for public telecommunications services that would, in effect operate in competition with Qtel. This could occur if, for example, a group of corporate customers formed a closed user group and established a telecommunications network that would enable them to purchase bulk capacity from a licensed operator at substantial discounts and share the cost of such services under the guise that they all constitute a “closed user group” when in reality they are simply an office complex with discrete tenants with no common business need for communication. Qtel would therefore oppose the current class-licensing proposal unless it is amended to prohibit the resale of public telecommunications services to any of the “closed user group” members.

Qtel’s license defines Private Networks as,

a data or voice network that is utilized for the internal communications needs of a legal Person or any of its Affiliates, provided that such network is not connected, directly or indirectly, with any Public Switched Telecommunications Network.

The definition confirms an important issue that the proposed definition for private networks in the consultation lacks the prohibition on connection of a Private Network to any “Public Switched Telecommunications Network.” This prohibition is extremely important, as private network operators must not be allowed to use their private networks to provide public telecommunications services. To allow private network operators to connect such networks to the public switched telecommunications networks would effectively allow such entities to provide facilities-based public telecommunications services with only a class license. Such a step would clearly be at odds with ictQATAR’s stated objectives and highly disruptive to the telecommunications market. Without prejudice, if ictQATAR allows connection of private networks with public networks, in spite of above discrepancy and without a thorough market and impact assessment, it must be sure to prohibit the routing of calls through a private network, or so-called “break-in, break-out”, which also could allow such private networks to be used to provide public telecommunications services.

Licensing Framework - Second Consultation

Resale License:

The Second Consultation includes the draft resale license and solicits comments on a number of specific matters. Qtel provides its comments below:

1. Comments are invited on the scope of Authorized Services.

As discussed above, Qtel considers that there is no need for resale class licenses at this point in Qatar's market liberalisation. Issuance of class licenses to hotels and internet cafes is unnecessary, and licenses for residential complexes, public call offices and wireless Internet zones is premature and should not be undertaken prior to a comprehensive review of the impact such steps would have on investment in telecommunications facilities in Qatar.

2. Are there any comments, questions or needs for clarifications regarding the terms and conditions of this Resale (Retail) Class License?

Qtel considers that there is no need for clause 6 of the Resale Class License, titled "Related Radio Frequency License", as there is no need for radio frequency licenses for class licensees.

3. Are there any comments about the notification process, form and fees?

Qtel has commented on the proposed fees in response to question 15 and has no other specific comments with respect to this question.

4. Should any other terms and conditions be added to this Class License?

Qtel has no specific comments in response to this question.

5. Should any terms and conditions be subtracted from this Class License?

Qtel has no specific comments in response to this question.

Conclusion

Qtel commends ictQATAR on its analysis to date of licensing proposals and the Second Consultation in which to further develop its thinking on licensing for Qatar. Qtel also appreciates the opportunity to present its views to ictQATAR regarding these important proposals in the Second Consultation. In conclusion, Qtel strongly suggests that ictQATAR should remain true to its previously published plan to foreclose service-based competition until after its strategic sectoral review that is to take place three years following market liberalization. Qtel considers that this step is critical in order to foster the development of an orderly telecommunications market structure, with sound incentives for the promotion of competition and sustainable investment and an environment of regulatory predictability and certainty. The licensing proposals require careful assessment against these longer-term objectives of the Telecommunications Law. Qtel also urges ictQATAR to carry out market and impact assessment studies before embarking on a significant changes to its declared plans and without a thorough examinations and due consideration of the main players in the

Licensing Framework - Second Consultation

marketplace. Qtel would be pleased to contribute to any such examination instituted by ictQATAR.

Paper in response to ictQatar's licensing framework

9 June 2009

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1 Requested advice

- 1.1 On 10 May 2009, the Supreme Council of Information and Communication Technology – QATAR (**ictQATAR**) published its second consultation document in respect of the Licensing Framework¹ (**Consultation Document**).
- 1.2 You have requested our advice in respect of the following aspects of ictQatar's Consultation Document:
 - (a) resale of telecommunications services by residential complexes²; and
 - (b) licensing of passive telecommunications infrastructure by developers³.
- 1.3 This paper has been prepared by Gilbert + Tobin at the request of Qatar Telecom (**Qtel**). Our experience is set out in Attachment A of this paper.

2 Executive summary

Resale of telecommunications services by residential complexes

- 2.1 We consider that any proposal for the resale of telecommunications services by residential complexes is inconsistent with the objectives set out in the Telecommunications Law and the phased process of liberalisation currently underway in Qatar.
- 2.2 Resale of telecommunications services is primarily aimed at the promotion of services-based competition. This is inconsistent with the regulatory approach in Qatar thus far, which has been to promote competition at the infrastructure level.
- 2.3 Facilities-based competition represents the best form of competition and is the only form of competition that provides for sustainable and enduring competition in the absence of regulation.
- 2.4 To this effect, ictQatar's commitment to infrastructure-based competition is highly commendable:

"ictQATAR plans to encourage infrastructure-based competition during this first phase of liberalization."⁴

¹ Supreme Council of Information and Communication Technology (**ictQatar**), *Licensing Framework Consultation Document, second consultation*, 10 May 2009 (**Consultation Document**).

² Section 4.2.1.2 of the Consultation Document.

³ Section 4.1.2 of the Consultation Document.

⁴ ictQatar, *Consultation on Liberalisation of the Telecommunications Sector in the State of Qatar*, 23 April 2007, paragraph 10.

- 2.5 International best practice also strongly favours facilities-based competition as a means of creating sustainable and enduring competition.
- 2.6 We consider that allowing the resale of telecommunications services by residential complexes merely encourages services-based competition and is detrimental the long-term interests of end-users.
- 2.7 Allowing resale would also have a negative impact on the interests of consumers as it would fragment the market and lead to resellers engaging in anti-competitive practices.
- 2.8 In the event that resale by residential complexes is allowed, we consider that regulation is necessary to ensure continued competition. We have considered this in section 3 of this paper.

Passive telecommunications infrastructure licences

- 2.9 We consider that any proposal to grant passive telecommunications infrastructure in new development areas is a poor policy choice as it will result in:
 - (a) the creation of enduring bottlenecks in new development project areas; and
 - (b) the potential for licensees to control infrastructure and misuse that control to the detriment of end-users.
- 2.10 Licensing of passive infrastructure will lead to the very real risk of reducing or preventing competition, instead of promoting competition, through the creation of bottlenecks.
- 2.11 Further and irrespective of the licensing approach, there is strong international precedent for co-ordination between licensed operators and developers to ensure open and effective access to infrastructure and associated facilities installed in new development areas.
- 2.12 In addition, where these licences are granted, regulatory guidance is also necessary in respect of technical specifications to ensure:
 - (a) safety of the network; and
 - (b) quality of service.

3 Resale of telecommunications services

- 3.1 Section 4.2.1.2 of the Consultation Document provides that:

“Option 1 – Residential Complexes are not allowed to resell telecoms services: Landlords could be restricted from reselling telecommunications services at this time. Residents would have to buy services directly from an Individual Public Telecommunications Licensee.

Option 2 – Residential Complex are allowed to resell telecoms services on a non-exclusive basis: Landlords could have the opportunity to resell telecommunications services to their residents. However, this would be on a non-exclusive basis and therefore residents will not be required to buy from the third party (i.e., the landlord) and may continue to buy directly from an Individual Public Telecommunications Licensee.”

- 3.2 Given the current phased process of liberalisation that is currently underway in Qatar, we consider that there are strong policy reasons why residential complexes should not be

allowed to resell telecommunications services to residents, as described below. Therefore, we take the view that Option 1 in the Consultation Document is the preferable policy option.

