



**Supreme Council for Information and Communications Technology  
(ictQATAR)**

**Public Consultation**

**DEFINITION OF RELEVANT MARKETS AND  
DESIGNATION OF DOMINANT SERVICE PROVIDERS  
IN THE STATE OF QATAR (**MDDD 2010**)**

27 October 2010

**The closing date for submissions is 4 December 2010.**

ICTRA 2010/10/26

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# 1 EXECUTIVE SUMMARY

This Consultation Document sets out the standards, methodology and process that the Supreme Council of Information and Communication Technology (“**ictQATAR**”) proposes to adopt for

- (1) Defining relevant markets,
- (2) Analyzing the defined relevant markets,
- (3) Assessing the degree of market power in those markets, and
- (4) Designating one or more Service Provider(s) (“**SP**”) as having a Dominant Position as a Dominant Service Provider (“**DSP**”) in each relevant market where the SP, individually or jointly with others, is found to exercise Significant Market Power (“**SMP**”).

For ease of reference, the framework of analysis comprising these four elements is referred to collectively herein as the Market Definition and Dominance Designation Review Process 2010 (“**MDDD 2010**”).

This Consultation Document (“**CD**”) is directed towards the SPs<sup>1</sup> and the interested public for comments. ictQATAR includes in this CD a set of *qualitative questions*. The consultation is supported by a *quantitative analysis* comprising a questionnaire (in MS Excel format), which is addressed to the SPs to enable ictQATAR’s quantitative analysis.

This process builds upon work already conducted by ictQATAR in 2008 (“**MDDD 2008**”), where 15 retail and wholesale markets were defined and Qatar Telecom (QTel) Q.S.C (“**QTel**”) was designated to be a DSP in all of those markets.<sup>2</sup>

The overall approach for the MDDD 2010 follows the process described in Figure 1 below. The steps of the process comprise the definition of markets, the analysis of defined markets and the determination of one or more SP of having a dominant position on one or more relevant markets. The obligations of a DSP are set out in the Applicable Regulatory Framework (“**ARF**”) <sup>3</sup> and either apply automatically or are imposed by ictQATAR.

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<sup>1</sup> The terms “Service Provider” and “Operator” denote the same type of activity in the market, the term “Service Provider” is used throughout this document.

<sup>2</sup> See <http://www.ictqatar.qa/output/page36.asp?docid={D8F5F720-25BD-4D5E-B281-3718C7F5530E}>

A comparison between the relevant markets defined in MDDD 2008 and the Baseline Markets of MDDD 2010 is included in section 4.1 Identified Baseline Markets in MDDD 2010.

<sup>3</sup> The ARF comprises the relevant legal provisions in Qatar, inter alia but not limited to the Telecommunications Law, the Telecommunications By-Law, the Licenses of the SP and any related regulations, rules, orders, notices, decisions, directions and instructions.



Figure 1: MDDD 2010 - Process

The methodology applied is defined in chapter 9 (Articles 40 to 47) of the Telecommunications Law 34 of 2006<sup>4</sup> (“**Telecommunications Law**”), Articles 72 to 76 (chapter 8) of the Executive By-Law for the Telecommunications Law 1 of 2009<sup>5</sup> (“**Telecommunications By-Law**”), as well as in Article 11 and in the relevant Annexures of the SP’s Licenses.

This methodology reflects international best practice, e.g. in neighbouring countries and in the European Union.

Relevant markets are identified based on a range of factors aimed at determining the scope of products and services that are reasonable substitutes for one another and, therefore, constitute a discrete market for the purposes of market and competition analysis. This includes defining the relevant product/service<sup>6</sup> markets and their geographic scope. ictQATAR defines product markets in particular in terms of supply and demand side substitutability, according to the following two main competitive constraints:

- (1) the extent to which it is possible for customers to substitute other services for those in question (demand-side substitution); and,
- (2) the extent to which suppliers could switch, or increase, production to supply the relevant products or services (supply-side substitution) following a price increase.

The proposed Baseline Markets for the MDDD 2010, again comprises a total of 14 markets, as in MDDD 2008. The main changes are that the two previously separated mobile markets (access and usage) have been merged into one market. A retail market for mobile broadband service has been created.

On the wholesale level the previously separated markets for International Gateway Facilities are now included in technology neutral “Wholesale physical network

<sup>4</sup> See [http://www.ictqatar.qa/files/elaw\(1\).pdf](http://www.ictqatar.qa/files/elaw(1).pdf)

<sup>5</sup> See [http://www.ictqatar.qa/files/images/The\\_Telecommunication\\_Executive\\_By-Law.pdf](http://www.ictqatar.qa/files/images/The_Telecommunication_Executive_By-Law.pdf)

<sup>6</sup> For the analysis at this stage the terms “product” and “service” have the same meaning.

infrastructure access” market. Furthermore, one new market has been defined as „Wholesale access to broadband services at fixed locations“

These Baseline Markets for MDDD 2010 are largely the same as in MDDD 2008 and are intended for comments and can be revised according to the results of the consultation process. The detailed market definition can be found in section 4.1 Identified Baseline Markets in MDDD 2010 on page 20. This section also included the detailed comparison of the proposed Baseline Markets in MDDD 2010 and the markets defined in MDDD 2008.

In determining whether Dominance (or SMP)<sup>7</sup> exists in a relevant market identified in accordance with the methodology described above, ictQATAR proposes to analyze the extent to which a SP, acting alone or jointly with others, is in a position to behave to an appreciable extent independently of customers or competitors. This proposition is international best practise for determining whether market power exists in a particular product or service market and whether a SP is enjoying a Dominant Position in this market.

In order to make such an assessment, it is necessary to determine the extent of market power in the relevant markets by evaluating the circumstances prevailing in the sector, including market information and evidence of past customer and supplier behaviour. The following criteria, in accordance with Article 72 of the Telecommunications By-Law, are relevant to determine a Dominant Position:<sup>8</sup>

- market share (and its development over time);
- absolute and relative size of the firm in the relevant market;
- degree of control of facilities and infrastructure that would be uneconomical for another person to develop to provide services in the relevant market;
- economies of scope and scale;
- countervailing buyer power including customer churn characteristics;
- current and potential competitive constraints;
- structural and strategic barriers to entry and expansion;
- other factors relevant to evaluating the existence of market power in a particular market including:
  - duplicability of infrastructure and
  - barriers to entry.

Once a SP is designated as a DSP in a certain market, the SP is obliged to comply with specific obligations set out in the ARF.

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<sup>7</sup> For purposes of the analysis in the MDDD process the terms "Significant Market Power" and "Dominance" have the same meaning.

<sup>8</sup> EC: "Commission Guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and service"; 2002/C 165/03 ("EC guidelines market analysis") and Article 72 By-Law.

Based on the background described in section 2 and the methodological approach outlined in section 3 below, ictQATAR has developed a list of baseline markets which it proposes to be analyzed to determine whether SMP exists on these markets based on the analysis undertaken in section 4.2.

ictQATAR invites comments to the questions contained in this CD on the methodological approach as well as on the list of baseline markets. ictQATAR will evaluate submissions and revise the list of markets based on the input on the quantitative and qualitative questions received. The process of commenting on this consultation is described in section 5 of this document.

Figure 2 below sets out the next steps of the MDDD 2010.

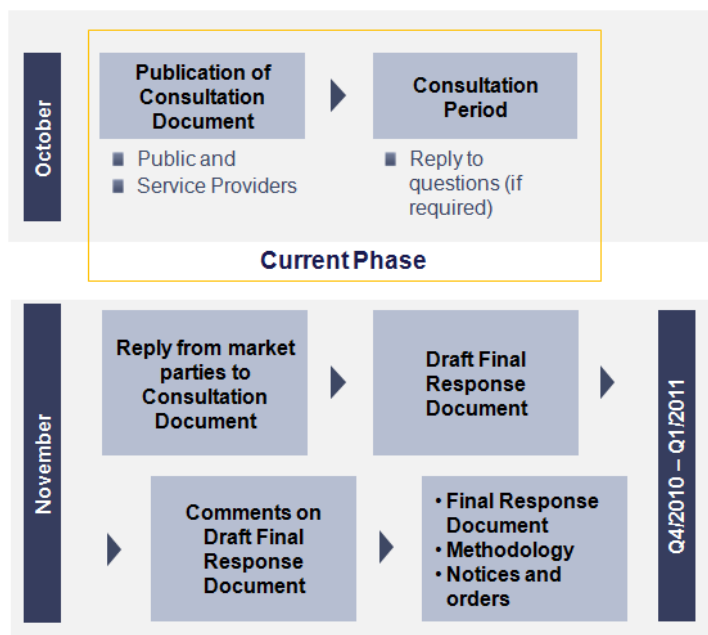


Figure 2: Overview of MDDD 2010

## 2 INTRODUCTION AND BACKGROUND

To maintain an open and transparent regulatory process, ictQATAR is initiating this public consultation to seek views and comments from SPs and interested parties on its proposed Process for MDDD 2010 in relevant telecommunications markets in the State of Qatar.

This process is occurring for the second time after 2008 when a first market definition, analysis and Dominance designation exercise was undertaken by ictQATAR<sup>9</sup>. In the MDDD 2008 ictQATAR defined seven retail and eight wholesale markets<sup>10</sup>. ictQATAR found that there was one single geographic market in the State of Qatar; a regional differentiation with geographic submarkets was not justified.

The designation of QTel as a DSP in these markets was based i.a. on the reasons, that QTel is the only SP in all markets, the absence of effective countervailing competitive force, that QTel can profit from considerable economies of scale and scope and that QTel is enjoying discretion in its production, provision and selling policies and significant barriers to entry in all those markets in which QTel is operating.

After more than one year of competition, and in light of the rapid developments in the telecommunications markets, ictQATAR believes it is now necessary to undertake a second round of MDDD in order to determine the relevant markets and the degree of market power in these markets at the current point in time.

This CD sets out the standards, methodology and process that ictQATAR proposes to adopt for

- (1) Defining relevant markets,
- (2) Analyzing the defined relevant markets,
- (3) Assessing the degree of market power in those markets, and
- (4) Designating one or more Service Provider(s) (“**SP**”) as having a Dominant Position as a Dominant Service Provider (“**DSP**”) in each relevant market where the SP, individually or jointly with others, is found to exercise Significant Market Power (“**SMP**”).

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<sup>9</sup> In this process ictQATAR published several documents, see e.g.

<http://www.ictqatar.qa/output/page36.asp?docid={1F1EFEAF-0F33-4704-A0EF-BD32EE683397}>,

<sup>10</sup> The retail markets defined were: (1) Access to public telecommunications network at a fixed location; (2) Access to public mobile telecommunications network via a mobile device; (3) Publicly available national telecommunication services provided at a fixed location; (4) Publicly available national telecommunications service provided via a mobile device; (5) Publicly available international telecommunications services; (6) Retail leased lines; (7) Broadband services. The wholesale markets were: (1) Call origination on public telecommunications networks at a fixed location; (2) Call termination on public telecommunications networks at a fixed location (for both the foregoing services this includes local call conveyance); (3) Transit services on public telecommunications networks (including international transit services); (4) Access and call origination on public mobile networks; (5) Call termination on individual public mobile networks; (6) Wholesale leased lines and associated services irrespective of the technology used to provide leased and dedicated capacity; (7) Access to and use of international gateway facilities and (8) Access to and use of networks of facilities for the supply of domestic and international service, as, but not limited to, access to and use of sites, towers, underground facilities etc.



The framework of analysis comprising these four elements is referred to collectively as the “Market Definition and Dominance Designation Process” (“**MDDD 2010**”). In this CD a list of **Baseline Markets** is defined which ictQATAR currently envisages as those markets which would be defined and subsequently analyzed with respect to potentially existing Dominance. This list may be altered as a result of the consultation process.

This CD describes the methodology for MDDD, it serves as a qualitative CD per se and sets forth ictQATAR’s application of the MDDD to the telecommunications sector in the State of Qatar. ictQATAR has developed the proposed MDDD in accordance with the Telecommunications Law, the provisions of the Telecommunications By-Law, the specifications of the Licenses for Public Fixed Telecommunications Networks and Services and Public Mobile Telecommunications Networks and Services of the SPs Qatar Telecom Q.S.C. (“**QTel**”) and Vodafone Qatar Q.S.C<sup>11</sup> (“**Vodafone**”).

The proposed MDDD 2010 is fully consistent with well-established international regulatory best practice for conducting competition analysis in the telecommunications sector as it builds on the same principles that are applied in other Gulf Council Countries (“**GCC**”) member states, as well as in the European Union (“**EU**”) and other relevant jurisdictions.

For the MDDD 2010 ictQATAR proposes the following Baseline Markets whereby the whole area of Qatar constitutes the geographically relevant market:

#### Retail markets

1. Access to public telecommunications networks at a fixed location;
2. Public national telecommunications services at a fixed location;
3. Public international telecommunications services at a fixed location and via a mobile device<sup>12</sup>;
4. Broadband services at a fixed location;
5. Retail leased lines<sup>13</sup>;
6. Public national telecommunications service via a mobile device<sup>14</sup>; and
7. Broadband services via a mobile device<sup>15</sup>.

#### Wholesale markets

1. Call Origination on public telecommunications networks at a fixed location<sup>16</sup>;
2. Call Termination on individual telecommunications networks at a fixed location<sup>17</sup>;
3. Wholesale physical network infrastructure access<sup>18</sup>;

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<sup>11</sup> See e.g. <http://www.ictqatar.qa/output/page36.asp?docid={53F73254-2C98-4476-8CF7-562247C814B9}>

<sup>12</sup> This is irrespective of the terminating network abroad, i.e. fixed or mobile.

<sup>13</sup> These leased lines represent dedicated connections and bandwidth.

<sup>14</sup> This includes but is not limited to voice, SMS, MMS, and video calling services. This market covers both access and usage.

<sup>15</sup> This includes data services which are not included in retail market no. 6 such as, but not limited to, broadband internet services.

<sup>16</sup> This includes e.g. local call conveyance, dial-up services, carrier selection, and carrier pre-selection.

<sup>17</sup> This includes e.g. local call conveyance.

4. Wholesale access to broadband services at fixed locations<sup>19</sup>;
5. Wholesale leased lines<sup>20</sup>;
6. Termination on individual mobile networks<sup>21</sup>; and
7. Access and call origination on public mobile networks.

The rationale for defining the Baseline Markets for MDDD 2010, with extensive comments and a comparison to the markets defined in MDDD 2008, is included in section 4.2 below. ictQATAR anticipates that once the retail and wholesale market analyses are completed and the Dominance Designation been made the Dominance Designations would continue to apply in the normal course for a period of up to two or three years, according to international best practice and depending on actual market development in the State of Qatar.

ictQATAR consults also with respect to topics that relate to the analytical aspects, such as the methodology for MDDD as well as the broader lines of market development in Qatar, which may impact the approach to MDDD. Due to comments received on this CD and to the quantitative questionnaire, the list of Relevant Markets defined may differ from the list of Baseline Markets, as defined in this CD.

This CD contains a number of qualitative questions on the approach to MDDD and the markets to be defined, which is further outlined in section 4. It is ictQATAR's policy to engage in evidence-based analysis where possible and to utilize the most reliable data available. Where accurate or complete information from the quantitative questionnaire is not available, proxies and reasonable estimates will be utilized, e.g. referring to published data, as quarterly financial information, of the SPs, international benchmarks etc. In the absence of sufficient data submitted by the SPs, ictQATAR will work with the assumption of Dominance at a market share of above 40% and assuming stable market conditions in the future.

Views and comments, on the fullest extent possible, on this CD are invited from industry participants, other stakeholders and interested parties. The process and deadline to file comments is explained in section 5.

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<sup>18</sup> This includes access to passive infrastructure in a technologically neutral manner for the supply of domestic and international telecommunications services, i.a. but not limited to: access to and use of network and facilities, such as ducts, dark fibre, copper, sites, towers, international gateway facilities and other facilities.

<sup>19</sup> This includes i.a. but not limited to bitstream access.

<sup>20</sup> This includes associated services irrespective of the technology used to provide leased or dedicated capacity.

<sup>21</sup> This includes i.a. but not limited to voice, SMS, MMS, video calls.

### **3 PROPOSED METHODOLOGY FOR MARKET DEFINITION, MARKET ANALYSIS AND DOMINANCE DESIGNATION**

The standards and methodology for defining relevant markets derives from the Telecommunications Law, from the Telecommunications By-Law and from international best practice.

#### **3.1 The approach in Qatar**

The Telecommunications Law explicitly provides for the designation of a DSP in Articles 23, 40, and 42, and for specific legal obligations to be imposed on DSPs including those relating to competition policy such as, but not limited to, Articles 40, 41, 42, 43, 44, and 46; interconnection and access such as Articles 18, 19, 23, 24, and 25; and tariffs such as Articles 27, 28, 29, 31, 32, and 33.

