

Order To Ooredoo Q.S.C.

Regarding

- C05-02 Consumer Fiber Broadband Services as per filings of August 10, 2016 and February 16, 2017, and
- B30-01 Fibre Broadband Services (FTTx) as per filing of June 4, 2017

CRARAC 2017/07/18

July 17, 2017

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1 Background and Introduction

1. This Order refers to:

1.1 Ooredoo's modifications of Consumer Fiber Broadband (FBB) Services Tariff (C05-02) filed on February 16, 2017 ("FTTx 10Gbps Double and Triple Play" - OQ/Reg-4824/2017-02) and on August 10, 2016 ("New Consumer Fiber Broadband plans" - OQ/Reg-4571/2016-06) (in the following, **Consumer FBB**).

(a) With the Tariff Filing of August 10, 2016 Ooredoo proposed the introduction of additional speed options (50 Mbit/sec, 75 Mbit/sec, 150 Mbit/sec and 200 Mbit/sec) and of an equipment return policy. In order to improve its understanding of the cost model submitted by Ooredoo to support Consumer FBB tariffs, the evaluation period of this Tariff Filing was extended (CRA/RAC-T/096/2016).

(b) With the February 16, 2017 filing Ooredoo proposed the introduction of a further speed of 10Gbps for the price of QAR 7,500/month. The abovementioned price is charged for double play and triple play.

(c) Both Tariff Filings built upon the Consumer Fiber Broadband (FBB) Tariff filed with letter June 19, 2016 (OQ/Reg-4571/2016-06) which essentially:

(i) Eliminates the price differentials between double and triple play services, which was previously QAR 17/subscriber/ month; and

(ii) Doubles the upload speed for double play.

1.2 Ooredoo's modifications of Fibre Broadband Services (FBB) Tariff (B30-01) for Business Customers filed on June 4, 2017 ("Tariff Filing – FTTx New Business BB Speeds", ref. Ooredoo's letter OQ/Reg-4941/2017-06, dated June 1, 2017) (in the following, **Business FBB**).

(a) The Tariff Filing included the General Tariff document ("B30-01 Business Fibre Broadband 002") and the updated FTTx cost justification model ("4915-FTTx Model vO 118 - May 2017 Business Changes").

(b) With this filing, Ooredoo proposed a new tariff portfolio (see table below) to replace the existing one. Current customers can choose to either continue using the existing tariff portfolio or migrate to a one of the new business fibre tariffs.

(c) The new business fibre tariffs proposed by Ooredoo are as follows:

Speed Mbps	Monthly Charge QAR
15	699
60	1,099
120	1,799
300	2,199

Table 1: FBB new Business Fibre Tariff Portfolio

(d) To CRA's understanding, Ooredoo plans to launch these tariffs in July 2017.

2 Legal Basis

2. Article (4) of Emiri Decision 42 of 2014 gives to the Communications Regulatory Authority (CRA) the responsibility for regulating the ICT and the Post sector, as well as access to digital media, with the aim of providing advanced and reliable communication services across the State. The Authority shall have the powers necessary to undertake the above and, in particular:
 - 2.1 Setting regulatory framework for the communications, ICT, post sector, and access to digital media, in line with the General policies of the sector and to enable optimum performance (1);
 - 2.2 Securing access to services across the State and ensuring comprehensive access to basic services (5);
 - 2.3 Ensuring interconnection and access to all users by setting conditions for effective interconnection and access (6); and
 - 2.4 Setting conditions and criteria for licensing and approval for communications and ICT services, access to digital media, the use of frequencies and the issuance of related licenses and approvals; and ensuring compliance with its conditions (9).
3. Further, Article (15) of the Emiri Decision states that, within CRA, the Regulatory and Competition Affairs department shall:
 - 3.1 develop appropriate tariff regulations, giving priority to the telecommunications market, or telecommunications services according to the market requirements, and determine fees for retail and wholesale (2);
 - 3.2 develop and identify policies and regulations for all services which will foster a competitive market and serve the interests of the consumers (7).
4. The Retail Tariff Instruction ("RTI") for Individually Licensed Service Providers in Qatar (CRA 2015/05/07) sets forth the rules and processes for the approval of retail tariffs by the CRA.
5. Section 4 of the RTI contains the Specific Provisions for Dominant Service Providers, including the prohibition of Anti-Competitive Conduct, such as e.g. pricing below cost, cross subsidizing, predatory pricing and excessive pricing.
6. Specifically, Section 4.1 "Tariff Filing and Review" of the RTI contains that:

- 6.1 DSPs must ensure that all Tariffs that contain any service or service elements that falls within a Relevant Market in which the SP has been designated as dominant are filed and approved by the Authority in advance of their proposed effective date.
 - 6.2 The Authority shall have five working days, from the date on which a Tariff filing is received, in which it may (a) approve or (b) object to the tariff and order its suspension, modification or withdrawal, or (c) extend the period for review.
 - 6.3 If the Authority decides that an extended review of a proposed Tariff is necessary, it shall notify the DSP in writing and shall specify the procedures and timetable for the Tariff review, including any consultation or other relevant process with respect thereto, in accordance with the Applicable Regulatory Framework or as determined by the Authority.
7. In addition, Section 4.2 "Safeguards against Anti-Competitive Conduct" of the RTI states that:
- 7.1 Charging: In order to demonstrate that the effect of an offer has not been anticompetitive and therefore the DSP's pricing within a market is above cost the DSP is required to provide reports, which clearly demonstrate that product categories, taken individually and/or as a whole, are above the applicable cost standard¹. The DSP must also be able to demonstrate on request of the Authority that a Tariff is in compliance with the ARF. Sufficient granularity of information should be provided by the DSP to CRA to demonstrate that any product category will not be under cost over a given period.
 - 7.2 Absence of cross-subsidization: Unless explicitly approved by the Authority cross subsidization is explicitly forbidden by the Telecommunications Law. It is the obligation of the DSP to demonstrate that a Tariff does not contain cross-subsidies.
 - 7.3 Absence of a Price Margin Squeeze: DSPs must demonstrate the absence of a Price Margin-Squeeze (PMS) for their services. This should be based on the Wholesale Charges of existing wholesale products or, where relevant, the charge of proposed wholesale products.

3 Concerns on Consumer FBB²

8. The CRA was concerned that the filed tariff, according to the information provided for by Ooredoo, includes cross subsidization of IPTV by telecommunication services.

¹ The current cost regime, employs a Fully Allocated Cost model based on Historical Cost Accounting. Please refer to Regulatory Accounting System (RAS) Orders for the financial years 2013 onwards issued to Ooredoo Q.S.C (CRA 2014/05/26a dated May 25, 2014

² As per "Order to Ooredoo Q.S.C. Regarding C05-02 Consumer Fiber Broadband Services as per filings of August 10, 2016 and February 16, 2017 dated February 22, 2017 (CRARAC 2017/02/22) and "C05-02 – Consumer Fiber Broadband Services – Competitive Concerns dated March 6, 2017 (CRA/RAC-E/022/2017)

9. This cross subsidization, yet to be approved, may be in contrast with the requirements of the regulatory framework, and may negatively impact alternative telecommunications providers in the State of Qatar and potentially other providers of digital media by hindering or preventing access to broadband and IPTV services resulting in lower competition of the market. This could result in higher prices for broadband and IPTV services and reduced choice for consumer.
10. This cross-subsidization concern is aggravated by the absence of an approved wholesale input which would impede to alternative telecommunications providers to compete with Ooredoo on an equal footing.
11. To enable a full investigation the CRA extended the period of review to assess the impact of the filed tariffs and ordered Ooredoo³ to:
 - 11.1 not to launch the FBB offer as per filing of August 10, 2016 and/or February 16, 2017 in the market until it has been explicitly approved by CRA;
 - 11.2 with immediate effect, remove the Tariff Document from the Regulatory Part of Ooredoo's webpage and replace it with latest, explicitly approved version by the CRA; and
 - 11.3 meet with CRA by March 16, 2017 and to provide a set of information discussed during the meeting by March 23, 2017. Moreover, Ooredoo was requested to all the clarifications required by CRA during the proceeding within five (5) working days from the request.
12. Ooredoo fulfilled all the above requirements, providing information on:
 - 12.1 February 27, 2017 (ref. Ooredoo letter OQ/Reg-4838/2017-02);
 - 12.2 May 9, 2017 (ref. Ooredoo letter OQ/Reg-4915/2017-05);
 - 12.3 June 15, 2017 (ref. Ooredoo letter OQ/Reg-4955/2017-06);
13. A meeting with beIN Sport was also held on March 5, 2017 in order to better understand the dynamics, trends and competitive challenges of the IPTV market. Following the abovementioned meeting beIN disclosed to the CRA some information aimed at a better understanding of the market of media.

