هيئة الاتصالات وتقنية المعلومات
Communications and Information Technology Commission

Market Definition, Designation and Dominance Report

Final

August 2010

Table of contents

1 Introduction

This Market Definition, Designation and Dominance Report ("Report") has been prepared in accordance with the Regulatory Framework for Designation of Markets and Dominance in the Telecom Sector ("Regulatory Framework"). The starting point for the analysis contained in this Report is CITC Decision 1/1423 which designated STC as dominant in "all telecommunications markets in the Kingdom of Saudi Arabia ("KSA")".

The analysis takes into consideration the comments that were offered in response to the Public Consultations of 31 May 2008 and 16 December 2008.

Section 2 details the approach to applying the regulatory framework in development of this report, including a time horizon for updating such periodic reports.

Section 3 details Market Definition & Designation of each of the 14 markets. It is structured by first defining the market, analysis of demand and supply side substitutability, geographic scope of the market, determination of whether a market should be designated as appropriate for ex-ante regulation, and a conclusion.

Section 4 details dominance in each of the appropriately defined markets (as per section 3). This is done by applying some 15 criteria (as per the Bylaw and further supplemented by additional criteria as defined in the RF) to determine dominant player(s) in each of such defined markets.

Section 5 sets out the potential harm that the dominance of each dominant service provider in each relevant market may cause and the possible application of *ex-ante* remedies for dominance.

Section 6 summarizes in a table form, markets that have been examined in this study and the conclusions that CITC has reached in each case.

2 Approach to applying the Regulatory Framework

2.1 Sequence of activities

The sequence of activities in this Report follows the sequence set out in the Regulatory Framework, as follows:

1. Designate the relevant telecommunications service markets for the purpose of *ex-ante* regulation of dominance pursuant to a consideration of the provisions of Sections 2.2 and 2.3 of the Regulatory Framework;

2. Determine whether there are one or more dominant service providers in each defined relevant market, and, if so, designate the relevant service provider(s) as dominant, having regard to Section 2.4 of the Regulatory Framework; and

3. In the event of the CITC determining that one or more service providers are dominant in a telecommunications service market, consider the appropriate remedies applicable to all dominant service providers for each relevant market pursuant to a consideration of the provisions of Section 2.5 of the Regulatory Framework.

2.2 Time horizon for market definition, designation and dominance report

Changes in the competitive landscape of the telecommunications sector in KSA are occurring at a rapid rate, reflecting changes in the technologies, demand patterns and market conditions globally and CITC's implementation of the Government's sector liberalization strategy. Change is not uniform in all service markets.

It is important to state the time horizon used in a market definition, designation and dominance report so that some context can be provided for the analysis. Paragraph 2.2.3 of the Regulatory Framework requires the preparation, amendment or review of a market definition, designation and dominance report at least once every five years on its own motion or on the application of any interested person. However, there may be considerations that suggest a shorter time horizon and interval between market definition, designation and dominance reports.

CITC has had regard to the following factors in considering an appropriate time horizon for the current market definition, designation and dominance report:

- Anticipating technological change is difficult at any time, and is particularly difficult beyond two years at the current time;

- Network technologies are in the process of moving from circuit-switched platforms to systems that are based on Internet Protocols capable of processing a convergent range of services with much higher capacity;

- Broadband infrastructure is being deployed and broadband services are being taken up at an increasing rate, and broadband demand and usage is changing very rapidly;

- The cost structures and service profiles for mobile data services are undergoing change with the adoption of new technologies, such as WiMAX, HSDPA and LTE, and the increased demand for mobile data services; and

- New entrants have recently commenced, or will shortly commence, the commercial operation of their mobile and fixed services, with consequences for competition in many services markets.

In the light of these factors, CITC has adopted a two year time horizon in preparing this market definition, designation and dominance report. This does not mean that a review of the market definition, designation and dominance report in respect of all or any of the designated markets will automatically be appropriate in two years time. The timing of the next review of each market will depend on a number of considerations including the changes that have actually occurred in the meantime.