Dominance is additionally dealt with in the Executive By-Law in Chapter 8.<sup>22</sup> Article 72 refers to a methodological process, which explicitly contains a two step analysis:

- preliminary definition of relevant communications markets; and
- the examination of effective competition on those markets (assessment of Dominance).

Article 72 also contains criteria for assessing the degree of market power like market share, absolute and relative size of the firm in the relevant market, degree of control of the facilities and infrastructure and economies of scale and scope, absence of countervailing buying power, structural and strategic barriers to entry and expansion, any other factors. These criteria are similar to the European framework.<sup>23</sup>

Article 72 further provides that the methodology may also provide guidance on the parameters that will be used for measuring market share. ictQATAR may deem that an individual SP with a share of more than 40% of the relevant market is a DSP. Articles 73 to 85 of the Executive By-Law complete the legal and regulatory provisions regarding the procedure of market definition and analysis as well as the assessment of Dominance.

The majority of obligations which apply to DSPs, are pre-defined in the ARF and are triggered “automatically”. Additionally, ictQATAR may impose other obligations. An overview of these obligations is provided in Annex I Obligations of DSPs’.

Specifically, the Licenses issued to QTel and Vodafone for the provision of public fixed and mobile telecommunications networks and services contain specific obligations which implement provisions of the Telecommunications Law, e.g. Annexure F “Interconnection, access and wholesale services” contains basic

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<sup>22</sup> This definition of SMP in the Telecommunication’s By-Law is in practice identical to the contents of the Telecommunications Law. The only difference is the wording “position of economic strength” instead of “strong economic position”.

<sup>23</sup> Framework Directive - see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0021:EN:NOT>.

obligations regarding interconnection and access.<sup>24</sup> Annexure I addresses additional obligations of DSPs, which do not all apply automatically when a SP is designated as having a Dominant Position, but partly become applicable upon a decision by ictQATAR:

- Accounting and structural requirements obliging DSPs to undergo certain procedures regarding accounting and costing;
- Disclosure of network technical information; and
- Abuse of a Dominant Position.

## **3.2 International best practice for Market Definition and Dominance Designation**

The approach to Market Definition, Market Analysis and Dominance Designation follows the best practise (competition law) approach. This takes into consideration major criteria for defining markets according to the product specificities and the geographic scope and considers supply and demand side characteristics. This is followed by the analysis of the markets in quantitative and qualitative respect to determine whether Dominance exists. This finally results in the designation of a Dominant Position on one more Relevant Markets. The approach followed in Qatar's ARF is very similar to the EU, but also to an increasing extent in the neighbouring countries of the GCC and thus is in line with international best practice.

## **3.3 Market Definition – proposed analytical framework**

This chapter describes the proposed analytical framework for Market Definition.

### *3.3.1 Introduction*

The underlying methodology of market delineation is based on the ARF and economic principles in accordance with competition law principles. With respect to methodological aspects, the Hypothetical Monopolist Test (“**HMT**”) has become state of the art, and also part of the telecommunications framework.<sup>25</sup> Although direct empirical implementation is often limited in practice, the methodological framework serves as an important conceptual guideline.

The base case scenario describes a Hypothetical Monopolist (“**HM**”), which currently and in future only offers one product/service within a defined area. The HMT seeks to identify the narrowest possible market on a product layer.<sup>26</sup> If the HM would impose a small but significant and non-transitory increase in price (“**SSNIP**”), assuming that the prices of all other products remain constant, the question is whether customers can react adequately by switching to other products without having to accept huge efforts

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<sup>24</sup> The content of Annexure F is supported by Annexure J (transitional provisions) which deal with aspects in the first phase of competition in Qatar.

<sup>25</sup> This approach to market definition was introduced by the US Department of Justice (1982 Merger Guidelines, revised in 1992, 1997 and recently in 2010) and is currently being used by regulatory and antitrust authorities worldwide.

<sup>26</sup> Call termination markets (both fixed and mobile) constitute an exception in communications, since these relate (simultaneously) to the individual firm level.

and costs (SSNIP Test). If not, then the firm (HM) does not have sufficient market power to raise price. As a consequence, the next closest substitute is added to the initial (set of) product(s) and the HMT is applied again until the point is reached where a hypothetical monopolist could profitably impose a price increase. In the 'real world' a SSNIP is approximated by 5-10%.<sup>27</sup> The temporal element for market definition should reflect the periodicity and the forward-looking nature of the overall market analyses process. Typically, a time period of approximately two to three years is assumed to be appropriate.

The relevant market includes all those potential substitute products, which provide a significant competitive constraint on the initial products. When examining the competitive responses, it is not necessary that all consumers (or) producers are willing to switch, but only that enough of them would switch in response to the price increase.

Since direct empirical implementation of the HMT is strongly limited, the conceptual understanding of the factors influencing the outcome of the HMT receives a specific emphasis. ictQATAR suggests, that in principle, the HMT should guide the analysis of market definition alongside all relevant dimensions, which are described in sections 3.3.2 to 3.3.6 below.

### *3.3.2 Supply side factors*

Competitive forces stemming from the supply side are a vital element in market definition.

Some firms, already producing a similar product, might alter their production facilities and supply sufficiently homogeneous substitute products to consumers remaining in or re-entering a market.

From the consumers' perspective, it does not make a difference if potential substitutes pre-existed (prior to the initial price increase) or if they were supplied by firms operating near to the candidate market in response to the initial price increase. An economic market is therefore defined by consumer preferences and technology. Hence, supply side substitution might lead to broader market definitions including products that are at first not deemed to be interchangeable by consumers. In telecommunications markets this observation is an important one, since an isolated demand analysis could produce unreasonable and even meaningless results in many circumstances. Furthermore, not considering supply side substitution at the market definition stage might create an irreversible distortion. For instance, a finding of a significantly high market share (e.g. above 50%) due to a 'too narrow' market definition would usually be associated with a presumption of Dominance, which is unlikely to be broken at the stage of competition analysis.

Effective supply side substitution must be technologically feasible and economically viable, involving no additional investments with significant sunk cost within a relatively

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<sup>27</sup> The US Department of Justice refers to a 5% increase whereas the EU SMP-Guidelines (§ 40) refer to a 5-10% increase in price.

short period of time (typically up to two years). Supply side substitution is determined by both firms already in the market and potential new firms entering the market. Possession of assets allows redeploying these without incurring significant (sunk) costs. Obviously, this requirement is not restricted to the production (wholesale) level but applies likewise to the retail level, since supply side substitution would be ineffective if producers were not able to market their “substitute” products to consumers. It is obvious that supply side substitution will only be an effective constraint if consumers also regard the “potential” supply side substitute as sufficiently equivalent in light of the initial (set of) products, i.e. supply and demand side substitution have to interact. If producers manage to offer sufficiently homogenous products within a short period of time, consumers will prefer these products, whenever there is a price discount. As a result, supplied products that are perceived as heterogeneous before redeploying assets, most likely belong to the same economic market.

### *3.3.3 Demand side factors*

When the HM raises the price, some customers will reduce consumption or will choose not to purchase at all and drop out of the market. Demand side substitutability is determined by the extent to which customers of the relevant product under consideration would consider other (similar products) brands as an acceptable substitute. The closer the similarities from the consumer’s viewpoint, the more consumers will switch to the other products.

The following elements determine the extent of demand side substitutability:

- Number of “good” substitutes available at similar prices
- Income-elasticity of consumers
- Overall importance of good for consumers
- Transactions-/switching costs for consumers (demand side barriers)
- Durability of the good
- Regulatory environment

### *3.3.4 Relevant geographic markets*

In terms of geographic demand and supply side substitution, supply side substitution possibilities are more relevant than demand substitution possibilities. In markets where services depend on a fixed connection, as in most telecommunications markets, it seems very unlikely that a customer in a certain area would substitute supplies from outside the area in reaction to a price increase by a hypothetical monopolist in the area, unless he changes the location of consumption to a place outside the area. As the choice of residence of a certain customer is driven (if at all) only marginally by the price of telecommunications services this scenario does not seem to provide an effective demand side constraint on the hypothetical monopolist.

The demand of a customer is usually bound to a very limited area. In contrary, it is possible that supply side substitution will take place in response to a price increase by the hypothetical monopolist. However, in the absence of access regulation, entry in a telecommunications market in a certain area is only possible through rolling out infrastructure to that area. Only if this investment is non-significant and can be realised within a short period this would provide an effective supply side constraint on the hypothetical monopolist. If, on the other hand, homes were already connected with alternative infrastructure, a price increase could well be constrained due to demand and supply side substitution, which, however, would then have to be considered as product specific substitution (as opposed to geographical substitution). So, similar to the linkage between demand and supply side substitution, one can also observe a linkage between product and geographical dimensions.

The SMP-Guidelines of the EU put forth some more guidance on the assessment of substitution in different areas. With regard to the sector specific framework of communications the SMP-Guidelines make reference to two main criteria:

- the area covered by a network; and
- the existence of legal and other regulatory instruments.

However, assigning licences to specific areas should not automatically be tantamount with defining relevant geographic markets. This practice will define markets appropriately only in those cases where the licensed area corresponds to the underlying substitutabilities.

### *3.3.5 Relevant wholesale markets*

The scope of a wholesale market is, in addition to demand and supply side substitution at the wholesale level, also determined by demand and supply side substitution at the retail level, whenever different wholesale providers are linked to one another through retail markets.

The main difference between wholesale and retail markets is that wholesale products can belong to the same market, even in the absence of direct supply and demand side substitution on this wholesale level, as the downstream (retail) level sees the wholesale inputs as sufficient substitutes. The impact of the restrictions via the retail level on the wholesale market definition will in general be stronger the larger the demand elasticity at the retail level is, the more of a wholesale price change is passed on to the retail level and the larger the ratio of wholesale and retail price. This concept has then to be applied to the question under which circumstances internal sales should be included into the relevant wholesale market.

In particular, in communications wholesale markets, which are frequently characterized by high levels of internal supply, a correct assessment of market power may only be possible where this internal supply is taken into account at the stage of market definition (or competition analysis).

### 3.3.6 Fixed-mobile substitution (FMS)

In many countries the mobile sector is increasingly exerting competitive pressure on fixed voice telephony markets as well as on broadband services. Fixed-mobile substitution (“**FMS**”) is basically characterised by an opposing development of volumes in both sectors. In the mobile sector we can observe persistent growth in penetration levels and call minutes whereas fixed access lines and usage have been decreasing steadily for some years in OECD countries.<sup>28</sup> As market data and empirical evidence indicate that FMS differs in regard to different market segments, specific focus needs to be put on the various market segments.

From a purely technological (supply side) point of view FMS is unlikely. This is due to network characteristics, where inputs are not substitutable on a priori grounds (e.g. spectrum vs. fixed fibre networks).

Also from a demand side perspective, FMS is limited. This is due to different functional characteristics and QoS parameters on fixed and mobile networks. This is discussed in detail below in section 4.2. According to international experience, FMS has not **yet** materialised to an extent, which would generally allow the definition of common fixed and mobile markets.<sup>29</sup>

Question 1	Do respondents agree with ictQATAR’s proposal to refer to the HMT as a guiding theoretical principle to define Relevant Product Markets? If not, please suggest a reasoned alternative approach.
Question 2	Do respondents agree with ictQATAR’s analytical framework for defining products (i.e. supply side and demand side substitution) and geographic markets? If not, please suggest a reasoned alternative approach.
Question 3	How do respondents assess the current and future situation of FMS in Qatar? Please provide reasoning and relevant data if possible.

## 3.4 Dominance Designation – proposed analytical framework

### 3.4.1 Approach

The Telecommunications Law defines SMP as

*“the strong economic position of a service provider in the market that permits it to act independently of customers or competitors, or to dominate a market or markets related to specific telecommunications services, through acting either individually or jointly with others in accordance with the provisions of chapter 9 of this law”.*

The definition in the Executive By-Law is practically identical to the definition in the Telecommunications Law. These definitions contain core features of “acting

<sup>28</sup> See OECD – (2009), “Communications Outlook 2009”, available at: [http://www.oecd.org/-/document/44/0,3343,en\\_2649\\_34225\\_43435308\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/-/document/44/0,3343,en_2649_34225_43435308_1_1_1_1,00.html), figures 1.1, 3.2 and 3.6.

<sup>29</sup> Vogelsang, I. (2010), “The relationship between mobile and fixed-line communications: A survey”, in: Information Economics and Policy, Vol. 22, 4-17.



independently”, which are very similar to the definition used in the European SMP Guidelines “behave ... independently”:

*“... the operator has and will have, on the relevant market identified, sufficient market power to behave to an appreciable extent independently of competitors, customers, and ultimately consumers...”*<sup>30</sup>

### 3.4.2 Criteria for the measurement of effective competition

The Telecommunications Law and the Executive By-Law contain specifications concerning competition, but do not specifically set out criteria for an overall analytical framework.

For analyzing the effectiveness of competition, ictQATAR uses the usual industrial economics "Market Structure – Market Conduct – Market Performance Paradigm" (“SCP”) to form the central framework for the measurement of effective competition. Figure 3 to Figure 5 below show that all potentially relevant competition criteria are taken into account in this comprehensive and systematic model, where competition criteria and the functional outcome associated with effective competition are integrated.<sup>31</sup> Figure 3 to 5 show that all of the competition criteria in (1)-(7) of Article 72 Executive By-Law have already been taken into account in this comprehensive and systematic reference model.

The competition situation in individual markets and the specific relevance and importance of various competition indicators must always be assessed on a case-by-case basis. Ultimately, the overall empirical material available is to be interpreted and weighted on the basis of experiential knowledge (i.e. data) as well as economic theory. Decision-makers will have to assign priority to certain competition indicators in light of individual market conditions. Accordingly, Article 72 of the Executive By-Law assigns specific importance to the role of market shares in as much as in the absence of evidence to the contrary, may deem that an individual SP with a share of more than 40 percent of the relevant market is a DSP.

From an economic point of view the level of market shares might be a necessary condition for Dominance since the potential for contestability is rather of theoretical relevance in communications<sup>32</sup> and thus retains high relevance in any dominance analysis. Market share analysis will, if applicable, be complemented by basic forms of distribution figures and concentration ratios (such as Hirschman-Herfindahl Index; absolute and relative firm size).

<sup>30</sup> European Commission (2002), SMP Guidelines, Para 30, available at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52002XC0711\(02\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52002XC0711(02):EN:NOT)

<sup>31</sup> Figures 3-5 represent a compilation made of the more comprehensive presentation in Briglauer, W. (2004), “Generic reference model for the analysis of relevant communications markets: fundamental competition issues”, in: info, Vol. 6(2), 93-104, and Briglauer, W. (2007), “Market Analyses under the New European Communications Framework – Some Conceptual Issues”, in: Welfens, P.J.J., Weske, M. (eds.): Digital Economic Dynamics – Innovations, Networks and Regulations, Springer, 63-90.

<sup>32</sup> For an extensive critique see Martin, S. (2000), “The Theory of Contestable Markets”, Purdue University, retrieved from: <http://www.mgmt.purdue.edu/faculty/smartin/aie2/contestbk.pdf>. For a communications specific application see Briglauer, W., Reichinger, K. (2008), “Chances of Contestability in Communications – A Sector-Specific Application”, in: Intereconomics, Vol. 1, 51-64.

Market share cannot be seen as a sufficient indicator or in isolation. The simplicity of traditional market share analysis (based on critical threshold values) disappears the more markets deviate from static and monopolistic structures.

Article 72 of the Executive By-Law lists several competition criteria ((1)-(7)) which *may* be included for assessing the degree of market power in a relevant market. The EU SMP Guidelines list quite similar criteria taken from the decision making practice of European courts and the European Commission which are to be taken into particular consideration when evaluating Dominance (SMP Guidelines § 78 for "single dominance", § 97 for "collective (=joint) dominance"). A finding that a relevant market is effectively competitive is a determination that there is neither single nor joint dominance in that market.

Joint dominance is a potential element of regulation. An important aspect is to which degree a limited number of SPs coordinate measures amongst each other, which could be detrimental to the market and could be regarded as abusive. This may be a relevant issue in e.g. mobile retail markets. Based on the fact that there are now two mobile operators, and in light of the increase in the number of subscribers and the rise in penetration, these features cannot be seen as a guarantee of effective competition. With a limited figure of only two SPs in the retail market there can be options to effectively coordinate market behaviour, therefore a specific analysis of potential joint dominance will be undertaken.

The general framework of analysis in Figure 3 to Figure 5 shows a generic approach for the analysis of relevant competitive indicators, which not necessarily will have to be applied to all markets. Potential criteria for the measurement of effective competition, as depicted in the general framework of analysis in Figure 3 to Figure 5, have various levels of importance in various markets for measuring effective competition. For example: (a) The conduct strategy "price collusion" is potentially more important in oligopolistic (mobile) markets, whereas it is less important in fixed network markets with very dissimilar market shares and/or a larger number of participants. (b) In retail markets, advertising and marketing strategies are typically essential parameters of entrepreneurial action, while in wholesale markets these are usually seen as negligible activities. It is safe to assume that transparency of information in wholesale markets will generally be substantially higher than in downstream retail markets.