4 Concerns on Business FBB⁴

14. The CRA was concerned about the cost justifications used by Ooredoo to demonstrate the absence of below cost pricing.

³ Order to Ooredoo Q.S.C. Regarding C05-02 Consumer Fiber Broadband Services as per filings of August 10, 2016 and February 16, 2017 dated February 22, 2017 (CRARAC 2017/02/22).

⁴ As per "Order to Ooredoo Q.S.C. regarding B30-01 Fibre Broadband Services (FTTx) as per filing of June 4, 2017", dated June 7, 2017 (CRARAC 2017/06/07)

15. More specifically, Ooredoo justified its proposed new business portfolio tariff based on 2016 forecasted costs which were significantly lower than the 2015 Regulatory Accounting System (RAS) costs (ref. RAS 2015 version delivered by Ooredoo to CRA on April 23, 2017).
16. According to the cost justifications provided by Ooredoo, the 2016 forecasted cost (per customer) related to the core network dropped by 73% (from the RAS 2015 cost) resulting in a positive margin for FBB services (a negative margin would have resulted if RAS 2015 costs were used).
17. The CRA noted that the same 2016 forecasted costs were used by Ooredoo to respond to competitive concerns on Tariff "C05-02 Consumer FBB Services - Filings of August 10, 2016 and February 16, 2017" (ref. Ooredoo's letter OQ/Reg-4915/2017-05, dated May 9, 2017).
18. To better understand the large decline in 2016 forecasted costs the CRA requested a meeting with Ooredoo. In the meeting, held on June 1, 2017, Ooredoo explained that:
 - 18.1 the drop in 2016 forecasted costs were due to a 'new network solution' implemented by Ooredoo to deliver the FBB services to its customers. In particular, Ooredoo declared that, since 2016, dedicated FTTx Links have been used to connect some of Internet Routers and Servers to the Internet platform instead of the core network;
 - 18.2 The forthcoming RAS 2016 will provide a detailed demonstration of the fall in costs related to the core network.
19. Based on information received in the meeting of June, 1 2017 and the costing spreadsheets submitted by Ooredoo as part of Tariff (B30-01) for Business Customers filed on June 4, 2017, the CRA;
 - 19.1 could not immediately verify the "new technical solution" at the basis for the 73% fall in costs related to the core network;
 - 19.2 required clarifications on other 2016 forecasted costs contained in the Tariff of June 4, 2017 (i.e. the cost of the international connectivity); and
 - 19.3 had significant on going concerns that the delays in closing RAS 2015 will result in further delays in the implementation of RAS 2016.
20. On June 8, 2017, due the to these concerns and in order to enable a comprehensive investigation on the FBB Business, , the CRA ordered⁵ Ooredoo:
 - 20.1 not to launch any new Tariff or promotion on products included in Tariff B30-01 (Business FBB Services) and in Tariff C05-02 (Consumer FBB Services) before the CRA has finished its verification of the 2016 forecasted costs used to justify the absence of below cost pricing or any anti-competitive concerns;

⁵ Order to Ooredoo Q.S.C. regarding B30-01 Fiber Broadband Services (FTTx) as per filing iof June 4, 2017"dated June 8, 2017 (CRARAC 2017/06/08).