Resale of telecommunications infrastructure fails to promote facilities-based competition

- 3.3 Resale would encourage the emergence of multiple service providers and result in a highly fractured market and one that is based on services-based competition. We consider that such an approach would be inconsistent with ictQatar's highly commendable policy goals, which are centred around facilities-based competition.
- 3.4 Article 2 of the Telecommunications Law⁵ (**Telecoms Law**) provides that ictQatar is responsible for regulating the telecommunications sector and will achieve the following objectives:
- “1. *promoting the telecommunications sector in order to consolidate national, social and economic development;*
 2. *enhancing the telecommunications sector's performance in the State of Qatar through encouraging competition and fostering use of telecommunications services;*
 3. *encouraging the introduction of advanced and innovative information and telecommunications technologies to meet the needs of customers and the public ... (our emphasis).”*
- 3.5 To this effect, in April 2007, ictQatar stated that:
- “... Furthermore, ictQatar does not propose to encourage service-based competition, at least initially, so as to provide the new entrants with adequate incentives to invest in state-of-the-art infrastructure.”*
- 3.6 ictQatar has confirmed this position in its current Consultation Document and stated that:
- “ictQatar has maintained its intention not to, initially, encourage service-based competition (our emphasis).”*
- 3.7 In view of that, the highly commendable regulatory focus by ictQatar has been to liberalise the telecommunications market by:
- (a) promoting infrastructure-based competition; and
 - (b) encouraging long-term investment rather than short-term resale options.
- 3.8 In addition, ictQatar's decision to grant a second licence for the operation of fixed and mobile telecommunications licence is consistent with this aim.
- 3.9 There are good reasons for ictQatar's policy approach and goals to promote facilities-based competition. The above regulatory decisions show that ictQatar has recognised

5 Decree Law No. (34) of 2006 on the promulgation of the Telecommunications Law.

the highly important role of infrastructure-based competition during the early stages of liberalisation of the telecommunications sector.

- 3.10 Facilities-based competition represents the best form of competition and is the only form of competition that provides for sustainable and enduring competition in the absence of regulation.
- 3.11 Qatar is a high-growth nation with a large number of new project developments currently underway. We appreciate the importance of developing telecommunications infrastructure to enable the provision of telecommunications services in such an environment. However, we do not consider that resale of telecommunications should undermine objectives of long-term competition and market liberalisation.
- 3.12 We consider that the key to achieving long-term competition is through the promotion of facilities-based competition. To that effect, we submit that the aim of regulation should be to promote incentives for new entrants to deploy their own infrastructure, rather than relying on other network owners for the supply of services.
- 3.13 It is important to consider the primary objective of facilities-based competition.
- 3.14 As the former EU Competition Commissioner has stated:

“In the longer term the regulatory framework should privilege operators which base their competitive advantage on building their own infrastructure, simply because they are those who are likely to best improve the competitive conditions of the market.”⁶

- 3.15 The European Regulators Group has also commented that⁷:

“Competition over competing infrastructure has many advantages. The pressure to minimise costs is exerted over the whole value chain. This will induce greater scope for innovation, process innovation etc. which creates a downward dynamic for costs. Consumers also benefit from more diversified offerings, which correspond more closely to their individual needs. There is general agreement that a great potential harm to welfare occurs when replication is feasible but not promoted. This will delay the roll out of new and innovative services and, particularly in relation to broadband, may have large negative consequences on the general economy.”

- 3.16 The risks of giving equal consideration to the objectives of services-based competition and facilities-based competition, and the negative consequences this has on investment incentives, has been recognised recently by the Canadian Telecommunications Policy Review Panel, in its review of Canada’s telecommunications framework⁸:

⁶ Mario Monti, Competition and Regulation in the Telecom Industry – The way forward, Speech/03/604, ECTA Conference, Brussels, 10 December 2003.

⁷ European Regulators Group, Revised ERG Common Position on the approach to Appropriate remedies in the ECNS regulatory framework, Final Version, ERG (06) 33, May 2006, page 60.
http://erg.eu.int/doc/meeting/erg_06_33_remedies_common_position_june_06.pdf

⁸ Canadian Telecommunications Policy Review Panel, Final Report, 2006, section 3-35. See, http://www.telecomreview.ca/eic/site/trpr-gecrt.nsf/eng/h_rx00054.html

“[W]hile the CRTC [Canadian Radio-television and Telecommunications Commission] has identified facilities-based competition as an objective of its regulatory framework, it has adopted mandated wholesale access policies that, in the Panel’s view, seriously undermine, if not foreclose, the achievement of that objective...”

One argument advanced in favour of a very broad scope of mandated wholesale access is that such an approach would promote all forms of competition by making it easier for competitors to resell any portion of the ILECs’ network that they want. However, in the Panel’s view, a broader scope makes the distortion of entry and investment decisions more pervasive. For this reason, a broad scope of mandated wholesale access would not in fact promote all forms of competition. Rather, it would promote only one form of entry (i.e. resale), thus perpetuating disincentives for new entrants to build facilities entrenching the ILEC’s SMP over the network and its elements. This would extend the need for a broader scope of regulation than would otherwise be necessary.”

- 3.17 We are not aware of any developed country that seeks to give equal consideration to the regulatory objectives of facilities-based competition and services-based competition.
- 3.18 Option 2 in the Consultation Paper, which recommends the opening of the market to competition by way of allowing resale of telecommunications services is a means of promoting services-based competition ahead of facilities-based competition.
- 3.19 This is at odds with international best practice and should not be preferred.
- 3.20 As OPTA, the Dutch regulator, has recognised, it is necessary for regulatory principles to recognise the primacy of the objective of facilities-based competition as it is the only form of competition that can deliver enduring or sustainable competition:⁹

“In terms of the objective of fostering competition another important distinction is that between infrastructure competition (i.e. competition between infrastructures) and service competition (i.e. competition within an infrastructure). The ultimate goal of the regulatory framework is to bring about a situation of enduring competition. This is effective competition that is not – or is no longer – dependent on sector-specific regulation for its existence and effectiveness. The commission takes the view that a situation of enduring competition can best be achieved by giving priority in the choice of obligations, wherever possible, to measures that foster infrastructure competition (our emphasis)”

- 3.21 Accordingly, we take the view that facilities-based competition is key to achieving long-term competition and should be at the forefront of ictQatar’s regulatory strategy, ahead of promoting services-based competition.

Resale to residential premises leads to market fragmentation

- 3.22 Option 2, which would allow resale of telecommunications services by residential complexes, will result in a highly fractured market and gives rise to the potential for resellers to engage in anti-competitive practices.

⁹ OPTA, Draft Policy Rules: Tariff regulation for unbundled fibre access, OPTA/AM/2008/202710, the Hague, 24 November 2008, paragraph 16.

- 3.23 Many Qatari and non-Qatari citizens live in compound estates in and around major centres in Doha, Al Khor, Messaeed, and Dukhan. Further, there are currently 21 new project developments underway. A large number of these developments will be residential or lifestyle complexes with a small number of business complexes.
- 3.24 If resale to residential premises is permitted, there could be multiple service providers to multiple compounds. The lack of regulatory guidance in respect of the provision of services by these providers will result in a fractured and random development of the market.
- 3.25 The existence of multiple resellers would give rise to a number of issues from a consumer perspective, including:
- (a) relocation by the customer may result in the customer being unable to receive the same types of services and benefits;
 - (b) there would be high costs associated with transfer of services between premises upon relocation by the customer (in many cases transfer will not be possible); and
 - (c) sale or transfer of ownership of the compound may result in disconnection or disruption of service.
- 3.26 We consider that this is a highly undesirable outcome given the current high-growth nature of the economy in Qatar.