However, the need to apply the framework of analysis in its full depth will vary from market to market and the intensity of competition on those markets. With respect to the typical situation in Qatar, where QTel holds a quasi-monopolistic market position in many markets, the complexity of the overall dominance analysis might be reduced substantially. As outlined above, market shares could serve as a key indicator in such a case.

The following general framework of analysis (Figure 3 to Figure 5) shows a generic approach for the analysis of relevant competitive indicators.

<b>Market Structure</b>	<p><b>Competition indicators</b></p> <ul style="list-style-type: none"> <li>• <b>Number and distribution of providers</b> Development of market shares, concentration measures (HHI, based on revenues, minutes, subscribers, etc.; consolidation processes)</li> <li>• <b>Market entry and exit barriers</b> (supply-side barriers) (licenses, technology, product differentiation, etc.)</li> <li>• <b>Horizontal and vertical interrelationships among input and retail markets</b></li> </ul> <p>...</p>
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Figure 3: Market Structure

<b>Market Conduct</b>	<p><b>Competition indicators</b></p> <ul style="list-style-type: none"> <li>• <b>Pricing policy</b> (current rate situation, development of rates in reference period, relation to relevant costs, strategic pricing, reference to interconnection fees (where applicable), bundling strategies, pricing strategies influenced by regulation)</li> <li>• <b>Collusion</b></li> <li>• <b>Quality-based competition</b></li> <li>• <b>Investment</b></li> <li>• <b>Advertising and marketing – product differentiation</b></li> <li>• <b>Distribution policy</b></li> <li>• <b>R&amp;D – innovation activities</b></li> </ul> <p>...</p>
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Figure 4: Market Conduct

<b>Market Performance</b>	<p><b>Competition indicators (primarily) from a consumers' perspective:</b></p> <ul style="list-style-type: none"> <li>• International benchmarking for e.g. prices</li> <li>• Existence of demand-side barriers</li> <li>• Innovation, quality and product variety</li> <li>• Infrastructure and quality</li> <li>• Information for customers / market transparency</li> </ul> <p>...</p> <p><b>Competition indicators (primarily) from the enterprises' perspective:</b></p> <ul style="list-style-type: none"> <li>• <b>Performance parameters</b> (rate of return, Price-Cost-Margins – static (allocation and technical) efficiency, etc.)</li> </ul> <p>...</p>
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Figure 5: Market Performance

**Question 4** Respondents are invited to provide reasoned comments on the proposed competition analysis criteria and on the framework methodology for determining a Dominant Position.

## 4 DEFINING THE BASELINE MARKETS

### 4.1 Identified Baseline Markets in MDDD 2010

For ease of reference in the following sections of the CD, ictQATAR includes the list of Baseline Markets for MDDD 2010 below. The details of deriving these Baseline Markets are outlined in section 4.2 further below. These Baseline Markets are intended for comments and can be revised according to the results of the consultation process.

With respect to geographic markets the whole area of Qatar is regarded as one geographic market.

#### List of Baseline Markets for MDDD 2010

ictQATAR proposes the following list of Baseline Markets for MDDD 2010:

##### Retail markets

1. Access to public telecommunications networks at a fixed location;
2. Public national telecommunications services at a fixed location;
3. Public international telecommunications services at a fixed location and via a mobile device<sup>33</sup>;
4. Broadband services at a fixed location;
5. Retail leased lines<sup>34</sup>;
6. Public national telecommunications service via a mobile device<sup>35</sup>; and
7. Broadband services via a mobile device<sup>36</sup>

##### Wholesale markets

1. Call Origination on public telecommunications networks at a fixed location<sup>37</sup>;
2. Call Termination on individual public telecommunications networks at a fixed location<sup>38</sup>;
3. Wholesale physical network infrastructure access<sup>39</sup>;
4. Wholesale access to broadband services at fixed locations<sup>40</sup>;
5. Wholesale leased lines<sup>41</sup>;
6. Termination on individual public mobile networks<sup>42</sup>; and
7. Access and call origination on public mobile networks

The definition of these markets includes all ancillary services that are provided as an adjunct to or in support of these services, such as but not limited to access to

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<sup>33</sup> This is irrespective of the terminating network abroad, i.e. fixed or mobile.

<sup>34</sup> For dedicated connections and bandwidth.

<sup>35</sup> This includes but is not limited to voice, SMS, MMS, and video calling services. This market covers both access and usage.

<sup>36</sup> This includes data services which are not included in retail market no. 6 such as, but not limited to, broadband internet services

<sup>37</sup> This includes e.g. local call conveyance, dial-up services, carrier selection, and carrier pre-selection.

<sup>38</sup> This includes e.g. local call conveyance.

<sup>39</sup> This includes access to passive infrastructure in a technologically neutral manner for the supply of domestic and international telecommunications services, i.a. but not limited to: access to and use of network and facilities, such as ducts, dark fibre, copper, sites, towers, international gateway facilities and other facilities.

<sup>40</sup> This includes i.a. but not limited to bitstream access.

<sup>41</sup> This includes associated services irrespective of the technology used to provide leased or dedicated capacity.

<sup>42</sup> This includes i.a. but not limited to voice, SMS, MMS, video calls.

mediation hooks, access to OSS/BSS, databases, relevant network information, collocation space, access to facilities, joining links etc.

**Question 5** Is the proposed list of Baseline Markets appropriate in the context of telecommunications markets in the State of Qatar at the present time? If not, please provide reasoned alternative suggestions.

### **List of Relevant Markets defined in MDDD 2008**

In MDDD 2008 ictQATAR defined 15 Relevant Markets (7 retail and 8 wholesale markets).

#### Retail markets:

- 1) Access to public telecommunications network at a fixed location;
- 2) Access to public mobile telecommunications network via a mobile device;
- 3) Publicly available national telecommunication services provided at a fixed location;
- 4) Publicly available national telecommunications service provided via a mobile device;
- 5) Publicly available international telecommunications services;
- 6) Retail leased lines;
- 7) Broadband services.

#### Wholesale markets

1. Call origination on public telecommunications networks at a fixed location;
2. Call termination on public telecommunications networks at a fixed location (for both the foregoing services this includes local call conveyance);
3. Transit services on public telecommunications networks (including international transit services);
4. Access and call origination on public mobile networks;
5. Call termination on individual public mobile networks;
6. Wholesale leased lines and associated services irrespective of the technology used to provide leased and dedicated capacity;
7. Access to and use of international gateway facilities and
8. Access to and use of networks of facilities for the supply of domestic and international service, as, but not limited to, access to and use of sites, towers, underground facilities etc

## **Comparison of the list Baseline Markets MDDD 2010 and the defined Relevant Markets in MDDD 2008**

The proposed Baseline Markets for the MDDD 2010 again comprises a total of 14 markets of which 7 are retail and 7 are wholesale markets, which are largely identical. The changes are the following:

### **Retail:**

- The previously separated markets no. 2 (Access to the public mobile telecommunications network via a mobile device) and no. 4 (Publicly available national telecommunications services provided via a mobile device) have been merged into one market. This market thus covers both access and usage. This market includes but is not limited to voice, SMS, MMS, and video calling services.
- A market for broadband service via a mobile device has been included.

### **Wholesale:**

- The previously separated markets no. 7 (Access to and use of International Gateway Facilities) and no. 8 (Access to and use of Network and Facilities for the supply of domestic and international services, as, but not limited to, access to and use of sites, towers, underground facilities) are included in the market entitled "Wholesale physical network infrastructure access". This market now encompasses: access to passive infrastructure in a technologically neutral manner for the supply of domestic and international telecommunications services, including but not limited to: access to and use of network and facilities, such as ducts, dark fibre, copper, sites, towers, international gateway facilities and other facilities.
- Furthermore, one new market has been defined as 'Wholesale access to broadband services at fixed locations'; and
- The market for transit services on public telecommunications networks has been excluded

## **Relationship of retail and wholesale markets in MDDD 2010**

The following figures show the logical interdependence of Baseline Markets alongside the value chain. Figure 6<sup>43</sup> describes the retail markets for national and international calls and the corresponding wholesale inputs required.

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<sup>43</sup> Figure 6 demonstrates that for both retail markets products from 4 wholesale markets are needed whereas the retail market for international calls additionally requires origination at a mobile device as a wholesale product.

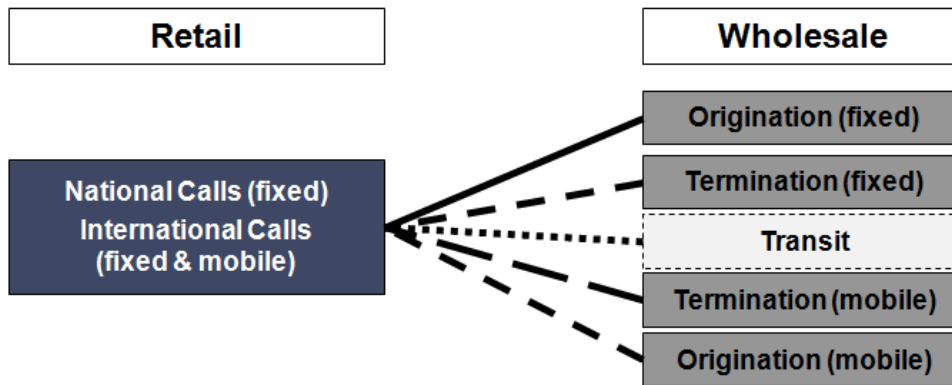


Figure 6: Relationship between retail markets for call services and corresponding wholesale markets

Figure 7 contains the same relationship for mobile retail services and the corresponding wholesale markets whereas Figure 8 displays the retail markets for narrowband access, broadband services and Leased Lines and the corresponding wholesale inputs respectively.

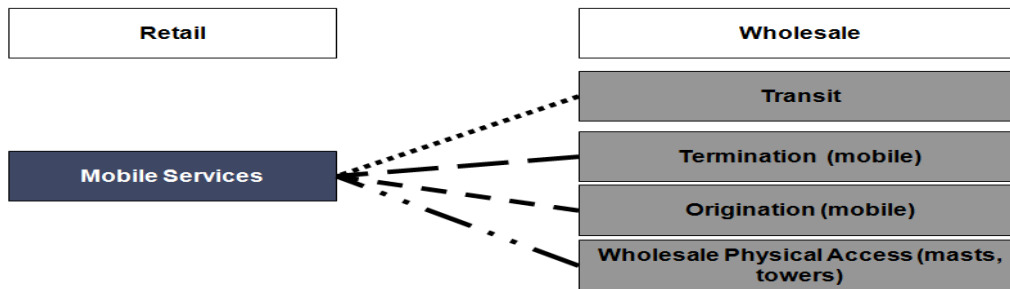


Figure 7: Relationship between retail markets for mobile services and corresponding wholesale markets

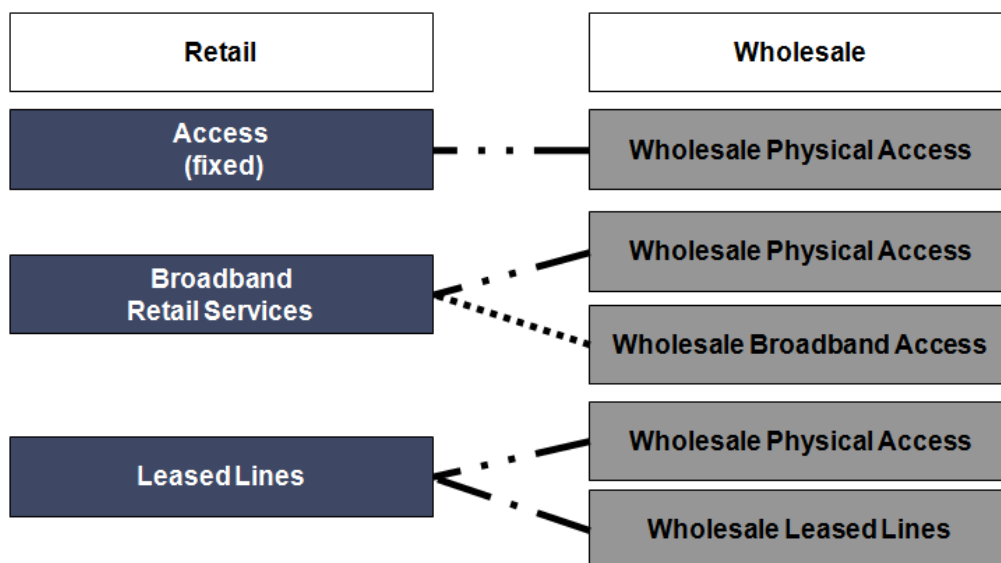


Figure 8: Relationship between retail markets for narrowband access, broadband retail services, Leased Lines and corresponding wholesale markets

## 4.2 Identifying the Baseline Market Clusters for review

This section applies the methodological approach outlined in section 3 to specify potential retail and wholesale markets (“Baseline Markets”). According to best international practice, ictQATAR distinguishes the following Baseline Market Clusters, which are useful to structure the discussion of Baseline Markets:

- Baseline Market Clusters 1: Public telecommunications services at a fixed location
- Baseline Market Clusters 2: Leased Lines
- Baseline Market Clusters 3: Public telecommunications services by means of a mobile device

These Baseline Market Clusters are discussed in the following sections.

### 4.2.1 *Baseline Market Cluster 1: Public telecommunications services at a fixed location*

Regarding fixed network voice telephony markets all remarks that follow refer to the specifics of the market situation in Qatar, where QTel still holds close to 100% of market share in all relevant retail and wholesale markets. Although a second license was issued to Vodafone in April 2010, the fixed network operation of Vodafone is yet to become fully operational. With respect to broadband services, Vodafone started to offer such services at the Pearl Qatar only recently.



### 4.2.1.1 Retail markets

#### **User Groups (residential and business)**

Retail markets could, in principle, be divided into residential and business segments. Indeed, marketing strategies and market standards typically differ significantly between these segments. For instance, whereas residential consumers have to choose among standardized tariff options, business consumers might negotiate on individual terms. Due to huge differences in consumptions levels (total connections and / or average usage) tariff structures (including discounts) will also differ substantially. All these distinguishing characteristics reduce the potential of demand side-substitution.

However, with respect to supply side substitutability, a HM of one segment might be disciplined by a provider active in the other segment simply by rededicating production capacities. In technical terms, especially, access lines may be likewise retailed to both segments. Additionally, the market situation in Qatar is characterized by a monopoly of the same operator in both segments. Accordingly, the hypothetical (and real) monopolist will rationally maximize joint profits of both segments taking overall production capacities into consideration.<sup>44</sup> From this viewpoint, a disaggregated (segment specific) market approach would appear inappropriate.

Finally, such retail market segmentation appears to be neither necessary nor feasible with respect to potential (wholesale) obligations (since corresponding wholesale services would be typically the same in both market segments). Whereas such a distinction is potentially feasible on the retail level,<sup>45</sup> residential and non-residential customer segments cannot be implemented on the wholesale level or could lead to immediate arbitrage processes.

Question 6 Do respondents agree that a further differentiation into residential and business customers is not warranted at this point in time? Please provide an answer for the fixed and the mobile sectors separately and supply evidence if possible.

#### **Access services at fixed location**

##### ***Access vs. Calls***

Although access and national calls to other fixed numbers are sold by the only active SP, QTel, as a bundled offering, there are clear indications that the markets for access and calls are separate:

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<sup>44</sup> In case of single profit maximization, a single product hypothetical monopolist in most cases would have significantly higher costs than actual multi-product firms, since several components of the network are used for several services (e.g. national and international calls for business and residential users, broadband internet and TV). The stand-alone costs of a particular service therefore are very likely to be above the (competitive) price on the market which would result into negative price cost margins if such an approach is applied. This clearly makes no sense which leads to the conclusion that rather a multi-product hypothetical monopolist should be considered (see Briglauer/Schwarz (2009), p. 13).

<sup>45</sup> In case of Qatar registration is necessary for business products, whereas residential customers can not buy a business product. Also, regulators might decide to segment markets according to different technical types / features of access lines (such as PSTN, ISDN2, ISDN30). However, a differentiated regulation as regards retail segments does not seem to be of any relevance given the respective monopoly market structures in Qatar.

ictQATAR anticipates that consumers could in future be able to obtain access from one supplier and selected call services, such as international calls on specific routes, from another supplier. Some end-users may prefer to purchase both access and outgoing calls from the same supplier, many others may choose alternatives to the one providing access (and the reception of calls) in order to make some or all of their outgoing calls. Introducing competition by means of ex ante regulation could be either due to forms of service-based competition (such as simple reselling or carrier (pre-) selection via contractual or pre-paid means) or due to forms of more infrastructure-based competition (such as local loop unbundling activities). In such cases, a supplier (hypothetical monopolist) that attempted to raise the price of outgoing calls above the competitive level by 5-10% would potentially face the prospect of end-users substituting to alternative SPs. End-users could relatively easily choose alternative suppliers with low transactions costs.