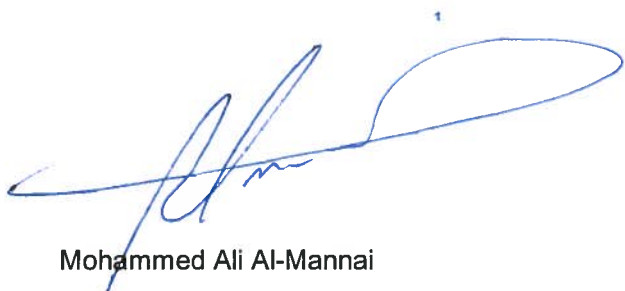
- 20.2 to provide to the CRA with detailed, legible and relevant network diagrams within five (5) working days from the date of this Order to allow the CRA to fully understand and assess the impact of the 'new network solution';
- 20.3 to close the pending issues hampering the closing of RAS 2015 and to propose an appropriate plan for the implementation of RAS 2016 within fifteen (15) working days from the date of the Order;
- 20.4 To meet with the the CRA in five (5) working days from the date of this Order to:
- (a) Answer any technical or cost related questions the CRA has regarding the Tariff of June 4, 2017;
 - (b) Outline in detail to the CRA information on the cost of the international connectivity;
 - (c) Discuss the network diagrams provided to the CRA related to the 'new network solution' and answer any questions the CRA has on these diagrams; and
 - (d) Agree on a plan to facilitate the closing of RAS 2015 and the implementation of RAS 2016.
21. Following the Order, Ooredoo and the CRA met on June 20, 2017.
22. During this meeting Ooredoo delivered a presentation including the cost and technical information required by the CRA and responded to CRA's questions on the technical solution implemented for providing the FBB services.
23. On June 21, 2017 (ref. Ooredoo letter OQ/Reg-4964/2017-06), the information presented in June 20, 2017 meeting were officially delivered to the CRA, along with an updated cost justification.
24. Further, Ooredoo agreed to close the RAS 2015 by mid-August 2017 and to meet the CRA the end of August 2017 to agree on the timeline to implement the RAS 2016 (ref. CRA letter CRA/RAC-E/070/2017, dated June 22, 2017).

5 Order

25. Following the various meeting and information submissions outlined above, the CRA is satisfied with Ooredoo cooperation into the investigation.
26. The information disclosed by Ooredoo to CRA combined with the independent sources of information found by the CRA in its investigation has lessen the competitive concerns raised by the CRA.
27. As a matter of fact, the audiovisual (AV) sector IPTV services are part of seems to be, at present, competitive with competing platform providing AV services to end-users and not exclusive content provision (as per Ooredoo's allegations).
28. On the costing side, Ooredoo's cost justification shows that the whole Broadband Platform has a positive margin (+22%). Regarding individual products, both the Voice

Only (+34%) and the Double Play (+36%) shows a positive margin, while the Triple Play has a negative margin of magnitude that is not of concern to the CRA (-1%).

29. The cost justification above is based on a standalone model, and not on costs sourced from Ooredoo's audited RAS. While the CRA is of the view that the assumptions and data used in the cost justification are credible, the CRA expects to see comparable costs in the audited RAS 2016.
30. In the light of the above, the CRA:
 - 30.1 Authorizes Ooredoo to launch the Consumer FBB and Business FBB packages under the conditions that the final RAS 2016 costs will support and justify the Business and Residential FBB Tariffs;
 - 30.2 Retain the right to instruct Ooredoo to revise the Business and Residential FBB Tariffs if the final RAS 2016 costs do not support and justify the tariffs;
 - 30.3 Will not approve the RAS 2016 if the costing models implemented for the cost justification of the Consumer FBB and Business FBB Tariffs are not used in the RAS 2016.
31. Ooredoo is required to submit the cost model used to determine the cost justification for the Business and Residential FBB Tariffs with the audited and approved RAS 2016 15 (fifteen) days after the CRA has issued the closure letter on RAS 2016.



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