3 Definition and Designation of Telecommunications Service Markets

In the context of the Public Consultation, CITC identified and examined fourteen markets for the purpose of its analysis of market dominance. After reviewing the public comments, CITC has reconsidered those markets (as well as a further market, wholesale fixed voice call origination service), in the light of the provisions of Section 2.3 of the Regulatory Framework. CITC's responses to the comments received in the Public Consultation have been published on its website and further reference to particular comments is only made in this report where the explanation of CITC's decision so require.

3.1 Market 1 - Retail fixed access services

(a) Market definition

This is the market for access to public telephone service at a fixed location in both residential and non-residential (including business and government) premises. The market also includes the provision of dial-up internet access.

(b) Demand-side substitutability

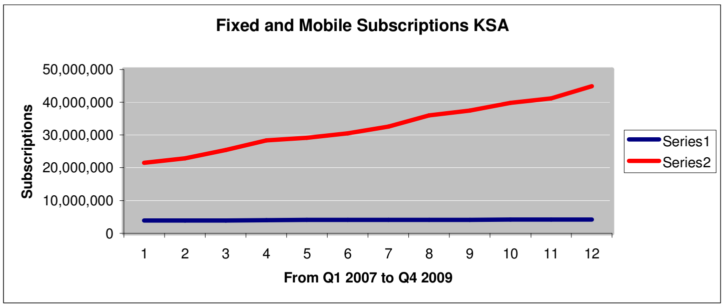
Users seeking an alternative means of accessing the pubic telephone service at a fixed location do not have the choice of a similar service in terms of price and other service characteristics. However a customer wishing to adopt a broadly similar service may consider that a mobile service is an adequate substitute. CITC does not have information on the number of former fixed service subscribers in KSA who have specifically discontinued their subscription in favour of using a mobile service,[1] but it does have trend information as shown in Figure 1. This data shows that fixed service subscriber numbers have shown continued slow growth in the last three years with a decline for the first time in Q3 2009, whereas there has been significant mobile subscriber growth over the same period. The subscriber numbers for Q4 2009 show effectively no further change.

This trend information indicates that, while there may be some fixed to mobile substitution, it is not yet having a significant impact on the fixed access services market.

[1] Although some service providers mentioned in their comments fixed-mobile substitution, none provided evidence based on their market surveys.

Figure 1: Fixed and Mobile Subscription trends in KSA

Date	Fixed Subs	Mobile Subs
Q1 07	3,903,000	21,466,497
Q2 07	3,913,000	22,894,613
Q3 07	3,920,000	25,466,678
Q4 07	3,995,989	28,381,501
Q1 08	4,081,000	29,113,985
Q2 08	4,112,000	30,521,114
Q3 08	4,112,000	32,555,065
Q4 08	4,123,000	35,961,871
Q1 09	4,143,000	37,392,993
Q2 09	4,207,000	39,766,505
Q3 09	4,169,000	41,202,714
Q4 09	4,171,000	44,864,355



Source: CITC

Mobile services have characteristics that are quite different from fixed services. They are a means of personal communication, and each service is generally used by a single subscriber. This aspect is enhanced by the mobility that the service offers as its defining characteristic. In contrast, fixed services are location-specific and found in family residential or business office settings. The costs of service are also different, together with the price plan options, price levels and structures. Note that in the case of most of the mobile services in KSA, which are "pre-paid", there is no separate access charge, but call rates reflect the cost of the access element of the service.

The issue of fixed to mobile substitution can also be examined by the application of a hypothetical monopolist test. This test is set out in Paragraph 2.3.4 of the Regulatory Framework. If a small but significant non-transitory increase in price (SSNIP) (say 5%) were made to a fixed access service, would this be profitable to the service provider?[2] It is likely that customers will maintain their fixed services at the higher price. Demand for fixed services is relatively price inelastic. This means that there is no practical and broadly acceptable substitute for retail fixed access services.

This confirms that the definition of this market is appropriate at this time.

(c) Supply-side substitutability

The issue here is whether, if a fixed service provider applied a SSNIP (say 5%), would this be sufficient to attract other providers to provide a service in the specific market? CITC considers that there is no supplier that would be attracted to the market in response to a SSNIP. The mobilisation of resources to enter a market with substantial fixed costs associated with infrastructure rollout would not be considered likely in response to a price increase of only 5%. Further, CITC has selected a technology neutral and service specific regulatory framework and therefore mobile licensees are not automatically eligible to provide fixed services. Such licences are only available at times and subject to terms and conditions established by the regulator.