Although the current market situation in Qatar does not exhibit such business cases of alternative operators, the forward looking nature of the HMT, in principle, allows to take into account such potential market developments. Therefore, it is adequate to identify separate retail markets for access and calls (including related services).

**Question 7** Do respondents agree that defining separate markets for access and services at a fixed location is appropriate? If not, please provide appropriate reasoning.

### *Product level*

All fixed access services via copper and fibre appear to be of relevance due to potentials of demand side substitutability. In case of an increase of the price of one of these infrastructure components, (e.g. copper wire) a significant share of customers could probably switch to other infrastructure products since these basically allow offering very similar retail services. Indeed, services offered via these infrastructures are typically regarded from consumers as fully homogenous services, as the consumer will not realize the underlying technological standards/differences. All these access paths are used merely indistinguishable to deliver and receive voice telephony and/or potentially for dial-up (narrowband) internet access to subscribers.<sup>46</sup> The same consideration applies to managed Voice over IP services (“**VoIP**”), which allows for QoS parameters. Unmanaged VoIP services, such as VoIP clients (e.g. Skype)”, are not deemed to be of relevance, both, on empirical grounds as well as because of significant functional differences (most notably, accessibility) underlying. Also unmanaged VoIP services have lower quality as transport typically is provided on a best effort basis on the internet.

**Question 8** Do respondents agree that only managed VoIP services are part of the relevant market?

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<sup>46</sup> Narrowband Dial-up is defined here as a metered service where the customer pays a variable charge per month based on specific usage of the internet. This includes customers who have a subscription with an internet Service Provider and those customers who do not have a subscription to an internet Service Provider. Alternatively, a narrowband Flat-rate Internet subscription is a service where the customer pays a flat monthly fee for a defined (or unlimited) number of hours of dial-up Internet access.

Question 9 Do respondents agree on these product definitions? Are there e.g. currently narrowband voice access services offered to a non-negligible scale on any other infrastructure basis in Qatar? Please provide quantitative evidence if this is the case.

### ***Fixed-mobile substitution (“FMS”)***

Mobile access also enables consumers to receive and make phone calls. However, there are distinct and separate markets for access for fixed and mobile networks.

Firstly, differences in the functional dimensions (demand and supply side characteristics) of fixed and mobile access exist. The mobile phone is a personal device whereas a fixed phone and its number are normally used by a number of (household) end users. Furthermore with a mobile phone the customer has the liberty to place and receive calls virtually worldwide.

In terms of functional differences, mobile services still exhibit some shortcomings in the quality of the service when compared to fixed connections, e.g. calls dropped or transmission quality. Consumers value fixed connections, as they enable high speed access to the internet. On the other hand, mobiles offer some other comparative benefits such as SMS / MMS services. Due to such underlying complementarities substitutability (FMS) appears to be very limited.

Empirically, an indicator of FMS would be an opposing development of volumes in fixed and mobile, as an indicator for underlying substitutabilities. Looking at the Qatari market data, ictQATAR cannot see such an opposing development. According to QTel’s Quarterly Report 2009 Q1 / 2010 Q1, wireline revenues were continuously increasing during the last two years. The mobile customer base (both pre-paid and post-paid) experienced significant growth rates in 2008-2010, whereas wireless revenues experienced a downward movement in 2009. Overall, this aggregated market data provides an indication that there is no reasonable evidence for common fixed-mobile markets but rather support for the above argumentation pattern.

Question 10 Do respondents agree that FMS is not sufficient to define a common fixed and mobile market for access and national services? If not, please provide an alternative definition and the accompanying evidence.

### **National services at a fixed location**

National services include all national calls originating from fixed access networks in Qatar, including managed broadband VoIP (=Voice over Broadband (“VoB”)) and narrowband dial-up internet).

### ***Product level***

In communications markets, final goods are often offered as bundles of several services. With respect to the relevant product level of national call services, the following products (call destinations) appear to be of relevance on a priori grounds and in line with international practice such as the EU framework:

- calls to fixed lines,

- calls to mobile devices, and
- calls originated for dial-up internet services.

This is due to the potentials of demand and supply side substitutability: Demand side substitutability is only realistic regarding the service relation in the first two bullets. Supply side substitution, however, has substantial relevance with respect to all call destinations mentioned above.

Based on available evidence, ictQATAR is of the view that there are no relevant substitutes in the market for national services at a fixed location to the services listed above. ictQATAR is also of the view, that a finer granulated market definition is not warranted.

Question 11 Do respondents agree on the relevant products of the market for national services at a fixed location (i) calls to fixed lines, ii) calls to mobile devices, and iii) calls originated for dial-up internet services)?

### ***Fixed-mobile substitution (FMS)***

ictQATAR has considered whether to define a single market for national calls that would include both mobile and fixed calls. ictQATAR holds the view that the market situation does not warrant this for reasons as outlined above and as listed below:

As currently offered by QTel, the charge for calls is bundled with the charge for access. Thus, price comparison should be primarily focused on bundled prices. Data provided by a Teligen report<sup>47</sup> suggests that there are still significant price differences between relevant fixed and mobile price bundles. Existing price differences between bundles rendering demand side substitution even more unlikely.

Furthermore, there are also significant differences in the pricing structures of fixed and mobile national calls. Mobile pre-paid consumers pay the same amount for all national calls, whether mobile-to-mobile or mobile-to-fixed. For a fixed telephone user, the charges vary depending on whether the call is terminated on a fixed or a mobile network. Specifically, fixed users pay no incremental charge for fixed-to-fixed national calls, but must pay for calls to the mobile network.

Finally, fixed and mobile services have fundamentally different service and functional characteristics. Mobile services provide customers with the ability to make calls from, and receive calls at, any location, whereas the fixed service may only be used at a designated location. It appears that customers continue to perceive this service and functional distinction as a significant differentiating factor.

As there are significant differences in price and usage patterns at national calls level, as well as different service characteristics, ictQATAR has concluded that fixed calls and mobile calls in the national market fall into two separate relevant markets. Indeed,

<sup>47</sup> Teligen Strategy Analytics (2010), "Telecommunications Price Benchmarking for Arab Countries", Report from the AREGNET Price Benchmarking Study, August 2010.

most other jurisdictions continue to define these services as separate markets for purposes of competition analysis.<sup>48</sup>

**Public International telecommunications services at a fixed location and via a mobile device**

ictQATAR considers that international calls terminating *on* fixed and mobile terminals *abroad* are substitutes for one another and are, therefore, a single market. Expatriates, which form a large share of Qatar’s population, exhibit highly elastic demand and are thus very sensitive to price changes, irrespective of whether international calls are made from a fixed or a mobile access. Accordingly, high price competition eliminated substantial price differences for international calls. Therefore, it can be presumed that international calls at a fixed location and at a mobile device constitute a common market.

The consideration of the markets for access, national call services and international call services in fixed and mobile markets lead to the following conclusion as regards the delineation of markets.

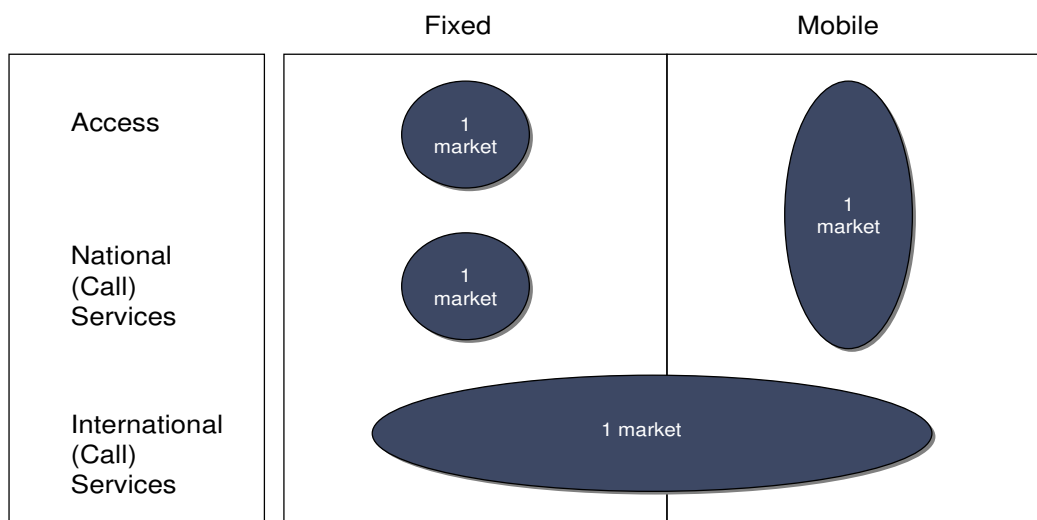


Figure 9: Access and call (services) market at fixed locations and at a mobile device.

**Question 12** Do respondents agree with the conclusions of ictQATAR regarding the access and call services markets?

**Question 13** As regards the international calls market, one also has to consider business models based on calling cards, telephone shops, dial-in telephone service of relevance next to traditional voice telephony

<sup>48</sup> See for instance the current market recommendation of the European Commission (European Commission (2007), “Draft Commission Recommendation On Relevant Product and Service Markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services”, second edition, Brussels).

services provided at fixed locations. Do respondents agree that these telephony products will probably be of considerable relevance for the market for international calls given the specific characteristics in Qatar? Do respondents envisage any other potentially relevant business models for international voice telephony? If so, please provide appropriate evidence. Do respondents agree that the aforementioned international telephony products will probably be of rather limited relevance for the market of national calls? Do respondents envisage any calling card services offered by an alternative provider in Qatar? If so, please provide appropriate evidence.

### **Broadband services at a fixed location**

Broadband services can be provided in a technologically neutral manner through copper, fibre and fixed-wireless solutions, e.g. WiMAX. As shown below, ictQATAR believes that broadband services, which are predominantly offered via xDSL, address different customer segments and have distinct service characteristics from Leased Lines which are addressed in section 4.2.2

Broadband access markets have gained in importance significantly over the last years, as they transmit ever larger amounts of data. The increased use of broadband for a mix of communications services has created potentially wide-ranging retail markets for broadband services at fixed locations.

#### ***Customer Segment: Business vs. Residential***

The principle arguments outlined in section 4.2.1.1 above regarding customer segmentation applies here as well. ictQATAR is aware of the fact that there are distinct xDSL products for business users which are not filtered. However, this is not deemed to be sufficient to constitute a separate broadband market. Hence, ictQATAR sees no reason to define separate markets according to different customer segments.

Question 14 Do respondents agree that the residential and business broadband services are offered in the same market?

#### ***Product level – Bandwidth***

In general, there are the following commonly available forms of Internet access (i) dial-up service, (ii) higher bandwidth services using digital subscriber line (xDSL) technologies, (iii) cable modems<sup>49</sup>, (iv) higher bandwidth services using digital fibre optic access lines and (v) dedicated access in form of Leased Lines.

Obviously, the most important market segments are access via DSL based on copper. In Qatar, as in many other markets, the dial up approach could phase out over time whereas the fibre optic access so far has not been implemented on a broad scale nationally. In a press release of 8 September 2010<sup>50</sup> QTel announced a Fibre-to-the-Home (“**FTTH**”) rollout for the coming two years which is to be dealt with in this MDDD process.

<sup>49</sup> Cable modems are disregarded in the sequel.

<sup>50</sup> <http://www.qtel.qa/NewsFull.do?News=27121> (retrieved 18 September 2010).



The main difference between the technologies in the markets from an end user perspective is the bandwidth and the customer premises equipment. Regarding bandwidth, there is demand side substitutability, because if the price for one bandwidth offer is altered, the end users will consider switching to another bandwidth offer. Also on the supply side there is substitutability with regard to bandwidth because the same access lines (copper or fiber), the same routers and transmission technology can be used to offer different kinds of bandwidths to a certain extent.

However, given the market situation in Qatar with two fixed SPs of which one has not yet fully started its activities on a national scale, the potential to switch suppliers is unlikely to become relevant for all the territory of Qatar available until the end of this market review.

As opposed to broadband internet, narrowband services are characterized by significantly lower bandwidth and slower data transmission speeds (including their uplink and downlink speed) which are the most important quality features. Dial-up does also not display 'always-on' functionalities and thus is an inferior substitute for the majority of consumers. Therefore, broadband services do not encompass dial-up internet access. However, narrowband dial-up access is an element of the market for "Call origination on public telecommunications networks at a fixed location", as discussed in section 4.2.1.2.

It could be debated whether Leased Lines form a substitute on the broadband service market. If one were to assume this, one would have to consider that the Leased Line offering is targeted entirely to certain business customers due to large amount of traffic volume required for economic viability. Furthermore, Leased Lines exhibit different functional characteristics of demand (i.e. do not include the connectivity to the internet) which also limits overall substitutability. Therefore ictQATAR suggests that dedicated Leased Lines do not fall into the same market as "broadband services; but form a distinct separate market. Leased Lines are discussed in section 4.2.2 below.

Question 15 Do respondents agree with ictQATAR's definition of (i) a distinct broadband services market which excludes narrowband services and (ii) a distinct Leased Line market? If not please provide reasoning and give an alternative definition.

### ***Fixed-mobile substitution ("FMS")***

Mobile broadband access is already facilitated by existing mobile technologies GPRS, EDGE, UMTS und HSxPA. With new technologies such as LTE, the speed experienced by the end-user is developing towards speed for fixed broadband services. However, LTE is just being rolled out in a few countries and real experience is lacking.

As broadband services provided from a mobile device are not yet available with similar speed and quality as for broadband services provided at a fixed location, mobile broadband can today not be regarded as a relevant substitute. The following graph shows the major differences between wireless and fixed broadband and shows

that the corresponding products are not substitutable and therefore distinct fixed and mobile broadband markets need to be defined.

<i>wireless BB</i>	<i>category</i>	<i>fixed BB</i>
✓✓✓	<b>mobility</b> (‘while moving’)	×
✓✓(✓)	<b>coverage</b> (‘anywhere’)	(✓)
(✓)	<b>speed</b> (+ other technical features)	✓✓✓
✓✓✓	<b>“personal”</b>	(✓)
✓✓✓	<b>“location based usage”</b>	×
×	<b>service end-user price</b>	✓✓✓

Figure 10: Capabilities of Mobile Broadband and Fixed Broadband<sup>51</sup>

Question 16 The degree of supply of internet and broadband services will also depend on the capabilities of the networks in Qatar and whether up-to-date fixed and mobile technologies will be deployed. Please provide quantitative and qualitative information as to foreseen changes in the network structure which will impact the way customers have fixed (e.g. coax, fibre) and mobile (e.g. LTE) internet access and the technical capabilities of that access.

#### 4.2.1.2 Wholesale Markets

Although wholesale market definition is, from a conceptual point of view, not much different from retail market definition, there are some additional factors which have to be taken into account. These are: i) the role of retail markets for wholesale market definition; and, ii) the question of whether internally supplied goods should be part of the relevant market or not.

The scope of a wholesale market is, in addition to demand and supply side substitution at the wholesale level, also determined by demand and supply side substitution at the retail level, whenever different wholesale providers are linked to one another through retail markets. To enter the market a SP requires a set of wholesale products for access and services.

#### **Interconnection Services (Origination, Termination, Transit)**

Fixed voice telephony end-user markets typically require the following wholesale inputs:

- Call Origination
- Transit services
- Call Termination.

<sup>51</sup> Niepold, R.: The Digital Agenda for Europe: Policy and Regulatory Perspectives, presentation Vienna 13 September 2010.



At the retail level, a distinction has been made between access and (outgoing) calls. With respect to call services, the essential wholesale elements required to produce such services are call origination, call conveyance/transit of varying kinds and call termination. Related elements include signaling and the ancillary services needed, for example, for billing purposes. A SP that supplies retail telephone services could purchase these inputs separately or together (external supply), or produce all of them by constructing an extensive network (internal self supply), or purchase some and produce others.

Wholesale products can be easily identified in competitive or regulated wholesale markets. Wholesale products are less well-known and, therefore, wholesale markets might appear to be a far-fetched construct. However, communications wholesale markets – such as Qatari fixed voice telephony wholesale markets – are frequently characterized by high levels of internal supply (up to 100% in case of monopoly). Accordingly, a correct assessment of market power may only be possible where this internal supply is taken into account at the stage of market definition (competition analysis). QTel is already supplying the various components (= wholesale services/products) to itself. Wholesale markets and related wholesale services thus exist now even in the absence of competition.

In order to reach a consistent market delineation, the wholesale inputs (origination, transit, termination) have to be understood as additive, without any overlaps, so that the sum of the three markets represents 100% of the interconnection services.