Resale without regulation is detrimental to customers

- 3.27 Without regulation, there is little incentive for resellers to provide optimal quality of service at a competitive price as resellers will have the ability to self-determine issues such as pricing, quality of service and fault management.
- 3.28 To the extent that resale of telecommunications services by landlords is already occurring in Qatar, customers are unsatisfied as they are receiving sub-optimal quality of service at high prices.
- 3.29 Accordingly, we consider that allowing resale without regulating resellers' practices would give rise to a number of issues from a consumer welfare perspective, including:
- (a) **poor quality of service:** there would be no quality of service assurance and no set of specific standards or guidelines in respect of quality of service issues.
 - (b) **anti-competitive practices:** resellers would have the opportunity to exploit anti-competitive practices by increasing prices and managing inefficient operations and service provision.
 - (c) **lack of clarity in respect of fault management and billing disputes:** there is a likelihood that in the event of a fault or billing dispute, the end-user is not aware of who is responsible for fault management and billing. Given that Qtel is the predominant provider of telecommunications services in Qatar, the majority of end-users would report faults and maintenance issues to Qtel instead of their landlords from whom they receive the services. This would also cause unnecessary delays for end-users in respect of service restoration.
- 3.30 In addition, the proposal to allow resale on a non-exclusive basis as stated in Option 2 is unrealistic.
- 3.31 Occupiers of compounds take up services through their landlords by paying an amount in addition to their rent. It is uncommon that residents are provided with, or indeed have knowledge of alternative service providers in an area.

- 3.32 Also, landlords encourage residents to take up resold telecommunications services by bundling the service charges and rent and providing pricing incentives or flexible payment arrangements.
- 3.33 Therefore, we consider that it would be unlikely for end-users to obtain their telecommunications services from alternative providers where they have access to resold services through their compounds.

Conclusion

- 3.34 In light of the above reasons, we support ictQatar's first option and submit that there are good policy reasons why resale of telecommunications services to residents should not be permitted at this stage of the liberalisation process.

Regulation is necessary

- 3.35 However, if ictQatar adopts Option 2 and takes the view that building complexes should be allowed to resell telecommunications services, we consider that regulation is necessary to ensure accountability by resellers in areas where there are no alternative service providers.
- 3.36 The purpose of such regulation is to ensure that end-users using the resold telecommunications services enjoy the benefits associated with:
- (a) optimal quality service standards;
 - (b) effective fault management, repairs and maintenance; and
 - (c) competitive pricing.
- 3.37 This is consistent with the practice in Singapore where until recently resellers of telecommunications services were subject to specific pricing regulation¹⁰. Resellers in Singapore are also required to comply with obligations to disclose prices and term and conditions of telecommunications services prior to providing services to end-users.

4 Passive telecommunications networks

- 4.1 In section 4.1.2 of the Consultation Document, ictQatar has stated that:

“ictQatar may issue Individual Licenses for the provision of wholesale Passive Telecommunications Network within a specified geographic area in the license where appropriate according to the following types of eligibility criteria:

- a. The network is part of a national project or public utilities (e.g. Kahramaa's fiber network);*

¹⁰ Given the highly competitive state of the market, the regulator withdrew this form of regulation on 21 January 2008. Withdrawal of regulation took place in light of a variety of telecommunications services (including alternatives such as VOIP) being available at competitive prices.

- b. *The network is party of a major regional project (e.g. GCC electricity interconnection project which is deploying a fiber network); or*
- c. *The network is within a substantially New Development Zone (as defined in Section 2)."*

4.2 A "New Development Zone" is defined as follows:

"a large defined development area, authorised by the relevant competent authorities in Qatar in accordance with the applicable Qatari laws, which consists of different types of properties including residential towers or villas, commercial establishments (such as shops, Hotels), businesses, banks, leisure facilities, etc. (For clarification, The Pearl is an example of a New Development Zone)."

4.3 ictQatar has stated that passive infrastructure licensees would be allowed to offer such infrastructure to licensed operators, but not be allowed to offer telecommunications services to the public or such infrastructure outside of an authorised area.

4.4 We consider that any proposal to licence passive infrastructure to developers is inconsistent with the current state of phased liberalisation in Qatar's telecommunications market as it would result in:

- (a) the creation of infrastructure bottlenecks; and
- (b) exclusivity arrangements.

4.5 The creation of infrastructure bottlenecks is also inconsistent with the promotion of infrastructure based competition, which is intended to encourage efficient investment in competing infrastructure.

4.6 Unfortunately, any proposal to licence passive infrastructure in favour of developers is likely to have the opposite effect as multiple bottlenecks are created and investment in competing, efficient infrastructure is prevented.

Passive infrastructure licences create bottlenecks

4.7 We consider that granting infrastructure licences in new development areas has the very real potential to create infrastructure bottlenecks.

4.8 Bottleneck infrastructure has the following characteristics:

- (a) it cannot be economically duplicated;
- (b) it is essential for the provision of particular goods or services, in this case telecommunications services.

4.9 Under the current licensing proposal, there is no guidance provided in respect of the developers' access obligations, if and when licensed. This means that passive infrastructure licensees would have the ability to:

- (a) control and leverage power over telecommunications infrastructure (e.g. ducts and/or fibre) in new areas that they build and/or own; and
- (b) preclude other licensed operators from access to that infrastructure in order to either (i) build competing infrastructure; or (ii) to supply competing services.

4.10 As one commentator has stated:

“the status of private networks could be a loophole to gain control or some exclusivity for an area ... the position of private landowners in granting exclusive access to network providers can conflict with the principles of telecommunications frameworks and the intention to provide consumers with a choice of providers. (our emphasis) ¹¹”

- 4.11 This is harmful to the interests of end-users as it deprives them of the benefits associated with having a choice of service providers.
- 4.12 In Qatar, we understand that there are a number of new developments currently underway in Qatar, including major projects such as Barwa, Qatar Diar, Al Fardhan Real Estate Development, United Development Company and many others. These developments will contain multiple residential and lifestyle complexes as well as some business premises.
- 4.13 It would be a highly undesirable outcome for customers in these areas to only have access to the services and products of a single communications provider.
- 4.14 In addition, the lack of regulatory guidance means that developers would design and deploy telecommunications networks without consideration given to access for other operators. This will result in enduring bottlenecks.

Passive infrastructure licences lead to exclusivity arrangements

- 4.15 Furthermore, if developers and landowners are licensed to own and operate passive infrastructure without being subject to regulation, they would have the opportunity to enter into exclusive deals with certain service providers.
- 4.16 This is detrimental to the interests of end-users. End-users would only have access to the services of one telecommunications service provider and deprives them of the benefits associated with having a choice of infrastructure and/or service providers.
- 4.17 Also, without regulation, there is no incentive for an exclusive telecommunication service provider to supply customers with a selection of high quality services at competitive prices. This means that telecommunications service providers that have exclusive arrangements in respect of a development area would have the opportunity to engage in anti-competitive practices.
- 4.18 Any proposal that would give rise to exclusivity arrangements should be considered as highly detrimental to competition.
- 4.19 In the US, the Court of Appeals for the D.C. Circuit¹² recently upheld an FCC decision banning exclusive contracts between cable companies and the owners of apartments and other multiple-dwelling units (MDU).
- 4.20 The Court stated that:

¹¹ Booz & Co. *The Rise of Economic Zones in the MENA Region, A Telecommunications Perspective*, published February 2008, page 5.

¹² No. 08-1016, *National Cable & Telecommunications Association v. Federal Communications Commission*.

“Finding that exclusivity agreements between cable companies and owners of apartment buildings and other multi-unit developments have an anti-competitive effect on the cable market, the Federal Communications Commission banned such contracts. The Commission believes that these deals—which involve a cable company exchanging a valuable service like wiring a building for the exclusive right to provide service to the residents—may be regulated under section 628 of the Communications Act as cable company practices that significantly impair the ability of their competitors to deliver programming to consumers. The Commission thus forbade cable operators not only from entering into new exclusivity contracts, but also from enforcing old ones. (our emphasis).