### ***Fixed Call Origination***

One direct alternative (substitute) to the purchase of call origination is to establish an access network (copper, fibre, wireless connection etc.) to the end-user location. Another alternative is to purchase or rent an established network connection to the end-user's location (e.g. through local loop unbundling in case such ex ante obligations would exist on regulated terms). Both alternatives entail considerable time and investment, a large proportion of which are sunk. QTel being the national DSP still continues to enjoy, as regards the local access network, absolute cost advantages due to economies of scale, scope and density. The market for fixed call origination consequently continues to exhibit high and non-transitory barriers to entry. Both the development of alternative access networks and the degree of local loop unbundling remain, for the time being, rather vague or limited.

Internal (on-net) as well as external traffic (off-net) is a relevant part of origination and has to be included, as exclusion of internal traffic would eliminate a large proportion of the traffic and would render the market definition meaningless.

The relevant market identified for the purpose of this market definition process is call origination on public telecommunications networks at a fixed location. In accordance with the aforementioned definition of the relevant fixed voice telephony retail markets the relevant wholesale origination market is considered to comprise call origination for telephone calls and for the purpose of accessing dial-up internet service provision. Also, with respect to the relevant product/infrastructure level, all relevant direct retail access services are comprised by the corresponding wholesale origination market.

### ***Fixed Termination***

Termination is a wholesale service provided by each access network provider in which incoming traffic, from another service provider, is terminated. Call termination is the least replicable element in the series of inputs required to provide retail call services. Wholesale call termination is required in order to terminate calls to called locations or subscribers. Call termination arrangements may comprise call conveyance.

Narrowly defined individual call termination markets would yield the common result according to which call termination by a single provider would be a relevant market in itself. In considering whether this definition is appropriate, it is necessary to examine the possibilities for demand and supply substitution that might constrain the setting of termination charges on a given network. If all (or at least a substantial number of) fixed locations or subscribers in a given geographical area were connected by two or more networks, then alternative possibilities would exist for terminating calls to given locations. Due to quasi-monopolistic access structures in Qatar, as the licensing of the second fixed line operator in Qatar yet has not had any substantial impact on the market, this is obviously not the case.

Call termination charges might be potentially constrained via demand substitution. Currently, there is no potential for demand substitution at the wholesale level within the current 'calling party pays' regime. As the called party is not billed for the incoming call, it is generally indifferent to the charges set by its network provider and is unlikely to switch to another provider in response to a hypothetical price increase. Alternatives such as call-back arrangements, FMS, or alternative communications platforms (email, voicemail, paging) are generally deemed to be insufficient to constrain a monopolist of network termination services. Rather each market for call termination on an individual fixed network is a monopolistic market with no tendency towards effective competition, where end-users are unable to determine the terminating network. Due to the market structure in Qatar, Dominance of QTel can by no means be expected to be limited sufficiently by countervailing buyer power of alternative SPs.

In case of Qatar where QTel owns the entire access network all wholesale termination (and origination) traffic at fixed locations is internal. Therefore, exclusion of internal traffic would lead to a meaningless economic market definition. Internal (as well as external) traffic is a relevant part of termination (origination).

In light of this, ictQATAR proposes the relevant market to be "call termination on individual telecommunications networks at a fixed location". The relevant individual termination markets comprise all corresponding services and infrastructures at the retail level.

### ***Transit Services***

Transit services carry traffic between different networks or between zones within the same network. Transit services cannot be considered origination or termination as described above but they can be an element of origination and termination.

Given the simple geographic structure in Qatar and the fact, that both SP (necessarily) interconnect directly, ictQATAR does not see the need to define a transit market at this stage.

Question 17 Do respondents agree with ictQatar’s definition of the fixed interconnection markets? Do you agree that there is no need to define a transit market at this stage? Please provide comments and evidence on each of the markets separately.

### **Wholesale access markets**

In order for broadband services to be supplied to an end-user at a fixed location, a transmission channel is required, that is capable of passing data in both directions and at rates that are appropriate for the service demanded.<sup>52</sup> Therefore, any SP offering services to end-users needs to deploy or obtain access to a transmission channel to the end-customer locations that are served.

The wholesale markets relevant for the defined retail markets in section 4.2.1 are physical access to networks and facilities in a technologically neutral manner (e.g. via “unbundled access” including “shared access”), a data access in the form of managed transport such as e.g. with “bitstream access”, “wholesale access to passive infrastructure (“ducts”, “dark fibre”, etc.) to support the other access products, and “access to and use of international gateway facilities”.

In order to provide broadband services to end-user, a competitor can pursue different business models. A SP could e.g. offer broadband services by either using Unbundled Local Loops, or by using Bitstream Access. These wholesale products vary with respect to the elements of the value chain that are provided by the access seeker himself and the extent of management of network elements by the SP. For the realization of the retail broadband service, complementary passive infrastructure elements may be required additionally by the access seeker. The following figure illustrates the differences.

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<sup>52</sup> For completeness, wholesale access services may also be used as an input to supply narrowband voice services to retail customers (e.g. by means of unbundling of the local loop). The service of origination for narrowband dial-up internet access has already been addressed in section 4.2.1.2.

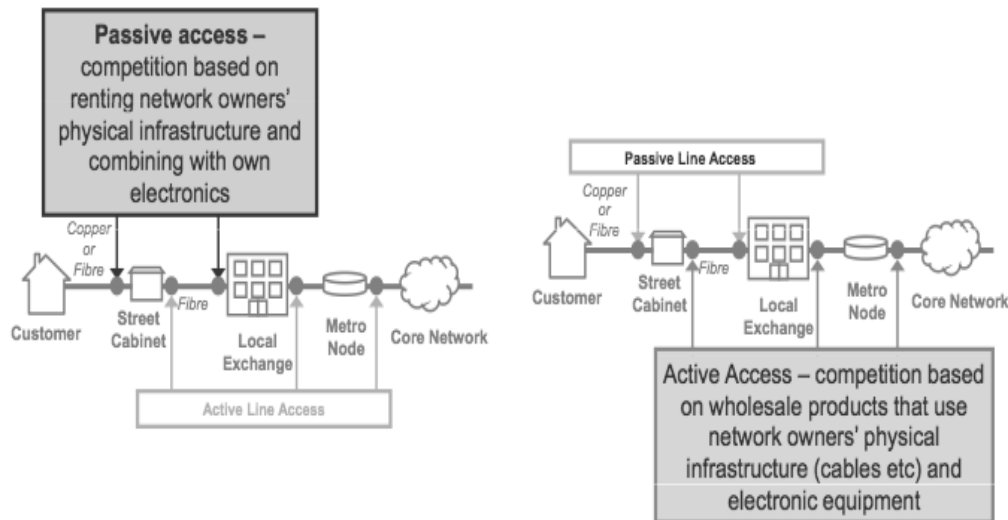


Figure 11: Active and passive wholesale products<sup>53</sup>

Unbundled Local Loops grant access to a specific customer access line which is operated by a competitor. The different wholesale products require a different amount of investment by the access seeker and have different characteristics in terms of traffic handover. Unbundled local loops are a “passive element” which give the competitor a large degree of freedom with respect to service differentiation.

Bitstream Access is a wholesale service granting access to “active network components” relying to some extent on technology and network management of the network owner (e.g. regarding quality of service, bandwidth etc.) as the competitor receives a managed bitstream but also deploys technology at layer 2 or layer 3 (ATM-, IP or Ethernet Bitstream) himself. The access seeker has fewer possibilities to differentiate his service with respect to quality compared to ULL.

There are substantial differences in the level of investment required by an access seeker, the services potentially to be offered and differentiation in terms of services variety and quality. A bitstream access product does not give the competitor the same potential as an Unbundled Local Loop. In terms of the ladder of investment, bitstream access is on a lower level, which has advantages (less investment required, lower economies of scale and scope may be sufficient for a viable business case) and disadvantages (less possibilities to differentiate, dependency on technology of DSP). Thus, unbundled local loops and bitstream access are not substitutable. This is also confirmed by the approach in e.g. EU countries, where these two products are assigned to different markets.<sup>54</sup> Wholesale access at fixed locations is typically either

<sup>53</sup> See OFCOM: Next Generation Competitive Broadband – From LLU to ALA; Presentation OFCOM 2. March 2009.

<sup>54</sup> The Explanatory Document to the EU Recommendation on Relevant Product and Service Markets (2007) explains this as follows: “The question then arises whether, in addition to unbundled local access (or its equivalent), the market for wholesale broadband access constitutes a distinct market and, if so, whether it should be identified as being susceptible to ex ante regulation. An operator using unbundled local loops (or an equivalent infrastructure-based input) would not normally consider wholesale broadband access to be a substitute even if the service provided by the wholesale broadband access provider allowed the supply of the same retail services that were provided over the unbundled loops. However, the propensity to switch between the two inputs could be expected to depend on the relative price and other terms (such as contract length), and on factors such as the two noted above, i.e. the location of access, and the latitude that the input confers in

based on copper networks or on fibre. As first deployments of fibre will become visible in the foreseeable future in Qatar<sup>55</sup>, fibre is regarded as a relevant substitute given the forward looking character of the MDDD.

**Question 18** Do respondents agree that the differentiation between passive and active wholesale products is useful to delineate markets?

To establish the access seeker's infrastructure which is to connect to the SP granting access also complementary access and services are required. This applies specifically to passive network elements. Civil infrastructure, as e.g. ducts, is currently not offered by QTel as a wholesale product. For a competitive SP the main cost for implementing the access infrastructure is the costs for civil works<sup>56</sup> and if passive network elements are not available on a wholesale basis the costs for deploying such infrastructure on its own represent a significant barrier to entry. Lowering these costs reduces the bottleneck character in the access networks. However, as the market share of the existing SP will remain high, e.g. nearly 100 % and competition problems will remain relevant for the foreseeable future.

Passive infrastructure comprises those elements which are required to deploy telecommunications networks but which themselves do not contain active electronic equipment. Depending on the architecture of the network this may encompass ducts and sub-ducts, the use of facilities such as street-cabinets, manholes, handholes or dark fibre.<sup>57</sup> The concrete elements and products which are relevant for this market depend to a certain degree on the specific circumstances of the market and the network design of the SP.

Passive infrastructure elements<sup>58</sup> are not substitutes for bitstream access, however, they are a necessary complementary facility for unbundled local loops, and are needed additionally in order for the access seeker to establish his business.

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supplying a range of different retail products. Once an operator has invested in local loop unbundling, its preparedness to switch to wholesale broadband access could also depend on the investments that it has already made and whether they can easily be adapted or reversed. Likewise, it is questionable whether an entrant using wholesale broadband access to deliver retail broadband services to the final user market could easily switch to using unbundled local loops to provide an equivalent service. From a demand perspective, a retail provider using wholesale broadband access will only consider unbundled local loops a substitute if it has all the other network elements needed to self-provide an equivalent wholesale service. The supply substitution possibilities depend on the same condition. Therefore, unbundled local loops and wholesale broadband access constitute distinct markets" (p. 33)

<sup>55</sup> <http://www.qtel.qa/NewsFull.do?News=27121> (retrieved 18 September 2010)

<sup>56</sup> For an example from Sweden see PTS, Dark Fibre – market and state of competition, 2008, p. 30 and 36. Figures about the percentage of costs applying to the civil work vary between different sources, e.g. "around 70%", see OFCOM\_Regulatory challenges posed by next generation access networks (Public discussion)\_November 2006; "50% to 80% of total Cost", see ARCEP\_Next Generation access networks and net-neutrality (Gabrielle Gauthey)\_November 2006; "...somewhere between 60 and 77 % of the total cost", see Eurescom\_P1651 Fibre in Access Networks Greenfield Scenarios\_January 2007; "For an FTTH/GPON network, the proportion of total costs taken up in street works is 75%, and for an FTTH/PTP network the proportion is almost 80% ", see Caio Report\_Broadband UK – Action now for long term competitiveness\_September 2008; " 50 % to 80 % " CENELEC\_Fibre optic access to en-user – A guideline to building of FTTH fibre optic network\_October 2007

<sup>57</sup> Dark fibre refers to the pure infrastructure of a fibre cable without any electronic equipment attached which would "light" the fibre.

<sup>58</sup> These elements are "passive" as they consist of either civil works activities, access to passive elements such as ducts, street-cabinets etc. or to unbundled loops.

Networks and facilities also encompass access to passive network elements of mobile SPs such as masts and towers. Access to these facilities is required as a complementary wholesale input to provide mobile retail services and due to the high costs of deploying this infrastructure, cannot be replicated by potential access seekers. The reason is that access is the most expensive part of the mobile networks and that the cost for access networks, especially the CAPEX part, creates barriers to enter the market.

The market definition proposed in this context is rather broad as the Wholesale Physical Network Infrastructure Access Market comprises many elements. International comparison shows that there is a trend to define markets in this manner and also to use the term proposed by ictQATAR. Defining a generic wholesale access market thus is fully in line with current international best practice, see e.g. the trend in the UK and in Jordan. In Jordan, this market also encompasses ducts and poles, however not tower and masts. Also international gateways are usually a separate market in other countries – in the EU this is the case because international gateways do not constitute a competitive problem. The EU explicitly enlarged its “Wholesale (physical) network infrastructure access market” in the last revision of its market recommendation. At the same time, the more service-based “Wholesale broadband access market” still constitutes a separate wholesale market.<sup>59</sup>

Question 19 Do respondents agree on the product level definition of the wholesale access markets? If not, please provide evidence for deviating opinions? Do respondents consider the availability of passive infrastructure access such as ducts, facilities etc. necessary to overcome certain competitive problems?

### **Geographic submarkets**

With respect to all markets outlined above, the aspect of the geographical dimension needs to be discussed. The HMT principally applies equally well for geographic market delineation and has been outlined in section 3.3.4. In case of Qatar one observes sufficiently homogenous supply conditions with regard to: i) the area covered by a network; ii) the existence of legal and other regulatory instruments; and, iii) the competitive environment. This clearly indicates that it is most adequate to define relevant retail and wholesale markets on a nationwide basis. Accordingly, ictQATAR is of the view that, based on the available evidence, there are no other relevant geographical submarkets as regards public telecommunications services provided at a fixed location.

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<sup>59</sup> See for the current market recommendation of the European Commission (European Commission (2007), “Draft Commission Recommendation On Relevant Product and Service Markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services”, second edition, Brussels).

#### 4.2.1.3 Defined Baseline Markets in this Cluster 1 Public telecommunications services at a fixed location

Taken into account the above considerations, ictQATAR includes the following markets related to public telecommunications services at a fixed location in the list of Baseline Markets:

##### Retail level

- Access to public telecommunications networks at a fixed location;
- Public national telecommunications services at a fixed location;
- Public international telecommunications services at a fixed location and via a mobile device<sup>60</sup>;
- Broadband services at a fixed location

##### Wholesale level

- Call Origination on public telecommunications networks at a fixed location;
- Call Termination on individual telecommunications networks at a fixed location;
- Wholesale physical network infrastructure access;
- Wholesale access to broadband services at fixed locations

#### 4.2.2 *Baseline Market Cluster 2: Leased lines*

##### 4.2.2.1 Retail and wholesale markets<sup>61</sup>

The markets for Leased Lines are based on the same fixed telecommunications networks as the markets dealt with in section 4.2.1. Leased Lines refer to dedicated transmission between two or more specified end user locations. Opposed to voice services, Leased Lines are only including the connections to predefined locations, but do not include switching of the traffic to various locations. Leased Lines and broadband services do not constitute substitutes due to factors such as bandwidth, target audience and QoS parameters, outlined in section 4.2.1 above.

Leased Lines are either provided directly to end users as retail lines or provided to SPs, which in turn provide the connections and capacity to their end users. Therefore, it is possible to define corresponding retail and wholesale markets. The network infrastructure allows providing a large differentiation in bandwidths without any significant costs of redeploying assets. Likewise, from a demand perspective, customers have high flexibility and a broad choice of different products, so ictQATAR sees no reason to separate markets according to bandwidth.

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<sup>60</sup> ictQATAR sees FMS as sufficiently relevant and therefore, the “common” market is listed here.

<sup>61</sup> As will be demonstrated retail and wholesale markets encompass the same product in principle and therefore, the differentiation between retail and wholesale is not being undertaken in this case.

Consequently, ictQATAR suggests to define one retail market and one wholesale market for Leased Lines.

With respect to the considerations regarding geographic submarkets, ictQATAR is of the view that the same characteristics and findings apply as outlined in section 4.2.1.1 and, hence, geographic sub-market definition is not required.

#### 4.2.2.2 Defined Baseline Markets in this Cluster 2: Leased lines

Taking into account the above considerations, ictQATAR includes the following markets related to Leased Lines in the list of Baseline Markets:

##### Retail level

- Retail leased lines

##### Wholesale level

- Wholesale leased lines<sup>62</sup>

Question 20 Do respondents agree with ictQATAR's definition of the retail and wholesale markets for Leased Lines? If not, please provide an alternative definition and relevant evidence.

#### 4.2.3 *Baseline Market Cluster 3: Public telecommunications services provided via a mobile device*

Services provided via a mobile device are defined as a separate market from services provided at a fixed location with respect to access and national calls. For general aspects of Fixed Mobile Substitution see section 3.3.6. The markets for services provided via a mobile device are defined and analysed below.

##### 4.2.3.1 Retail markets

The mobile markets can be defined according to the user groups (residential and business), the product level (international versus national), the usage/services (access vs. calls), as well as technological differences.

##### **User Groups**

The question arises, whether residential and business customers are in the same market. A differentiation takes place based on the design of the products and tariff options that are offered to these user groups. However, this is the same as for access and services at a fixed location (see 4.2.1.1), so ictQATAR foresees no differentiation between business and residential users.

##### **Product Level**

The end users are typically buying “functional basic packages” including termination, origination for national and international calls. From an end-user’s point of view SMS,

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<sup>62</sup> This includes associated services irrespective of the technology used to provide leased or dedicated capacity.



MMS and video calls are also elements of these “functional basic packages”. The end users typically buy access and services within the same packages<sup>63</sup>. ictQATAR suggests to define thus one market for access and national services for those “functional packages”.

With respect to international calls and in line with the discussion regarding FMS in section 4.2.1.1, international calls constitute a separate market. As demonstrated above, this international calls market includes services originated at a fixed location and at a mobile device.

The product level can also be differentiated according to national services and mobile broadband. Mobile broadband services require additional network equipment as well as internet connectivity, and partially also other end user devices with typically enhanced capabilities. Therefore mobile broadband is not a substitute for mobile national services from a supply side perspective. As a conclusion, there is no or only a limited supply side substitutability.

### **Technology perspective and FMS**

A technology neutral regulation does not differ between technologies, if these all provide the same or comparable end user services and the suppliers can switch technology. Modern mobile devices typically use GSM and/or UMTS.

Market developments, also due to technological progress, show that bandwidths in mobile networks are rapidly increasing (from GPRS to EDGE to UMTS to HSxPA towards LTE). Although LTE is not yet implemented, the forward looking character of this MDDD requires considering this technology as relevant.

When compared to broadband services provided at a fixed location, mobile broadband still shows inferior QoS parameters as regards speed and availability (see section 4.2.3.1). Therefore ictQATAR suggests, that “Broadband Services via a mobile device” constitute a separate market from “Public national telecommunication service via a mobile device”.

Question 21 Do respondents agree with ictQATAR’s definition of the retail markets for public telecommunications services provided via a mobile device?

Question 22 Do you consider national and international calling card products to be in separate markets? If yes, what would the markets be and how would they be defined? If no, what market would include calling card products? What are the implications for service providers?

### **4.2.3.2 Related wholesale markets**

#### **Interconnection Services (Origination, Termination)**

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<sup>63</sup> See e.g. the products of Qtel at <http://www.qtel.qa/Mobiles.do?prodtype=1> (retrieved 18 September 2010)

Voice telephony end-user markets via a mobile device typically require the following wholesale inputs (in line with international best practice such as the EU framework):

- Call Origination
- Call Termination

The principle characteristics of the interconnection services have already been outlined in the section 4.2.1.2 for services provided at fixed locations.

### **Mobile Termination**

Mobile termination is a wholesale service provided by each subscriber network operator in which incoming traffic is carried from a hand-over switch to the termination point in the mobile network. Mobile call termination is the least replicable element in the series of inputs required to provide call services. As outlined in section 4.2.1.2, termination services constitute a relevant product market for each individual network irrespective of the service (voice call, SMS, MMS, video call).

### **Mobile Access and Call Origination**

On the retail level, access and call origination via a mobile device are part of a bundled product. Accordingly, on the wholesale side, spectrum allocated to the SPs represents the resource by which access and call origination can be supplied. This implies that a product bundle on the retail side is mirrored by a technological bundle on the wholesale side.

In the absence of the issuance of additional Mobile Licenses, further competition can only be introduced if wholesale access and call origination is made available through regulatory measures (e.g. MVNO).

The definition for mobile access comprises all services included in the bundles provided to the end users by the SP.

Therefore ictQATAR proposed to define two markets on the mobile wholesale level, which are (i) Mobile Termination and (ii) Mobile Access and Call Origination

Question 23 Do respondents agree with ictQATAR's definition of the wholesale markets for public telecommunications services provided via a mobile device?

## Geographic submarkets

Given QTel's and Vodafone's rollout obligations and as they cover nearly 100% of the whole territory in Qatar, ictQATAR does not foresee the need to introduce geographic submarkets at this point in time.

### 4.2.3.3 Defined Baseline Markets in this Cluster

Taking into account the above considerations, ictQATAR includes the following markets for public telecommunications services provided via a mobile device in the list of Baseline Markets:

#### Retail level

- Public national telecommunications service via a mobile device<sup>64</sup>
- Broadband services via a mobile device

#### Wholesale level

- Termination on individual mobile networks<sup>65</sup>
- Access and call origination on public mobile networks

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<sup>64</sup> This includes but is not limited to voice, SMS, MMS, and video calling services. This market covers both access and usage. However, public international telecommunications services via a mobile device are not included here, but considered as a relevant product in section 4.2.1.1.

<sup>65</sup> This includes i.a. but is not limited to voice, SMS, MMS, video calls.

## **5 INSTRUCTIONS FOR RESPONDING TO THIS CONSULTATION**

### **5.1 Consultation Procedures**

All interested parties are invited to submit responses to the questions specifically identified in this document 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.

ictQATAR asks that, to the extent possible, submissions be supported by examples or relevant evidence. Any submissions received in response to this consultation will be carefully considered by ictQATAR when progressing in the MDDD 2010. Nothing included in this consultation document is final or binding. However, ictQATAR is under no obligation to adopt or implement any comments or proposals submitted.

Communications with ictQATAR concerning this consultation must be submitted in writing by no later than 3:00 p.m. (local time in the State of Qatar) **on 4 December 2010**. Comments should be submitted by email to [rschnepfleitner@ict.gov.qa](mailto:rschnepfleitner@ict.gov.qa). The subject reference in the email should be stated as "Market Definition and Dominance Designation 2010". It is not necessary to provide a hard copy in addition to the soft copy sent by email.

### **5.2 Publication of Comments**

In the interests of transparency and public accountability, ictQATAR intends to publish the submissions to this consultation on its website at [www.ictqatar.qa](http://www.ictqatar.qa). All submissions will be processed and treated as non-confidential unless confidential treatment of all or parts of a response has been requested.

While ictQATAR will endeavor to respect the wishes of respondents, in all instances the decision to publish responses in full, in part or not at all remains at the sole discretion of ictQATAR. By making submissions to ictQATAR in this consultation, respondents will be deemed to have waived all copyright that may apply to intellectual property contained therein.

For more clarification concerning the consultation process, please contact Dr. Rainer Schnepfleitner, Manager Policy and Regulatory Affairs, [rschnepfleitner@ict.gov.qa](mailto:rschnepfleitner@ict.gov.qa).

## 6 Annex I Obligations of DSPs

The following tables contain obligations, or remedies, which apply either automatically or when they are imposed by ictQATAR on DSPs. These tables are for information purposes only.

### Specific obligations that apply “automatically” to DSPs from the provisions in the ARF

Telecommunications Law	Telecommunications Executive By-Law	Service Providers' Licenses
<p>Granting of interconnection and access to access seekers on a non-discriminatory basis (Art. 18 para 3 in combination with Art.24)</p> <p>Meeting requests regarding interconnection and access which relate to DSP's charges or calculation of costs or the requirements of accounting separation (Art. 18 para 8)</p>	<p>Requirements for interconnection and access agreements (Art. 49):</p> <p>(1) Non-discriminatory treatment of other SPs regarding interconnection or facilities access;</p> <p>(2) Provision of interconnection and facilities access to all SPs under substantially the same conditions and quality as DSP provides for own service provision;</p> <p>(3) Making available all necessary or reasonably required information for interconnection or facilities access;</p> <p>(4) Use of information received from a SP seeking interconnection or facilities access only for the purposes for which it was supplied (Art. 49)</p>	<p>Provision of facilities and services to wholesale customers in accordance with the pricing, interconnection, access collocation, site sharing, roaming, way-leave, coordination, quality of service and other obligations prescribed by the applicable regulatory framework (Art. 11)</p>
<p>Meeting requests for interconnection and access to telecommunications network whenever it is technically possible. Application of non-discriminatory treatment of access seekers. (Art. 24)</p>	<p>Preparation, update and publication of a reference offer for interconnection (Art. 51)</p>	<p>Tariff approval procedures (Article 3, Annexure D)</p>
<p>Submission of Tariff offers and prior approval (Article 28)</p>	<p>Filing of interconnection agreements to ictQATAR (Art. 52)</p>	<p>DSP have to ensure compliance with relevant provisions of Annexure I (Art. 11)</p>
<p>No excessive fees (Art. 29)</p>	<p>Dominant SPs are prohibited from undertaking any activities or actions that abuse their dominant position (Art. 75)</p>	<p>Provision of reference interconnection offer (Annexure F)</p>
<p>No application of tariffs not approved (Art. 31)</p>		<p>Disclosure of Network Technical Information (Annexure I, Nr. 2)</p>
<p>No abuse of Market Power / Dominance (Art 41) Prohibition of abuse of Market Power / Dominance by (1) failing to supply interconnection or access services or facilities to other SPs within a reasonable</p>		<p>DSP have to observe the general prohibition to act in abusive manner regarding the dominant position:</p> <ul style="list-style-type: none"> <li>• avoid exclusionary conduct.</li> <li>• forebear from tying if it</li> </ul>

Telecommunications Law	Telecommunications Executive By-Law	Service Providers' Licenses
<p>period of time ; (2) unjustified discrimination; (3) unjustified bundling; (4) providing an offer on more preferential terms and conditions and in a manner not based on differences in costs so that the competing SP acquires another service that it does not want to acquire; (5) monopolising the use of scarce facilities and resources; (6) supplying competitive telecommunications services at prices below regulated cost standards; (7) cross-subsidization; (8) failure to comply with interconnection obligations; (9) performing any actions that have the effect of substantially lessening competition in any telecommunications market (Art. 43)</p>		<p>leads to an abuse of a dominant position.</p> <ul style="list-style-type: none"> <li>• avoid anti-competitive discounts</li> <li>• refrain from anti-competitive refusals to deal.</li> <li>• avoid predatory pricing.</li> <li>• avoid cross-subsidisation.</li> <li>• avoid price-squeezing and predatory network alteration.</li> </ul> <p>(Annexure I, Nr. 3.4)</p>
<p>Prohibition of unjustified discrimination (Art. 44)</p>		

Table 1: Obligations, which apply automatically to DSPs

The table below contains those obligations which may be imposed additionally by ictQATAR upon DSPs.

**Obligations, which can be imposed by ictQATAR**

Telecommunications Law	Telecommunications Executive By-Law	Service Providers' Licenses
<p>Determining additional obligations regarding interconnection and access, applicable to dominant service Providers (Art. 19 para 6)</p>	<p>Fulfilment of requirements with respect to offering inter-connection and access (Art. 49)</p>	<p>Obligatory procedures as regards accounting and costing with respect to</p> <ul style="list-style-type: none"> <li>• Cost studies</li> <li>• Independent auditor</li> <li>• Accounting procedures</li> <li>• Accounting separation procedures</li> </ul> <p>(Annexure I, 1.2.5.)</p>
<p>Any requirement 1. relating to obtaining the prior approval regarding inter-connection and access charges, or relating to calculation of costs or accounting separation; 2. relating to the preparation and contents of an interconnection reference offer; and 3. relating to submission and publication of interconnection and access agreements. (Article 25 No. 1-3)</p>	<p>Tariff approval of interconnection charges and implementation of certain interconnection tariffs (Art. 50)</p>	

Telecommunications Law	Telecommunications Executive By-Law	Service Providers' Licenses
Tariff regulation (Article 27)	Interconnection and facilities access charges to be cost based (rules to be set by ictQATAR - Art. 50)	
Submission of tariff offers and prior approval (Article 28) <sup>66</sup>	Compliance with rules and orders pricing on costing and cost separation requirements (Art. 50)	
Decisions along with justifications to amend the tariffs where DSP's tariffs not being in line with the cost of the service provision (Article 29)	Approval of reference offer (Art. 51); direction of amendments of reference interconnection offer (Art. 51), prepare / implement reference interconnection offer if not provided by DSP (Art. 51)	
Preparation or participation in the preparation of a cost study of DSP's telecommunications services (Art. 32)	Publication of interconnection agreements on website (Art. 52)	
Adopt accounting practices (Art. 33)	Tariff approval (Art. 56)	
Determination whether the conduct of any of the SPs constitutes an abuse of market power or dominance or any anti-competitive conduct and taking appropriate measures (Art. 41)	Preparation or participation in the development of a cost study of telecommunications services. Preparation or participation in the development of a cost study for the purpose of determining the costs of providing different types of telecommunications services or the business activities of the SP (Art. 59)	
Remedies for anti-competitive practices (Art. 46): (1) obliging the concerned persons to cease the actions or activities causing such practice; (2) obliging the concerned SPs to submit periodic reports to the General Secretariat to determine the extent of their compliance with its decisions; (3) refer the matter to the public prosecutor to initiate criminal proceedings against the violator	Adopt identified cost accounting practices to facilitate cost studies or to achieve any other regulatory purpose (Art. 59)	
	Prohibition of any other action or activities engaged in by a DSP has the effect or is likely to have the effect of substantially lessening competition in any telecommunications market.	
	Requiring SP involved in abu-	

<sup>66</sup> There exists a potential exemption from such submission and from obtaining such prior approval if ictQATAR finds that the competitive market forces are solely capable of protecting the interests of customers and have eliminated the harmful threat to competition.

Telecommunications Law	Telecommunications Executive By-Law	Service Providers' Licenses
	sive action or anticompetitive practices, and the persons affected by such actions or practices, to meet and attempt to determine remedies for such actions or practices (Art. 76)	
	issuance an order requiring the SP to divest itself of some lines of business (Art. 76)	
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Date: December 2010  
Reference No.: Qtel/Reg-1220/2010-12

Ms. Christa Maria Cramer  
Assistant Secretary General  
The Supreme Council of Information & Communication Technology  
ictQATAR  
The Regulatory Authority  
P.O. Box 23264  
Doha, Qatar

Dear Christa,

**Subject: Market Definition and Dominance Designation – Qualitative Analysis**

Qtel has been asked to provide qualitative responses regarding the methodology and approach for the Market Definition and Dominance Designation (MDDD). In the annex to this letter I provide the response from Qtel.

Qtel and Vodafone Qatar have both accepted a shortcut approach for the MDDD, proposed by ictQATAR. The shortcut will contain a focus of the discussion on the three dynamic markets:

- Public international telecommunications services at a fixed location and via a mobile device
- Public national telecommunications services via a mobile device
- Broadband services via a mobile device.

In these markets changes have taken place since the last review which, according to the proposal by ictQATAR, could lead to a revision of the notion of dominance (respectively a first assessment of whether dominance exists on the market for broadband services via a mobile device). The focal discussion also includes a discussion on arguments as to whether any of these markets should be defined in the list of relevant markets susceptible to ex ante regulation.

Some of the qualitative questions that have been put by ictQATAR are clearly superfluous in the shortcut approach. Qtel, will however respond to all the questions.

Yours sincerely,



Yousuf Abdulla Al Kubaisi  
Senior Director, Regulatory Management

1. Do respondents agree with ictQATAR's proposal to refer to the HMT as a guiding theoretical principle to define Relevant Product Markets? If not, please suggest a reasoned alternative approach

Qtel agrees to this standard approach.

2. Do respondents agree with ictQATAR's analytical framework for defining products (i.e. supply side and demand side substitution) and geographic markets? If not, please suggest a reasoned alternative approach.

Qtel agrees to this standard approach.

3. How do respondents assess the current and future situation of FMS in Qatar? Please provide reasoning and relevant data if possible.

In Qtel's view fixed-mobile substitution is not likely to happen in a any major way over the next coming three years (which is the period of the review).

4. Respondents are invited to provide reasoned comments on the proposed competition analysis criteria and on the framework methodology for determining a Dominant Position.

Qtel agrees to this standard approach. It is important to point out that the analysis that is made should cover the expected period until the next review. This means that dynamics that can be viewed in the market and can reasonably be expected to continue should be factored in upon deciding on dominance as well as remedies.

5. Is the proposed list of Baseline Markets appropriate in the context of telecommunications markets in the State of Qatar at the present time? If not, please provide reasoned alternative suggestions.

Qtel is of the view that the baseline markets that are proposed are correct. This means, in Qtel's view, that the markets form the basis for the assessment of whether they need to be on the list of relevant markets or not.



6. Do respondents agree that a further differentiation into residential and business customers is not warranted at this point in time? Please provide an answer for the fixed and the mobile sectors separately and supply evidence if possible.

The business market customers are generally offered turnkey solutions which are made in response to a request for a specific set of solutions. In terms of residential customers they are offered off the shelf services. It is not possible to use the same type of approach to analyze these two different types of markets. That is especially true when it comes to constraints of remedies where each part of a dedicated offer cannot be viewed sui generis but has to be seen as a whole.