- 4.21 In addition, the fact that Vodafone’s draft licence provides that it will be exempt from access obligations in respect of its telecommunications network in new development areas for a period of 3 years¹³ means that where Vodafone enters into an exclusive arrangement with a developer, it will not be required to provide access to other licensed operators during that exemption period. This arrangement precludes alternative operators, including Qtel from competing in these areas.

Conclusion on licensing of passive infrastructure

- 4.22 For the reasons set out above, we consider that any proposal to grant passive telecommunications infrastructure licences is detrimental to competition and should be resisted.

Regulation of developments is necessary irrespective of the licensing approach

- 4.23 Developers should be required to co-ordinate and consult with telecommunications operators in respect of the design and construction of passive infrastructure in new development areas to ensure that the network design allows for efficient provision of access to other licensed operators.
- 4.24 Developers should be required to comply with standards which allows both of the following:
- (a) telecommunications operators to install their own infrastructure in the development area; and
 - (b) alternative operators to use the physical infrastructure deployed in the development area on an equal access basis. That is, exclusive arrangements between developers and telecommunications operators should be prevented.
- 4.25 This requirement imposed on developers to co-ordinate and provide access to infrastructure is actually required irrespective of whether developers are licensed as passive infrastructure operators or not. As will be seen below, the ability to regulate developers is part of the regulatory landscape in many countries and is not dependent on licensing those developers.
- 4.26 However, if ictQatar does proceed with licensing of passive infrastructure, then regulation of those passive infrastructure licensees is essential to ensure that licensing is not used

¹³ Article 6 of Annexure J to the draft licence for Public Fixed Telecommunications Networks and Services, dated 16 December 2007. This is a draft licence and the terms may be subject to change.

as a means of preventing competition, instead of promoting competition, through the creation of bottlenecks.

International best practice favours regulation

- 4.27 International benchmarking establishes that where developers deploy telecommunications infrastructure (e.g. ducts, fibre) in new development areas, they are required to take on the responsibility for providing open and non-discriminatory access to other operators.
- 4.28 For example, Hong Kong has one of the most extensive regimes for access to telecommunications infrastructure.
- 4.29 The Hong Kong Telecommunications Ordinance¹⁴ provides that network operators have a statutory right of access to install their networks within private property developments. Section 14 of the Telecommunications Ordinance requires developers to provide access to “*common parts*” of a building to install cables and equipment necessary for the provision of services to occupiers of a property.
- 4.30 In addition, there are several comprehensive codes and guidelines that have been issued pursuant to the statutory right of access in respect of the provision of access to facilities and in-building telecommunications systems and specifies requirements, as follows:
- (a) access to developer’s telecommunications facilities and services on fair, reasonable and non-discriminatory grounds¹⁵;
 - (b) developers are not entitled to impose an access charge on the operators for the use of cabling facilities¹⁶;
 - (c) no access facilities installed and maintained by developers should be reserved by the exclusive use of a particular service provider¹⁷;
 - (d) occupiers have non-discriminatory and non-exclusive access to the telecommunications service provider of their choice¹⁸; and
 - (e) developers and operators are required to co-ordinate with each other in respect of access and use of facilities in existing buildings¹⁹.
- 4.31 Further, in Singapore, there is a comprehensive access regime in respect of access to telecommunications facilities. The Code for Info-Communication Facilities in Buildings 2008 (**COPIF**)²⁰ requires the following:

¹⁴ Section 14 of the Hong Kong Telecommunications Ordinance (Cap 106) – Class Licence for In-Building Telecommunications Systems.

¹⁵ Hong Kong Office of Telecommunications Authority (TA), *Guidelines for Property Owners, Developers and Managers for the Provision of Facilities within Property Developments for Access to Public Telecommunications and Broadcasting Services*, First issue: May 1995, Revision: August 2001, sections 18-29.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid; and TA, *Code of Practice for the Installation and Maintenance of In-building Telecommunications Systems by Class Licensees* – 29 November 2005.

- (a) a developer or owner of a building is required to provide space and facilities at his expense to enable the deployment and operation of installation and plant by other operators to provide telecommunications services to a building;
- (b) the standards of facilities and equipment that must be provided must comply with specified technical standards; and
- (c) rules must be observed by the developer or owner in respect of the provision of access to those facilities.

4.32 In addition to the COPIF, the COPIF Guidelines²¹ provide detailed regulation in respect of the space and facilities which developers or owners of a building are required to provide pursuant to the COPIF.

Regulation in Greenfield areas

4.33 Greenfield areas are areas in respect of which approvals for development have been issued, but no developments have yet been made. Many developments in Qatar are of Greenfield developments. Regulation has been proposed in many countries in the world in relation to the deployment of infrastructure in Greenfield areas to ensure that network developers provide access to infrastructure and associated facilities on open and non-discriminatory terms.

4.34 Without regulation in these areas, developers would have the ability to leverage control over bottleneck infrastructures and deprive other licensed operators from access. Ultimately, end users will suffer detriment by a lack of choice of provider and below-standard infrastructure.

4.35 The following table provides a snapshot of regulation in other countries of Greenfield developments:

Country	Rights of access by alternative providers	Rights of access to the developer's infrastructure
Bahrain ²²		<input checked="" type="checkbox"/> <ul style="list-style-type: none"> • Infrastructure owners / developers are required to provide open, fair and non-discriminatory access to: <ul style="list-style-type: none"> → wholesale products (dark or lit fibre) → access to ducts → Right-of-Way (ROW)

²⁰ Info-Communications Development Authority of Singapore (**IDA**), published September 2008.

²¹ IDA, Telecommunications Act (Chapter 323) – Guidelines for Info-Communications Facilities in Buildings, published 15 September 2008.

²² Telecommunications Regulatory Authority, Bahrain (**TRA**), *A Consultation regarding the Draft Position Paper on the Deployment of Telecommunications Networks in New Property Developments*, published 27 May 2009.

Country	Rights of access by alternative providers	Rights of access to the developer's infrastructure
		<ul style="list-style-type: none"> → spare ducts for possible future competition • prohibition against exclusive deals • no “regulatory holidays” for developers
UK ²³		<ul style="list-style-type: none"> • access to wholesale products on a fair, reasonable and non-discriminatory basis • consultation between developers and operators for the development of wholesale products • standardised ordering, provisioning and management provisions
Australia ²⁴	<p style="text-align: center;">☑</p> <ul style="list-style-type: none"> • open and equivalent access to wholesale services in new and existing Greenfield estates • access to wholesale services on equivalent price and non-price terms and conditions • prohibition on exclusivity between developer and service providers 	
France	<p style="text-align: center;">☑</p> <ul style="list-style-type: none"> • local municipalities may impose obligations on owners and developers to share infrastructure by issuing permits or ROWs to buildings • developers required to enable fibre access in all newly built areas • landlords and owners required to share in-house installation if infrastructure for broadband is already in place 	<p style="text-align: center;">☑</p> <ul style="list-style-type: none"> • the provisioning of telecommunications infrastructure is compulsory at the time of construction • an operator may request in-house cabling • an operator may request to install new infrastructure in the building

²³ Ofcom, UK, *New Build Investment Guidance*, published 27 May 2009.

²⁴ Australian Government, Department of Broadband, Communications and the Digital Economy, *National Broadband Network Fibre-to-the-premises in Greenfield estates*, Consultation Paper, May 2009.