7. Do respondents agree that defining separate markets for access and services at a fixed location is appropriate? If not, please provide appropriate reasoning.

Qtel agrees that it is appropriate.

8. Do respondents agree that only managed VoIP services are part of the relevant market?

Qtel does not agree that only managed VoIP should be part of the relevant market. It is true that only service providers (licensed) can provide managed VoIP services. In reality, (which is of essence when deciding the scope of the relevant market) a lot of voice traffic is transported over the IP-network by parties that are not licensed operators. It would be flawed not to consider all relevant traffic.

9. Do respondents agree on these product definitions? Are there e.g. currently narrowband voice access services offered to a nonnegligible scale on any other infrastructure basis in Qatar? Please provide quantitative evidence if this is the case.

The question is unclear to Qtel and probably does not have any impact given the shortcut solution.

10. Do respondents agree that FMS is not sufficient to define a common fixed and mobile market for access and national services? If not, please provide an alternative definition and the accompanying evidence.

Qtel agrees with the statement.

11. Do respondents agree on the relevant products of the market for national services at a fixed location (i) calls to fixed lines, ii) calls to mobile devices, and iii) calls originated for dial-up internet services)?

Qtel agrees with the proposed relevant markets.

12. Do respondents agree with the conclusions of ictQATAR regarding the access and call services markets?

Qtel agrees with the delineation of the market. Qtel also recalls the answer given above, to question 8.

13. As regards the international calls market, one also has to consider business models based on calling cards, telephone shops, dial-in telephone service of relevance next to traditional voice telephony services provided at fixed locations. Do respondents agree that these telephony products will probably be of considerable relevance for the market for international calls given the specific characteristics in Qatar? Do respondents envisage any other potentially relevant business models for international voice telephony? If so, please provide appropriate evidence. Do respondents agree that the aforementioned international telephony products will probably be of rather limited relevance for the market of national calls? Do respondents envisage any calling ictQATAR MDDD 2010 page 50/50 card services offered by an alternative provider in Qatar? If so, please provide appropriate evidence.

Qtel agrees that these business models should be included in the international calls market as well as all kinds of VoIP traffic. Upon including all VoIP traffic it is clear that these products will have a significant relevance for the international calls market. The impact of these products on the market for national calls will most probably be very limited.

14. Do respondents agree that the residential and business broadband services are offered in the same market?

Similar to the answer to question 6 it is clear that any remedies must acknowledge the fact that business customers are generally provided with turnkey solutions.

15. Do respondents agree with ictQATAR's definition of (i) a distinct broadband services market which excludes narrowband services and (ii) a distinct Leased Line market? If not please provide reasoning and give an alternative definition.

Qtel agrees with the definition.

16. The degree of supply of internet and broadband services will also depend on the capabilities of the networks in Qatar and whether up-to-date fixed and mobile



technologies will be deployed. Please provide quantitative and qualitative information as to foreseen changes in the network structure which will impact the way customers have fixed (e.g. coax, fibre) and mobile (e.g. LTE) internet access and the technical capabilities of that access.

Qtel is currently running HSPA 21 mbps and HSPA 42 mbps will be introduced in Q1 2011. An LTE trial in the 800 MHz band is set for early 2011 pending ictQATAR approval and LTE launch is set for H1 2012. UMTS900 has already been launched in rural areas. UMTS900 in urban areas is pending but will ultimately depend on the access to frequencies and additional allocation of spectrum in the 900MHz band by ictQATAR.

In terms of fibre, Qtel has decided to roll out a next generation high speed broadband access network primarily based on FTTH with GPON technology. Qtel is currently implementing this service to most households in Qatar, 75 % by 2012 and expects to extend this network to the entire population with government support for the economically unviable areas. The initial speed that will be delivered over the network will be 100 Mbit/sec in most areas with a potential speed increase to 1Gbit/sec in 2014.

17. Do respondents agree with ictQATAR's definition of the fixed interconnection markets? Do you agree that there is no need to define a transit market at this stage? Please provide comments and evidence on each of the markets separately.

Qtel agrees with the definition. There is no need to identify a transit market since there are only two service providers.

18. Do respondents agree that the differentiation between passive and active wholesale products is useful to delineate markets?

Qtel agrees to this differentiation.

19. Do respondents agree on the product level definition of the wholesale access markets? If not, please provide evidence for deviating opinions? Do respondents consider the availability of passive infrastructure access such as ducts, facilities etc. necessary to overcome certain competitive problems?

Qtel agrees on the product level definition of the wholesale market. In terms of the availability of passive infrastructure it must be noted that it is at this point not clear what the final scope of QNBN will be. That will most certainly have an impact on the availability to passive infrastructure. Regarding passive infrastructure for mobile

networks it is the view of Qtel that there is no competitive problems, which an analysis will show.

20. Do respondents agree with ictQATAR's definition of the retail and wholesale markets for Leased Lines? If not, please provide an alternative definition and relevant evidence.

Qtel agrees with the definition.

21. Do respondents agree with ictQATAR's definition of the retail markets for public telecommunications services provided via a mobile device?

Qtel does not think that these markets should be included in the list of markets that are susceptible for ex ante regulation. As regards the new proposed market "Broadband services via a mobile device" Qtel fails to see the why that market would need to be identified as a separate market, in case an analysis shows that the retail markets in question should be on the list of relevant markets. In the consultation document very little has been set out as rationale for such a proposal.

22. Do you consider national and international calling card products to be in separate markets? If yes, what would the markets be and how would they be defined? If no, what market would include calling card products? What are the implications for service providers?

Qtel considers national and international calling cards to be in separate markets. The international should be in the international calls market. National calling card will have be included in the market they are targeting.

23. Do respondents agree with ictQATAR's definition of the wholesale markets for public telecommunications services provided via a mobile device?

Qtel agrees with the definition.



12 December 2010

**VODAFONE QATAR Q.S.C (“VQ”) RESPONSE TO ICTQATAR’S PUBLIC CONSULTATION ON THE DEFINITION OF RELEVANT MARKETS AND DESIGNATION OF DOMINANT SERVICE PROVIDERS IN THE STATE OF QATAR (“MDDD”) DATED 27 OCTOBER 2010.**

**A) Introduction and Summary**

1. VQ welcomes the opportunity to comment on the MDDD consultation document published by ictQATAR. VQ also appreciates ictQATAR facilitating the short cut process for the MDDD and reducing the focus of the review to the following three markets:
  - (i) Public national telecoms service via a mobile device;
  - (ii) Public international telecommunications services at a fixed location and via a mobile device; and
  - (iii) Broadband services via a mobile device.
2. VQ’s position on each of these proposed markets is set out in Annex A below. Please note that for certain questions, it is difficult to fully comment on without seeing ictQATAR’s analysis of the questionnaire responses from relevant parties to get holistic view of the state of competition in the market. For this reason, VQ reserves its rights to further comment on all relevant markets at the next stage of this consultation process.
3. Since VQ was awarded a mobile licence on 24 June 2008, it has been able to launch mobile services and establish itself as a competitor to the incumbent mobile operator in Qatar. It is VQ’s view that this would not have been possible in the absence of a clear competition law framework in the telecommunications sector and the 2008 designation of Qatar Telecom Q.S.C (“Qtel”) as a dominant service provider (“DSP”) in specific relevant markets (“2008 DSP Designation”). The 2008 DSP Designation has played an important part in the creation of a fair playing field through the imposition of obligations on the DSP. These obligations, when there is a DSP in the market – as well as the continued support of ictQATAR in enforcing them - are critical to enable VQ to provide sustainable competition and incentives to invest and innovate in Qatar.
4. Having said that, VQ launched its commercial services only on 7 July 2009, and although the growth in customer numbers has been good, VQ believes that Qtel continues to enjoy extremely high market shares, as demonstrated by its very high share of sales volume (i.e. customer market share) and, more importantly, of sales value (i.e. customer revenue share). VQ recently reported its half year results for the 2010/2011 financial year which show the following:

Share of sales volume	Share of sales value
24.6% <sup>1</sup>	19.2%

5. It is clear from the data set out above that Qtel still has significant market power in Qatar in the mobile market. This is clearly relevant to the proposed relevant market of public national telecoms service via a mobile device. It will also contribute to VQ and Qtel’s positions in the proposed relevant markets of public international telecommunications services at a fixed location and broadband services via a mobile device (noting that the full information will only be available following ictQATAR’s assessment of Qtel and VQ’s responses to the questionnaires).

<sup>1</sup> Source: VQ 2<sup>nd</sup> Quarter 2010/11 Financial Year results

6. Whilst ictQATAR must go through the Market Assessment process as set out in Article 72 of the Telecommunications By-Law and summarized on Page 6 of the Consultation Document, VQ respectfully submits that the significance of Qtel's mobile market customer and revenue share and the fact that competition has only existed in Qatar since 7 July 2009 means that the onus should be on Qtel to prove that it no longer enjoys a dominant position. This is consistent with the approach in the European Union ("EU"). VQ refers to the EU because of Qatar's limited competition law precedents, the approach in the Telecommunications Law no 34 of 2006 ("Telecoms Law") to regulation of services is similar to the EU approach, and Article 2 (12) of Telecoms Law provides that ictQATAR shall achieve the objective of ensuring that the regulation of the telecommunications sector remains in line with international rules
7. According to the well established case law of the European Union, very large market shares – in excess of 50% - are in themselves evidence of the existence of a dominant position. In the European Union, this rule operates to shift the burden of proof to a service provider with such a significant market share to prove that it does not enjoy a dominant position on the relevant market or markets on which it operates. VQ would urge ictQATAR to proceed on the basis that the onus is entirely on Qtel to prove that it no longer enjoys a dominant position on any of the markets on which it currently operates. Furthermore, even if Qtel were able to prove a gradual loss of market share on any of the three dynamic markets under review, in line with the legal position under EU competition law, VQ would argue that although this may well indicate that the particular market or markets in question is or are slowly becoming more competitive, this in no way precludes a finding of significant market power at the present time.
8. VQ would also like to stress the importance of a thorough empirical analysis on the basis of concrete available data, particularly where ictQATAR is considering rolling-back ex-ante regulation on any specific market. Economic theory should not be applied in a vacuum, rather VQ would encourage ictQATAR to use it as a framework for an in depth analysis of real world evidence available.
9. As regards the methods used for measuring market size and market shares, Vodafone considers that sales in value and their associated market share should be considered to better reflect the relative position and strength of each service provider than sales volume. This is particularly so given the high level of customers in Qatar who actively switch between service providers by simply swapping the SIM card in their handset in order to benefit from the lowest price and special offers available at any particular time. The resulting number of inactive or partially used SIM cards mean that sales volume does not accurately reflect the relative strength and position of each service provider and so sales value should be considered the more accurate measure.
10. VQ notes ictQATAR's comment regarding conducting analysis on the possibility of joint dominance in the markets. VQ considers that an assessment of joint dominance is not appropriate at the present time given the dynamics of the relevant markets in Qatar. VQ would urge ictQATAR to look to the position under EU law by way of guidance. It is an established principle under the case law of the European Courts that service providers can only be found jointly dominant where, from an economic point of view, they act together on a particular market as a collective entity. There remains a huge disparity in market share between VQ and Qtel on all of the markets on which they operate. VQ considers that this asymmetry provides a clear indication that VQ remains fully incentivized to actively compete with Qtel in order to chase market share, rather than to tacitly coordinate its behaviour with that of Qtel. What is more, under the EU competition law rules, joint dominance is rarely found even in mature markets, let alone in recently liberalized, relatively immature ones such as this.
11. Regulatory certainty is extremely important for VQ, given that it began operations in Qatar just 18 months ago and is still at the stage of investing in its new business and building out its network. Accordingly, Vodafone would encourage ictQATAR to set a time period for when the next round of market reviews will be conducted (two to three years' time). In addition, with regard to the proposed shorter (three month) recurring periods for reassessment of the three dynamic markets, VQ would

suggest yearly reviews would be a more reasonable period, balancing the need for regulatory certainty and a sufficient period of time to assess if there have been significant changes to any particular market.

## **B) Conclusion**

The 2008 DSP Designation has played an important part in the creation of a fair playing field through the imposition of obligations on the DSP. These obligations – as well as the continued support of ictQATAR in enforcing them - are critical to the survival of a second entrant in a market like Qatar.

VQ considers that Qtel continues to enjoy a dominant position on each of the telecommunications markets in Qatar on which it operates. VQ would urge ictQATAR to consider that Qtel's significant market shares, as evidenced in particular by its share of sales value, places the onus entirely on Qtel to prove that it no longer enjoys a dominant position on any particular market. VQ would further like to stress the importance of a thorough empirical analysis on the basis of concrete available data, particularly where ictQATAR is considering rolling-back ex-ante regulation on any specific market.

VQ would welcome the opportunity to meet with ictQATAR to discuss our comments on this topic. Please contact Matthew Harrison-Harvey ([matthew.harrison-harvey@vodafone.com](mailto:matthew.harrison-harvey@vodafone.com)) and Itumeleng Moerane ([itumeleng.moerane@vodafone.com](mailto:itumeleng.moerane@vodafone.com)) to organize.

**ANNEX A: VODAFONE QATAR'S ANSWERS AND VIEWS ON QUESTIONS ASKED BY ICTQATAR.**

Question	Comments
<p>1. Do respondents agree with ictQATAR's proposed reference to the Hypothetical Monopolist Test ("HTM") as a guiding theoretical principle to define relevant product markets? If not please suggest a reasoned alternative approach.</p>	<p>VQ agrees with ictQATAR's proposed reference to the HTM as it is in line with the guidance issued by the European Commission in its Guidelines on market analysis and significant market power under the Community regulatory framework for electronic communications networks and services (2002/C 165/03) ("The EU SMP Guidelines").</p>
<p>2. Do respondents agree with ictQATAR's analytical framework for defining products (i.e. supply side and demand side substitution) and geographic markets? If not please suggest a reasoned alternative approach</p>	<p>VQ agrees with ictQATAR's analytical framework for defining the relevant product and geographic markets as it is in line with the guidance issued by the European Commission in the EU SMP Guidelines.</p>
<p>3. How do respondents assess the current and future situation of Fixed Mobile Substitution ("FMS") in Qatar? Please provide reasoning and relevant data if possible.</p>	<p>VQ agrees with the position taken by ictQATAR in its Consultation Document that, according to international experience, FMS has not yet materialized to an extent which would generally allow the definition of common fixed and mobile markets.</p> <p>In particular, VQ would agree that FMS appears to be limited because:</p> <ul style="list-style-type: none"> <li>• there are functional differences between fixed and mobile services;</li> <li>• mobile services still exhibit some shortcomings in quality of service when compared to fixed connections, e.g. calls dropped or transmission quality;</li> <li>• consumers value fixed connections, as they enable high speed access to the internet; and</li> <li>• Mobiles offer some other comparative benefits such as SMS/MMS services.</li> <li>• National calling in Qatar is currently uncharged and is, according to Qtel, below cost. This distorts consumer behavior as they do not face the full cost of fixed line calling and therefore reduces FMS.</li> </ul>
<p>4. Respondents are invited to provide reasoned comments on the proposed competition analysis criteria and on the framework methodology for determining a dominant position (see figure 3-5 of page 19 for ictQATAR's view).</p>	<p>Generally we are supportive of ictQATAR's approach on the proposed competitive analysis. Obviously we reserve our rights to comment on how the analysis is done when using the information provided by the relevant parties at the next stage of the consultation process.</p>

Question	Comments
	<p><b>The relevance of very high market shares</b></p> <p>Article 72 of the Executive By-Law assigns specific importance of the role of market shares in as much as in the absence of evidence to the contrary, ictQATAR may deem that an individual service provider with a share of more than 40 per cent of the relevant market is a dominant service provider.</p> <p>VQ submits that the EU regulatory framework provides guidance that will be useful for ictQATAR when assessing market shares. In paragraph 75 of the EU SMP Guidelines (which in turn has been taken from the decisional practice of the European Courts). In particular, these guidelines provide the following precedent, which ictQATAR may wish to consider:</p> <p><i>“Although a high market share alone is not sufficient to establish possession of significant market power (dominance), it is unlikely that a firm without a significant share of the relevant market would be in a dominant position. Thus, undertakings with market shares of no more than 25% are not likely to enjoy a (single) dominant position on the market concerned. In the Commission’s decision making practice, single dominance concerns normally arise in the case of undertakings with market shares of over 40%, although the Commission may in some cases have concerns about dominance even with lower market shares, as dominance may occur without the existence of a large market share. <b>According to established case-law, very large market shares – in excess of 50% - are in themselves, save in exceptional circumstances, evidence of the existence of a dominant position</b> [emphasis added]. An undertaking with a large market share may be presumed to have SMP, that is, to be in a dominant position, if its market share has remained stable over time. The fact that an undertaking with a significant position on the market is gradually losing market share may well indicate that the market is becoming more competitive, but it does not preclude a finding of significant market power.”</i></p> <p>Furthermore, VQ submits that ictQATAR should take guidance from the EU law presumption of dominance in cases of very large market shares, in excess of 50%. VQ would urge ictQATAR to proceed on the basis that the onus is entirely on a DSP to prove that it no longer enjoys a dominant position on any of the markets on which it currently operates. Furthermore, even if a DSP were able to prove a gradual loss of market share on any of the three dynamic markets under review, in</p>