Regulation of development builds

- 4.36 Accordingly, we consider that developers (whether they are licensed as passive infrastructure licensees or not) should be required:
- (a) to provide sufficient amount of spare capacity in ducts;
 - (b) to supply adequate internal cabling and other facilities for internal telecommunications networks and adequate telecommunications equipment rooms;
 - (c) to engage in prior consultation with telecommunications operators in respect of network design to consolidate the requirements for telecommunications facilities for that development (e.g. network design, locations of facilities, requirements specific to building and / or area);
 - (d) to ensure proper safety measures for the protection of telecommunications infrastructure and the safety of the overall network; and
 - (e) to conduct regular and necessary testing, inspections and maintenance of installations in the network.
- 4.37 Such regulation is necessary given the fact that once a development project has been completed, it is much more difficult to “break up” and open the infrastructure for access to competing operators. In many cases, this will be physically impossible.
- 4.38 Regulation is necessary to:
- (a) prevent formation of bottleneck infrastructure in new development areas
 - (b) enable alternative providers to supply telecommunications services; and
 - (c) provide end-users with choice of competitive service providers.
- 4.39 In addition, regulation is beneficial to customers for the following reasons:
- (a) **it enhances the value of the property:** regulation which ensures adequate telecommunications access facilities in a building means that occupiers would have access to a range of telecommunications service providers. This enhances the value of the property and maximises investment returns.
 - (b) **it avoids disruptions associated with future construction:** regulation in respect of access ensures that consideration is given to access obligations at the commencement of constructions. It is much more burdensome to provide access facilities to a new building after construction has been completed as delays, disruptions and inconvenience (such as disturbance of building finishes, opening up of private roads within the property development) may be involved. In some cases, it is even physically impossible to add access facilities (such as equipment accommodation) which have not been incorporate into the original design.

Technical regulation

- 4.40 In addition to access regulation, it is also necessary to consider regulation of network owners and developers in respect of technical standards for the construction and rollout of telecommunications infrastructure.
- 4.41 Without regulation, there is a risk that each licensee would self-determine standards in respect of:
- (a) the quality of the infrastructure that is installed;
 - (b) operational model for the network;
 - (c) security of the network; and
 - (d) quality of services to be provided.
- 4.42 In addition, Qtel is required to comply with quality of service (**QoS**) obligations in respect of the services it provides. The installation of sub-standard equipment or infrastructure by passive telecommunications licensees and/or developers could make it very difficult to meet these QoS obligations.

Regulation of utilities

- 4.43 In addition to developers, in many cases communications infrastructure is also built by utilities, including electricity, gas and water utilities.
- 4.44 Many countries have regulation which requires utilities to provide access to their infrastructure for telecommunications purposes. For example, in Malaysia, section 228 of the Communications and Multimedia Act 1988 requires that “a network facilities provider or a public utility shall provide a network facilities provider with non-discriminatory access to any post, network facility or right-of-way owned or controlled by him.”
- 4.45 In the United States, the Communications Act 1934 as amended by the Telecommunications Act 1996²⁵ requires any utility provider (including electricity, gas and water) to provide non-discriminatory access to any pole, duct, conduit or right of way it controls.
- 4.46 Similar regulation should be considered in Qatar to ensure that utilities are also not able to create bottlenecks in a similar way to developers.

5 Conclusion

- 5.1 In relation to resale to residential premises, we consider there to be good policy grounds for ictQatar to adopt Option 1 to prevent this form of resale in Qatar. This option is consistent with the objective of encouraging facilities based competition and ictQatar’s statements on services based competition.

²⁵ United States Communications Act 1934 as amended by the Telecommunications Act 1996, section 224.

5.2 In relation to licensing of passive infrastructure to developers, we consider this proposal would potentially create bottlenecks and reduce competition. This conclusion is supported by international best practice.

Attachment A - About Gilbert + Tobin

- Gilbert + Tobin is a premium adviser in Australia and internationally in the provision of regulatory advisory services to the telecoms sector.
- Focusing on dynamic and evolving market sectors, our lawyers advise clients on transactions and regulatory developments that define and direct those markets.
- Based in Sydney, with an international associate office in China, the majority of the firm's work is in the Asia Pacific and Middle East regions, with regular work across Europe and the Americas.
- Gilbert + Tobin and our lawyers are consistently ranked at the top by independent commentators and analysts. Numerous industry publications and awards attest to our expertise in telecommunications regulatory work, including:
 - Asia Pacific Law Firm of the Year at the 2008 Legal Business Awards in London;
 - Sydney Law Firm of the Year for the second consecutive year at the 2008 ALB Australasian Law Awards;
 - Chambers Global: Client's Guide to World's Leading Lawyers;
 - the Asia Pacific Legal 500;
 - Gilbert + Tobin is a specialist in international telecoms regulation.
- Our expertise includes regulatory design, regulatory strategy, commercial negotiation, contractual drafting and dispute minimisation, management and resolution. Importantly, we have a proven ability to think creatively and exploit the available regulatory tools to achieve the best outcomes.
- Gilbert + Tobin has extensive knowledge and experience in commercial and regulatory telecommunications matters across the globe, including in newly liberalising jurisdictions.
- We act for Government, regulators, incumbents and new entrants, and for mobile and fixed operators.
- We act for the Malaysian Communications and Multimedia Commission on all access related matters and NBN issues.
- We act for the National Telecommunications Commission of Thailand in matters related to interconnection dispute resolution, competition and spectrum.
- Our experience includes performing telecoms regulatory work for some of the largest operators in the world, including:
 - Qtel;
 - Singapore Telecommunications Limited
 - Telstra Corporation
 - British Telecom
 - Bell Canada

- Batelco
 - Emirates Integrated Telecommunications Company (du)
 - PCCW
 - China Netcom
 - Telkomsel.
- We have completed major telecommunications projects in Europe, China, the Middle East and over a dozen Asia Pacific countries, including Japan, Singapore and Vietnam.

Annex I: Covering Page for Submissions in Response

Covering Page for Comments in Response to ictQATAR's Consultation on Type Approval Policy

Responding Party

Name: Chris Lambert

Organization: RigNet

Address: PO Box 35003 , Doha - Qatar

Telephone: 458 6000/ 6011 Email: chris.lambert@rig.net

Date: June 7th 2009

Consent

By submitting this Response to ictQATAR, the Respondent consents to its publication in full by ictQATAR on its official website or by other media, unless confidential treatment of all or parts of the Response has been requested and follows the criteria set out below.

Confidentiality

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LICENSING FRAMEWORK

Consultation Document (Second consultation)

Question 1: Are there any comments about the objectives of the proposed Licensing Framework?

Answer 1: RigNet welcomes the approach of ICT to liberalize and further refine the licensing process in the state of Qatar, as was mentioned in our previous responses to the clarification of rules, regulations and processes.

Question 2: Are there any comments about the scope of this consultation?

Answer 2: RigNet welcomed the first framework where companies would be able to resale certain services. Although we understand the concerns raised by QTEL in regards to opening of resale to all parties, RigNet believes that other telecom companies should be able to resell certain important terrestrial services from the Local Service provider.

E.g. The resale of PSTN access, Internet, and Local terrestrial infrastructure (MPLS, leased lines, WIMAX, access to International gateway for both voice and data ... etc) leased from QTEL or Vodafone, or any other license holder to customers of the new licensed VSAT provider. This follows the model of managed communication providers known world-wide.

Also, Rignet would like to request a clarification on the position of the VSAT licensees' ability to utilize/connect/resale the local terrestrial infrastructure leased from local providers.

Question 3: ictQATAR welcomes any information about other telecommunications activities that are outside the current licensing regime.

Answer 3: RigNet would suggest including the resale of managed communications, IT, and network security services as part of the class license. Companies and businesses benefit from the outsourcing of certain services to niche providers and may avoid employing full-time technical staff. Qualified third-parties should be allowed to resale

under a class license and under such should offer no threat to the objectives and intent of the regulatory framework.

Question 4: ictQATAR welcomes any comments with supporting rationale about the licensing position on VoIP.

Answer 4 : ictQatar's technology neutral stance and the welcoming of VOIP technology is a positive sign and demonstrates leadership in the GCC region. The clarification from ICTQatar addressing the confusion on the use of VOIP is appreciated and we are looking forward to this market broadening under ictQatar's direction.

Resale of VOIP services as a managed communications service, under one of the two license holders, should be permitted under a separate managed services class license.

Question 5: Are there any comments about licensing Passive Telecommunications Network and about the proposed eligibility criteria.

Answer 5 : RigNet has no comment on this.

Question 6: Do you support the plan not to license new ISPs before the Strategic Sector Review?

Answer 6: RigNet supports the structured approach and use of the Strategic Sector Review before allowing new ISP providers but should expedite the process to allow new ISP services through qualified providers only. And at the onset of delivery the ISP services continue to be regulated to ensure fairness and quality of service to the end users.

Note that new ISP providers would require ability to use local infrastructure in addition to its own infrastructure. This would require the equivalent of resale of certain terrestrial infrastructure services.

Alternatively, VSAT can be used for the delivery of internet services. Therefore RigNet is of the opinion that the VSAT license holders should be capable of delivering incumbents ISP services or other outside of Qatar ISP services, over VSAT terminals.

RigNet believes that open ISP delivery over VSAT should be considered after Strategic Sector Review.

RigNet also believes resale of incumbent providers ISP services should be allowed under class licensing, at wholesale rates for qualified users.

Question 7: ictQATAR invites comments about the establishment of these Class Licenses.

Answer 7 : RigNet agrees on the establishment of the class licenses outlined, with the request for an additional VSAT resale license.

Question 8: ictQATAR invites comments with a supporting rationale about the resale of telecommunications services.

Answer 8 : RigNet would like to request the addition of another party to the list of class license, or authorized service. VSAT providers would lease and resale certain terrestrial infrastructure facilities which would deliver services in the same capacity as hotels, residential complexes, public call offices, internet cafés, and wireless internet zones.

Wholesale pricing should be allowed for qualified buyers.

Question 9: In particular, ictQATAR welcomes views about whether the proposed Resale Class License will alleviate the current unlicensed activities sufficiently.

Answer 9: RigNet believes that as the telecommunications technology develops, new licensing approaches and requirements will arise.

Question 10: ictQATAR invites comments with a supporting rationale about the licensing of Hotels to resell telecommunications services.

Answer 10 : RigNet agrees and has no further comment

Question 11: ictQATAR invites comments with a supporting rationale about these two options in relation to Residential Complexes.

Answer 11 : RigNet believes that landlord should have the opportunity to resell telecommunication services on a non-exclusive bases as bundling and sharing of services may actually improve the experience of each individual user if certain QOS standards were met.

Question 12: Are there any comments, concerns or suggestions about the proposal to license persons to own and operate Public Call Offices in Qatar?

Answer 12 : RigNet believes that the resale of public telephone and international telephony should be allowed and may include additional service fees.

In addition RigNet agrees with the future expansion of opportunities to compete in service provisioning, to drive competitive rates. At this time RigNet would also like to propose a resale class license enabling international call capability.

Question 13: Views are invited about whether Internet Cafés should be licensed as resellers or have separate licenses.

Answer 13 : RigNet believes Internet Cafés should be licenses as resellers.

Question 14: ictQATAR invites comments about the proposal to license the commercial Wireless Internet Zones.

Answer 14 : RigNet believes Hotspots should be licenses as resellers but agrees that free of charge services should not.

Question 15: Are there any comments about the proposed process and fees for the Resale Class License?

Answer 15 : RigNet agrees with the process and fees and has no further comment



always connected.

Question 16: ictQATAR invites comments about the scope of the Private Network Class License.

Answer 16 : RigNet would like to ask for further clarification on the definition of "private networks". For example, would a minimum of two PCs connected to each other with a non-public IP be a private network? RigNet agrees with the regulation restricting public networks to connect through a gateway.

Appendix A: Resale Class License

Interested parties are invited to submit responses to the questions listed below and to provide their views on any other relevant aspects. Comments should reference the number of the question being addressed or the specific section of this document if not responding to a particular question.

1. Comments are invited on the scope of Authorized Services.

RigNet requests that VSAT license holders be permitted to resale PSTN access, internet, and local terrestrial infrastructure; MPLS, leased lines, WIMAX, access to International gateways for both voice and data, etc.

Such services would be permitted and leased from QTEL or Vodafone as part of a managed communication package under resale class license. This allows customers to acquire managed services and is how RigNet operates today.

RigNet also believes wholesale pricing should be allowed and extended to resale license holders who qualify.

2. Are there any comments, questions or needs for clarifications regarding the terms and conditions of this Resale (Retail) Class License?

RigNet would like to request further clarification from ictQatar to better understand ictQatar's position on the procurement of certain terrestrial infrastructure services, through future VSAT license holders, for the resale of managed communications services.

RigNet believes this relationship should be allowed, considering the telecommunications laws pertaining to international gateway traffic is followed.

3. Are there any comments about the notification process, form and fees?

RigNet has no comment



4. Should any other terms and conditions be added to this Class License?

RigNet has no comment

5. Should any terms and conditions be subtracted from this Class License?

RigNet has no comment

Appendix B: Private Network Class License

Interested parties are invited to submit responses to the questions listed below and to provide their views on any other relevant aspects. Comments should reference the number of the question being addressed or the specific section of this document if not responding to a particular question.

1. Comments are invited about the scope of this Class License.

Would an owner of private network within his own office require a class license?

Also, is single license issued for the entire network, or is a separate license required for each private network?

2. Are there any comments, questions or needs for clarifications regarding the terms and conditions of this Class License?

With regard to Paragraph 3.Scope on page B-3, , and Paragraph 4.2 Connection with Public Networks, page B-4 RigNet seeks further clarification on whether private networks possess the ability to bypass the telecommunications facilities.

The framework can be interpreted that the owner of a private network is allowed to install and operate it's own telecommunications facilities, and is allowed to use any communication technology within the ARF, and has no limitation on the type of traffic to communicate over that network but at the same time the Licensee shall not use Private Networks in such a way as to bypass the telecommunications facilities of the Individual Public Telecommunications Licensees in Qatar?

E.g. the owner of a private network is allowed to use microwave to connect his remote office and transfer the voice communication between his own offices but at the same time he is not allowed because he is bypassing the terrestrial PSTN facilities?

2. Should any other terms and conditions be added to this Class License?

No comment



4. Should any terms and conditions be subtracted from this Class License?

No Comment

5. Do you agree that the owners and operators of Private Networks need not notify ictQATAR of their networks nor to pay administrative fees?

RigNet agrees with this proposed method.

Responding Party

Name: Eric Lebrun

Organization: The United Development Company

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Telephone: +974 446 3456 Email: eric@thepearlqatar.com Date: 7 June 2009

Consent

By submitting this Response to ictQATAR, the Respondent consents to its publication in full by ictQATAR on its official website or by other media, unless confidential treatment of all or parts of the Response has been requested and follows the criteria set out below.

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Mr. Ahmad Sultan
Licensing Section Manager
Policy and Economic Affairs Department
Regulatory Authority
The Supreme Council of Information and Communication Technology (ictQATAR)
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Doha – Qatar

Email: consult@ict.gov.qa

7 June 2009

**RE: RESPONSE TO LICENSING FRAMEWORK SECOND CONSULTATION
(ICTRA 05/09-LF-Consult)**

The United Development Company (“UDC”) wishes to thank ictQATAR for this opportunity to participate in ictQATAR’s second public consultation regarding the development of the licensing framework in Qatar. UDC commends ictQATAR’s commitment to transparency, regulatory certainty and openness.