Question	Comments
	<p>line with the legal position under EU competition law, VQ would argue that although this may well indicate that the particular market or markets in question is or are slowly becoming more competitive, this in no way precludes a finding of significant market power at the present time.</p> <p><b>Focus on subscriber revenues</b></p> <p>In its letter to VQ dated 29 November 2010, ictQATAR noted that it would set out indicators to review the more dynamic markets, focusing on subscriber figures and revenues.</p> <p>In this regard, VQ considers that sales in value and their associated market share should be considered to better reflect the relative position and strength of each service provider than sales volume. This is particularly so given the high level of customers in Qatar who actively switch between service providers by simply swapping the SIM card in their handset in order to benefit from the lowest price and special offers available at any particular time. The resulting number of inactive or partially used SIM cards mean that sales volume does not accurately reflect the relative strength and position of each service provider and so sales value should be considered the more accurate measure..</p> <p><b>Additional criteria for assessing dominance</b></p> <p>VQ agrees with ictQATAR that market share cannot be seen as a sufficient indicator or in isolation and welcomes its recognition of the criteria that are to be taken into account when evaluating dominance, and the specific reference to paragraph 78 (single dominance) and paragraph 97 (joint dominance) of the EU SMP Guidelines.</p> <p>VQ notes ictQATAR's position that in a dominance analysis, various competition indicators must always be assessed on a case by case basis. ictQATAR explained in the Consultation Document that the overall empirical material available is to be interpreted and weighted on the basis of data as well as economic theory. In this regard, VQ would like to stress the importance of a thorough empirical analysis on the basis of concrete available data, particularly where ictQATAR is considering rolling-back ex-ante regulation on any specific market. Economic theory should not be applied in a vacuum, rather VQ would encourage ictQatar to use it as a framework for an in depth analysis of real world evidence available.</p>

Question	Comments
	<p><b>Assessing joint dominance</b></p> <p>In its Consultation Document, ictQATAR notes that it intends to conduct a specific analysis of potential joint dominance..Given the limited competition law experience in Qatar, VQ recommends that ictQATAR should carefully assess the merits of a joint dominance designation taking account of local market circumstances and EU competition law practices.</p> <p>VQ reserves its rights to comment on any analysis that ictQATAR conducts following receipt of the questionnaire responses from relevant parties at the next stage of the consultation process</p> <p>However based on our own information and understanding of EU competition law VQ does not believe that there are grounds for a joint dominance designation for the following reasons:</p> <ul style="list-style-type: none"> <li>• The current 2 player licensing structure is a policy decision by Government. This is currently being reviewed in the Strategic Sector Review by ictQATAR. As VQ has submitted, we are of the view that it is too early in the liberalization process to introduce further licenses given VQ commercially launched on 7 July 2009.</li> <li>• Although, ictQATAR will make its own assessment through the market review process, VQ respectfully submits that the market is still at an early stage of its maturity. VQ has done well by obtaining 19% mobile revenue share to date, but there remains asymmetry in market shares between Qtel and VQ.</li> <li>• There are significant incentives for VQ to continue to bring competition to the market place in order to grow its customer and revenue market share. In VQ's IPO prospectus, we stated that we were targeting at least 40% market share and this remains the case.</li> </ul> <p>This position is supported by EU practice. It is an established principle under the case law of the European Courts that service providers can only be found jointly dominant where, from an economic point of view; they act together on a particular market as a collective entity. [<i>Case T-28/93 Compagnie Maritime Belge &amp; Others v Commission [1996] ECR 1201</i>].</p> <p>The mere finding that a market is concentrated does not necessarily warrant a finding that its structure is</p>

Question	Comments
	<p>conducive to collective dominance in the form of tacit coordination (see EU SMP Guidelines paragraph 100).</p> <p>Under the EU competition law rules, joint dominance is rarely found even in mature markets, let alone in recently liberalized, such as the mobile sector in Qatar.</p> <p>Qtel's dominance in this market is also underpinned by its dominance in a range of other markets including:</p> <ul style="list-style-type: none"> <li>• Wholesale physical network infrastructure access; and</li> <li>• Wholesale leased lines.</li> </ul> <p>The regulatory framework applies remedies relevant to these markets which should, in theory, ensure that dominance in those markets does not flow through to retail markets. However, VQ has not yet seen the rigorous application of remedies; for example, ensure cost based pricing and equivalent access to wholesale services. In addition, the regularity accounting required to support the application of such remedies is not yet complete in spite of the two year timeframe specified within the Applicable Regulatory Framework. The result is that Qtel still enjoys a lower cost base than VQ which obviously flows through to an ability to compete in the retail market.</p>
<p>5. Is the proposed list of markets appropriate in the context of telecoms market in Qatar at the present time?</p>	<p><b>Public international telecommunications services at a fixed location and via a mobile device</b></p> <p>VQ has no significant comments on this relevant market, although reserves its rights to comment on any analysis that ictQATAR conduct following receipt of the questionnaire responses from relevant parties at the next stage of the consultation process.</p> <p><b>Public national telecoms service via a mobile device</b></p> <p>VQ agrees with this proposed market definition at the present time, although reserves its rights to comment on any analysis that ictQATAR conduct following receipt of the questionnaire responses from relevant parties at the next stage of the consultation process.</p> <p>VQ notes that this relevant market definition is in line with the European Commission's recent decisional practice.</p>



Question	Comments
	<p>The European Commission has assessed previous cases on the basis of a single market for mobile telecommunications services to end customers. In Case No COMP/M.5650 – T-Mobile/Orange (1 March 2010), the Commission decided in line with its previous decisional practice that it was not necessary to further subdivide the market for the provision of mobile telecommunications services to end customers by type of customer (for example corporate or private, post-paid subscribers or pre-paid customers) or by type of network technology (2G/GSM or 3G/UMTS networks). VQ notes that the Commission has not separated national and international retail mobile markets</p> <p>On the distinction between corporate or private customers, the Commission explicitly noted that although business customers are considered “heavy users” as opposed to private customers who use mobile communication more scarcely, the service offered is substantially the same as the one offered to private customers. Even though it may be possible to identify different market segments (such as corporate, small business, personal) these are not reliable because business people routinely place personal calls on their mobiles and individuals who subscribe personally for mobile services often use mobiles for business, and the purchase of the mobile services is often motivated by both purposes. Even the range of services offered to business customers and residential customers are similar.</p> <p>As for the distinction between pre-paid and post-paid, although the types of contracts have differentiated characteristics, the distinction between the two segments is becoming blurred, because of the development of different types of offers. Originally, there was a clear distinction between pre-paid and post-paid offerings. However, in Qatar in the last two years the distinction between pre-pay and post-pay has become blurred. For example, VQ offers Freedom which is an account service which customers pre-pay for. This is common with other countries where operators have introduced SIM-only 1-month rolling contracts on post pay, and large inclusive bundles whenever you top-up on pre-pay. On the distinction between 2G and 3G network technology, it is true to say that a service provider can provide to its customer access to voice communication and text messaging services indifferently on a 2G or 3G network. On the other hand, only 3G networks provide greater network capacity which allows operators to provide more advanced, data intensive services. However, the borders between the two types of service are blurred</p>

Question	Comments
	<p>and the larger part of the offers in the market generally includes both data and voice. The mobile communication market is facing an increasing demand for data services (for example, the recent introduction of smartphones has resulted in demand for a wide variety of data-intensive applications), which are normally coupled with effective voice communication and good coverage. [</p> <p><b>Broadband services via a mobile device</b></p> <p>VQ reserves its rights to comment on this relevant market at the next stage of the consultation process, following ictQATAR’s assessment of the qualitative information provided by all relevant parties.</p> <p>For the record, without seeing the consolidated market information, VQ’s initial position is that we do not agree with this proposed market definition and submit that broadband services via a mobile device should fall within the market for public national telecoms service via a mobile.</p> <p>The reasons for this position are consistent with the approach adopted by the Australian Competition and Consumer Commission’ (“ACCC”) in the Vodafone Group plc and Hutchison 3G Australia Pty Limited case of 24 June 2009.</p> <p>The ACCC, found that whilst there are two distinct types of mobile telecommunications services offered at retail level – mobile telephony services and mobile broadband (“MBB”) that they were found to be services in the same relevant market following an assessment similar to ictQATAR’s criteria for determining relevant markets set out in Section 3.3 of the Consultation Document.</p> <p>The ACCC determined that Mobile Telephony consists of the provision of voice, data and some internet services over a wireless network to customers via handsets. Internet services are available on a 3G handset. This includes emails, internet browsing and short TV or movie clips. MBB consists of the provision of internet services over a wireless network to customers via a PC card, USB modem (commonly known as a “dongle”), a Wifi router or, increasingly, an embedded chipset. From these appliances and/or embedded technology, customers can access most internet services, with the exception of very high bandwidth applications, such as file and video sharing.</p> <p>The ACCC found that demand-side substitution between mobile telephony and MBB is limited, but</p>

Question	Comments
	<p>likely to increase over time. There is a group of consumers wanting to use mobile internet "on the go" that may consider MBB to be substitutable for a 3G handset with internet services (such as the Apple iPhone). Whilst demand-side substitutability is currently at the margin, it is likely to increase over time.</p> <p>Further, the ACCC found that mobile telephony and MBB are supply-side substitutes. Operators of 3G networks in Qatar supply mobile telephony and MBB services over predominantly the same infrastructure and market these services using predominantly the same distribution channels.</p> <p>Accordingly, on the basis of supply-side substitutability, and limited but increasing demand-side substitutability, the ACCC found that broadband services via a mobile device (both mobile telephony services and MBB) fall within the same relevant. VQ submits that the same approach should be adopted in Qatar (i.e. a single market for public national telecoms services via a mobile, and not separate broadband services via a mobile device).</p>
<p>6. Do respondents agree that that a further differentiation into residential and business customers is not warranted at this point in time? Please provide an answer for the fixed and mobile sectors separately and supply evidence if possible.</p>	<p>VQ does not consider it appropriate to further sub-divide the Qatari retail market for mobile telephony by residential customers and business customers.</p> <p>Tariffs are generally designed to target varying levels of customer usage, but users purchase tariffs depending only on their individual calling needs and priorities. VQ's range of tariffs aims to meet as exactly as possible the needs of each consumer, from the occasional caller on a pre-paid tariff to the heavy business user on a volume contract tariff and everyone in between.</p> <p>Even though it may be possible to identify different market segments (such as corporate, small business, personal), these are not reliable because business people routinely place personal calls on their mobiles and individuals who subscribe personally for mobile services often use mobiles for business. The purchase of mobile services is often motivated by both purposes. Even the range of services offered to business customers and residential customers are similar. VQ's data plans offer mobile internet access, multimedia and instant messaging, email access and location-based services.</p> <p>The European Commission has assessed previous cases on the basis of a single market for mobile telecommunications services to end customers.</p>

Question	Comments
	Further details are set out above.
7. Do respondents agree that defining separate markets for access and services at a fixed location is appropriate? If not, please provide appropriate reasoning.	No comments due to Shortcut Mechanism
8. Do respondents agree that only managed VoIP services are part of the relevant market?	VQ agrees with ictQATAR's position on this point as set out in the Consultation Document, namely that unmanaged VoIP services, such as VoIP clients (eg Skype), are not deemed to be of relevance, both on empirical grounds as well as because of significant functional differences (most notably, accessibility) underlying. VQ also agrees that unmanaged VoIP services have lower quality as transport typically is provided on a best efforts basis on the internet.
9. Do respondents agree on these product definitions? Are there e.g. currently narrowband voice access services offered to a non negligible scale on any other infrastructure basis in Qatar? Please provide quantitative evidence if this is the case	No comments due to Shortcut Mechanism
10. Do respondents agree that FMS is not sufficient to define a common fixed and mobile market for access and national services? If not, please provide an alternative definition and the accompanying evidence	Yes, we agree for the reasons set out above.
11. Do respondents agree on the relevant products of the market for national services at a fixed location (i) calls to fixed lines, ii) calls to mobile devices, and iii) calls originated for dial-up internet services)?	No comments due to Shortcut Mechanism
12. Do respondents agree with the conclusions of ictQATAR regarding the access and call services markets?	No comments due to Shortcut Mechanism
13. As regards the international calls market, one also has to consider business models based on calling cards, telephone shops, and dial-in telephone service of relevance next to traditional voice telephony services provided at fixed locations. Do respondents agree that these telephony products will probably be of considerable relevance for the market for international calls given the specific characteristics in Qatar? Do respondents envisage any other potentially relevant business models for international voice telephony? If so, please provide appropriate evidence. Do respondents agree that the aforementioned international telephony products will probably be of rather limited relevance for the market of national calls? Do respondents envisage any calling card services offered by an alternative provider in Qatar? If	VQ is unclear why this question is being asked in the MDDD process, and considers this to be a licensing question which is part of the scope of the Strategic Sector Review. Please can ictQATAR clarify why this question is relevant to the MDDD, and VQ will respond accordingly.

Question	Comments
so, please provide appropriate evidence	
14. Do respondents agree that the residential and business broadband services are offered in the same market?	[ VQ agrees for the reasons set out in our response to Question 6 above.
15. Do respondents agree with ictQATAR's definition of (i) a distinct broadband services markets, which excludes narrowband services and (ii) a distinct leased line market? If not please provide reasoning and give an alternative definition	No comments due to Shortcut Mechanism
16. The degree of supply of internet and broadband services will also depend on the capabilities of the networks in Qatar and whether up to date fixed and mobile technologies will be deployed. Please provide qualitative information as to foreseen changes in the network structure which will impact the way customers have fixed (e.g. coax fibre) and mobile (	No comments due to Shortcut Mechanism
17. Do respondents agree with ictQATAR's definition of fixed interconnection markets? Do you agree that there is no need to define a transit market at this stage? Please provide comments and evidence on each market separately.	No comments due to Shortcut Mechanism
18. Do respondents agree that the differentiation between passive and active wholesale products is useful to delineate markets?	No comments due to Shortcut Mechanism
19. Do respondents agree on the product level definition of the wholesale access markets? If not, please provide evidence for deviating opinions. Do respondents consider the availability of passive infrastructure access such as ducts, facilities etc necessary to overcome certain competitive problems?	No comments due to Shortcut Mechanism
20. Do respondents agree with ictQATAR's definition of the retail and wholesale markets for leased lines? If not, please provide an alternative definition and relevant evidence.	No comments due to Shortcut Mechanism
21. Do respondents agree with ictQATAR's definition of the retail markets for public telecommunications services provided via a mobile device?	Please see comments above in response to Question 5.
22. Do you consider national and international calling card products to be separate markets? If yes, what would the markets be and how would they be defined? If no, what market would include calling card products? What are the implications for service providers?	Please see our response to Question 13.

Question	Comments
<p>23. Do respondents agree with ictQATAR's definition of the wholesale markets for public telecommunications services via a mobile device?</p>	<p>A market access and origination of calls on mobile networks was identified in the 2003 EU regulatory framework. Regulators in the EU states analysed this potential market and the majority concluded that it was competitive, hence no remedies were imposed. The market has not been carried over into the current regulatory framework.</p> <p>A distinction needs to be drawn between the different structure of the market that exists in Qatar and in the EU. Within the EU, Authorisation Directive creates a minimal approach to licensing, which allows new competitors to enter telecommunications markets without requiring a specific licence. Consequently, it may be possible to talk of a wholesale market for access and origination on mobile networks provided to service-based competitors, with an access obligation created as a remedy to address a deficiency of competition.</p> <p>The licensing regime which prevails in the State of Qatar does not take such a light touch approach to authorisation, creating the current dual operator structure. VQ has relied upon this market structure in making its decision to enter the market and invest significantly in extensive physical infrastructure. This understanding was at the heart of VQ's challenge to Qtel's introduction of Virgin Mobile to the Qatar market. This challenge resulted in ictQATAR's decision on Qtel Virgin Mobile dated 22 July 2010, which confirmed the licensing regime.</p> <p>Accordingly, VQ cannot agree with the conclusion that "<i>In the absence of the issuance of additional Mobile Licences, further competition can only be introduced if wholesale access and call origination is made available through regulatory measures (eg MVNO).</i>" The licensing regime in Qatar does not provide scope for the introduction of competition through wholesale access. Or rather, it treats both further licensing and wholesale access alike; if ictQATAR is minded to consider a market for wholesale access, then it should only do this in the context of a major review of the licensing regime and the market structure (i.e. the Strategic Sector Review), and not as an alternative to issuing further licences.</p>