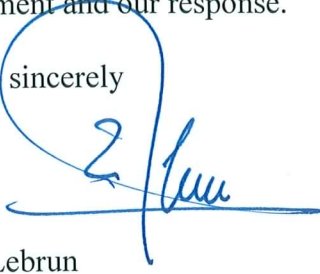
ictQATAR has indicated, in Section 4.1.2 of its Consultation Document “Licensing Framework”, dated 10 May 2009, that it is considering creating a category of individual licence entitled “Provision of Passive Telecommunications Networks”, which is intended to cover the operation of telecommunications infrastructure that consists of passive network elements and the provision of related services and activities on a wholesale basis. The terms of such licence have not been published to date. We respectfully suggest that ictQATAR develop the terms of such licence in close consultation with eligible holders.

The Consultation Document indicates that the proposed Passive Telecommunications Network Licence would be limited to owning and operating passive network elements of a telecommunications network only. It is unclear how ictQATAR proposes to delineate what constitutes passive versus active network elements. Such delineation may be difficult to define or to apply in practice, which could in turn give rise to unnecessary regulatory risk to the licence holder given the requirement under the Telecommunications Law that any person who owns or operates a telecommunications network must do so pursuant to a licence issued by ictQATAR. UDC respectfully suggests that this distinction between active and passive elements may in any

event be unnecessary given that the licence does not authorise the provision of retail services, and therefore the precise network elements being owned or operated by the licence holder should not be significant.

We would be happy to make members of our team available to discuss this Consultation Document and our response.

Yours sincerely



Eric Lebrun
Executive Vice President, Assets
United Development Company

Responding Party**Name:**

Mr. Mutaz Otaibi

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Date: 04/06/2009

Consent

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- **Question 4:**
“ictQATAR welcomes any comments with supporting rationale about the licensing position on VoIP”

Viacloud has concerns on the type of license that can permit such services using the VoIP technology, such as prepaid calling cards service.

Also The ictQATAR stated that currently two operators can provide such services using the VoIP but what type of license under the new licensing framework can provide such service/ using VoIP?

- **Question 6:**
“Do you support the plan not to license new ISPs before the Strategic Sector Review?”

NO

Such above step will favor the incumbent for delaying the market and competition.

Viacloud believes that such licensing framework should be design without delaying any types of services. This is a very crucial step for opening the telecom market.

- **Question 7:**
“ ictQATAR invites comments about the establishment of these Class Licenses”

Viacloud believes that such licenses should not be limited to such mentioned services since new services can be deployed using deferent types of telecom technology which is already considered natural according the licensing framework. If so, The ictQatar will put itself in a position of a clear contradiction with their messages of liberalizing the market and limiting the service TYPES per License.

Viacloud believes the ictQATAR should define a much clear vision on deference between the class license and the individual license and it should not be based on service type since it will put itself in huge dilemma in how to define new upcoming telecom services.

The Class license

- Viacloud Believes that both class licenses are only designed to resell the current existing services that are provided already from the current operator in Qatar, in another word, both are only designed to create a larger Market for the current existing operators and not to promote new services that can develop the principals of the market competition.
 Viacloud believes that the ictQatar should take a much drastic moves into considering other independent services that the investors can provide without the need of the current existing operators “other than the infrastructure needs” such as:
 - Class license for ISP
 - Class license for prepaid calling cards services
 - Class license for Vehicle tracking services

- Also, Viacloud still has concern that the program did not mention any licensee interconnection relationship or process. It is still not clear whether it is obligatory for the incumbent licensee to interconnect with the new class license holders or whether this relation would be governed by an approved interconnect agreement from the TRA or a normal commercial agreement. Viacloud believes that the TRA should set a clear interconnection instructions or regulation that govern the relationships between the licensees, and should obligate the incumbent operators to interconnect with any license holder from the TRA with a reasonable time frame.



Regulatory Authority
IctQATAR
P.O. Box 23264
Doha, Qatar
Per email: consult@ict.gov.qa



Covering Page for comments in Response to ictQATAR's second consultation on licensing framework

Responding Party

Name: Matthew Harrison-Harvey
Organization: Vodafone Qatar Q.S.C
Address: PO BOX 27727 Doha, Qatar
Telephone: +974 7775783 **Email:** matthew.harrison-harvey@vodafone.com **Date:** 08/06/09

Consent

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Dear Sir

RE: Second Consultation on Licensing Framework

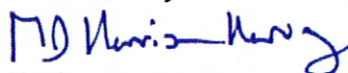
Vodafone Qatar Q.S.C ("VQ") wishes to thank ictQATAR for the opportunity to provide comments on the Second Consultation Document on Licensing Framework issued on 10 May 2009 ("Consultation Document").

In Summary VQ has the following key comments, which we expand on in our response to your questions in annexure 1 hereto:

1. VQ appreciates the clear consultation process and timeline that ictQATAR has set out in the Consultation Document.
2. VQ submits that the Strategic Sector Review taking place in 2010 is premature, due to the delay of the granting of the second mobile and fixed licenses. VQ is of the view that ictQATAR needs to give competition sufficient time to develop before carrying out such a review.
3. VQ has significant concerns with the proposed Resale Class License, which in our view fail to provide sufficient clarity on the rights and obligations that VQ would expect a licensed reseller of retail communications services to have. VQ supports the introduction of a Class License regime for resellers in order to replace the current Telecommunications Dealer Licenses. Such licenses should be granted through a simple and transparent authorization process using online.
4. Should ictQATAR determine that licenses be issued to resellers, then such licenses should be subject to the same obligations as individual licensees, for example, paying the same or similar license fees and following the tariff notification process (as applicable). Alternatively, ictQATAR can adopt an approach commonly used in other countries that no licenses are required for resellers and instead mandate that resellers should only provide communications services if they have entered into commercial agreements with the Public Telecommunications Network and Services Licensees (Mobile and Fixed) ("Public Telecoms licensees"). Such agreements entered into by the Public Telecoms Licensees and resellers must be subject to the Telecommunications Law and applicable regulatory framework.
5. VQ does not agree with ictQATAR's rationale as to why Resellers should not pay the annual license fee and the industry fee.
6. VQ supports the inclusion of a Passive Telecommunications Network License and the eligibility criteria proposed, however we would like to clarify how ictQATAR envisages the excising of the right to "operate" a Passive Telecommunications Network".
7. VQ remains concerned about ictQATAR's approach to Private Networks, in particular the definition of Closed User Group and the clause dealing with Connections to Public Networks.
8. VQ suggests that ictQATAR undertakes a review of the national spectrum plan prior to awarding further spectrum to class licensees.

VQ requests an opportunity to meet with ictQATAR, which could include Qtel and other interested stakeholders to discuss this Consultation Document and our response.

Yours Sincerely



Matthew Harrison-Harvey
Vodafone Qatar
Director: Regulatory and External relations

ANNEXURE 1: ANSWERS AND COMMENTS TO ICTQATAR'S QUESTIONS

Comment on introduction section of the Consultation Document

VQ appreciates the clarity on ictQATAR's intention of not issuing additional Individual Public Telecommunications Licenses. VQ is of the view that the Strategic Sector Review taking place in 2010 is premature, due to the delay of the granting of the second mobile and fixed licenses. VQ is of the view that ictQATAR needs to give competition sufficient time to develop before carrying out such a review

Question 1: Objectives of the proposed licensing framework

VQ is of the view that some of the objectives of the proposed licensing framework are clear. VQ however would like to reiterate its position on the key characteristics of a license regime, which are:

- (i) a clear and transparent licensing regime is essential for the long term development of the telecommunications sector;
- (ii) the combination of individual and class licenses for certain services is a sensible approach, provided that the process, requirements and timelines for the granting of such licenses are clear and transparent; and

VQ submits that any regulatory decision making process on licensing regimes are of fundamental importance and must be carefully considered with input from all stakeholders.

Question 2: Scope of the consultation

VQ has no comments on the scope of the consultation.

Question 3: Other telecommunications activities that are outside the current licensing regime.

VQ submits that ictQATAR has not dealt with the distributors that currently hold the Telecommunications Dealer Licenses. In this respect VQ supports the introduction of a Class License regime for resellers in order to replace the current Telecommunications Dealer Licenses. Such licenses should be granted through a simple and transparent authorization process using online. An alternative model would be for the distributors to enter into commercial agreements with the Public Telecoms Licensees. See response to question 8 below.

Question 4: ictQATAR's position on VoIP

VQ Supports ictQATAR's position on the licensing of VoIP services.

Question 5: Passive Telecommunications Networks

VQ supports the inclusion of Passive Telecommunications Networks as part of this Consultation Document. VQ agrees with ictQATAR's proposal for:

- the eligibility criteria for the licensees ;
- definition of Passive Telecommunications Networks; and
- the scope of authorized and non-authorized services provided in section 4.1.2;

VQ however submits that the Passive Telecommunications Networks License should expressly exclude the establishing, installing, owning, importing, operating, leasing and selling on a

wholesale basis of active telecommunications facilities and equipment. As previously proposed by VQ the definition of active telecommunications equipment and facilities should include but not be limited to, switches, routes, multiplexers, services, platforms, IPTV equipment and electronic distributors' panels.

VQ requires that the Passive Telecommunications Network licenses should expressly state that:

- the Passive Telecommunications Licensees should enter into commercial agreements to lease Passive Telecommunications Networks to the Individual Public Telecoms Licensees; and
- that such licensees are not allowed to have international gateway services and should be subject to ictQATAR's jurisdiction under the Law (e.g Type Approvals, and customs processes).

VQ would welcome the opportunity to participate in further ictQATAR consultation on Passive Telecommunications Network Licenses, including the terms and conditions of such license.

Question 6: Internet Service Providers

VQ supports ictQATAR's plan not to license new ISPs before the strategic Sector Review. This will give VQ the opportunity to establish itself as an ISP in the market before new players are introduced.

Question 7: Class Licenses

Detailed comments on the proposed class licenses are discussed below in response to questions 8 to 15.

Question 8: Resale of Telecommunications Services

VQ has significant concerns with the proposed Resale Class License, which in our view fail to provide sufficient clarity on the rights and obligations that VQ would expect a licensed reseller of retail communications services to have.

VQ submits that should ictQATAR determine to license such resellers, then such licenses should be subject to the same obligations as individual licensees, for example, paying the same or similar license fees and following the tariff notification process (as applicable). Alternatively, ictQATAR can adopt an approach commonly used in other countries that no licenses are required for resellers and instead mandate that resellers should only provide communications services if they have entered into commercial agreements with the Public Telecommunications Network and Services Licensees (Mobile and Fixed) ("Public Telecoms licensees"). Such agreements entered into by the Public Telecoms Licensees and resellers must be subject to the Telecommunications Law and applicable regulatory framework.

Question 9: Will the proposed Resale Class License alleviate the current unlicensed activities sufficiently?

VQ is of the view that the proposed Resale Class License and the ongoing application of the applicable regulatory framework to such licensees is one way of alleviating the current unlicensed activities. An alternative approach which is commonly used in other countries is requiring such resellers to enter into commercial agreements with the Individual Public Telecoms Licensees. See response to question 8 above.

Question 10: Licensing of hotels to resell telecommunications services

Please see response to Question 8 above.

Question 11: Resale by Residential Complexes

Subject to VQ's response to question 8 above, VQ supports Option 2 in this respect, i.e. Residential Complexes are allowed to resell telecoms services on a non-exclusive basis.

Question 12: Resale by Public Call Offices

Subject to VQ's response to question 8 above, VQ supports the licensing of Public Call Offices on a non exclusive basis, i.e. all Public Call Offices should not enter into exclusive agreements with any of the Public Telecoms Licensees.

Question 13: Resale by internet café's

Please see response to Question 8 above.

Question 14: Resale by Wireless Internet Zones (Hotspots)

Please see response to Question 8 above.

Question 15: Process and fees for the Resale Class License

As mentioned above, should ictQATAR decide to license the specified resellers. VQ submits that such resellers should be subject to the same regulatory obligations as the individual licensees, e.g they should be liable to pay both the annual license and industry fee and they should be subject to the tariff notification process etc.

VQ does not agree with ictQATAR's rationale as to why resellers should not pay the annual license fee and the industry fee. The resellers are separate entities and are not owned, controlled or affiliated with the Public Telecoms Licensees.

Furthermore the proposed framework does not deal with the licensing of existing resellers in the market. VQ seeks clarity on how ictQATAR will retrospectively license all those parties that are currently reselling Telecommunications Services.

Question 16: Class License to Own and/or Operate a Private Network

VQ is concerned about ictQATAR's intention to adopt a "light-touch" approach to operators of Private Networks, by not requiring owners and/or operators of Private Networks to notify ictQATAR of their intention neither to do so nor to pay any fees.

VQ would like to ictQATAR to clarify how ictQATAR propose to make sure that these licensees will remain within the terms of the Private Network Class License, the Telecommunications Law, applicable regulations and other rules affecting Private Networks, without knowing who they are.

Furthermore VQ would like clarity on how ictQATAR foresees the licensees being aware of their rights and obligations under the regulatory framework. More comments on the proposed Private Network License are discussed below.

Comments on Annexure A and B

Connection with Public Networks

Article 4 in both Annexure A and B deals with Connection with Public Networks and provides that: "the Licensee is not allowed to interconnect with a Public Network on a wholesale tariffs (mobile termination rates, fixed termination rates). The connection with a Public Network can be done only via a Gateway on retail prices." VQ requests clarity on what ictQATAR means by "connection via a Gateway on retail prices" and under what occasions Private Networks would connect with Public Networks.

Definition of "Closed User Group"

VQ submits that the definition of Closed User Group in Annexure A is extremely confusing and hereby suggests the following definition:

"Closed User Group means companies or educational institutions and Government departments that are part of the same group of companies with the same internal communications needs";

Related Radio Frequency License

VQ submits that ictQATAR should undertake a review of the current spectrum plan prior to allocating further spectrum to licensees. This will assist ictQATAR to allocate spectrum in an efficient way and without interference risks.

Response of WSP Group Ltd

Date: 05/06/09

Responding to Question 5 of the consultation document and of relevance to section 4.1 outlining Individual Licences to be created under the proposed licensing framework.

WSP believe it is in the interests of ictQatar's general policy and plan for the liberalisation of the telecommunication's sector to provide for license of active, managed, open access networks comparable with the proposed license for Passive Telecommunications Networks.

We believe that passive networks can never be truly open access as they are limited to the total number of fibres reaching the end user and to a one to one relationship between fibres and licensed service providers.

An active, managed network offering open access has an interest in encouraging new and innovative services to maximise bandwidth use. The flexibility of multiple services promotes competition in service provision and also promotes services targeted/customised to the local community.

We draw the attention of the regulator to the success of networks in Nuenen in Holland and the proliferation of community ISP's in Sweden.

Multiple concurrent use makes investment in a fibre network viable as a utility and reuse of both active and passive components increases the sustainability of the development.

This information is supplied to you strictly by way of observation and opinion. WSP accepts no liability for the opinions provided and shall not be liable for any reliance placed upon the information supplied.

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