(d) Geographic scope of market

The circumstances that influence the availability and choice of services in some locations (for example in metropolitan areas in which infrastructure has been established and where the aggregation of demand has attracted one or more suppliers) may be absent or different from the circumstances in other areas (for example in rural areas).

It is therefore quite possible that as technology and choices develop the characteristics of markets may change at different rates and in different ways on a geographic basis. However, KSA is at a very early stage of development in competition for retail fixed access services, with two of three selected national fixed service providers yet to complete licensing procedures and to commence commercial

[2] This test assumes that a hypothetical monopolist applies a small but significant non-transitory increase in price, as referred to on Paragraph 2.3.4 of the Regulatory Framework.

operations. The third, EATC[3], commenced operations in June 2009, but its WiMAX service coverage is limited compared to the incumbent's service footprint It is also possible that, in the context of the implementation of the Universal Service Policy, certain service providers may in future become dominant in some currently unserved or under-served geographical areas.. Under such conditions, CITC has concluded that, for the time horizon of this analysis, such geographic dissection of the market would be inappropriate and serves no practical purpose at this stage. CITC will monitor developments in this market to determine whether and when any geographical dissection may become appropriate.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market, it is appropriate to consider the three criteria set out in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

Retail fixed access service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are subject to terms and conditions established by CITC.

Furthermore, certain infrastructure required to connect premises to the network is not generally economically replicable, so there is a significant first-in advantage in favour of the incumbent. In particular, it is not generally economic to replicate easements, ducting systems and conduit.

These barriers to entry are non-transitory. They have been in place for a long time and are unlikely to be reduced in the short to medium term.

> *(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.*

The access component of the local network has bottleneck characteristics, in that it is not economically feasible to duplicate it, and these characteristics are unlikely to change over time. New wireless and broadband technologies are enabling alternative service providers to address demand for fixed access service on a commercially sustainable basis. However the process of providing a range of competitive alternatives and to gain significant market share takes a long time. In the Kingdom, the processes of capital formation, market assessment, licence procurement and service mobilisation are now under way and it will take considerably more time for the nascent competitive forces to be sufficient to protect the interests of customers.

> *(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.*

As has been the case in all other countries reviewed, *ex-post* competition controls are unlikely to address concerns related to dominance in this market. Most residential and business customers who rely on this service have no alternative means of communication short of moving to mobile services. They therefore have no practical choice under the same or similar terms and conditions, and, in the absence of *ex ante* regulation would potentially be exposed to the reduced quality of service or increased prices. In this case it is important that any exercise of dominant market power be prevented at source rather than addressed after the event.

Conclusion:

[3] Etihad Atheeb Telecommunications Company

This market is appropriately defined. It has high entry barriers, is not now and will not tend over time to be subject to competitive market forces sufficient to protect the interests of customers, and is one where *ex-post* controls and *ex-ante* regulation in other markets are unlikely to address the potential harm from dominance.

Accordingly, this market should be designated for *ex-ante* regulation of dominance.

3.2 Market 2 - Retail local and national fixed call services

(a) Market definition

This market covers local and national calls originating on the fixed access public network.

(b) Demand-side substitutability

Fixed-mobile call substitution is the increasing use of mobile services instead of fixed services to originate calls. A number of respondents to the Public Consultation raised the issue of whether fixed mobile call substitution had developed in KSA to the stage where the definition might be broadened to include mobile call services, but most of those respondents felt that substitution had not developed yet to that level.

This is due to the substantial mobile premium that currently exists in KSA. The headline price of a national mobile call is around 50 halalas per minute, and the price of a local and national long distance calls from fixed services are 5 halalas per minute and around 20 halalas per minute respectively. The mobile premium is the difference between the prices fixed and mobile call prices. Even allowing for the discounts inherent in various mobile price plans, the premium remains substantial. If we apply the SSNIP test, it is clear that a small increase in price (say 5%) by the fixed operator would be profitable and would not encourage significant *further* substitution by mobile calls.

(c) Supply-side substitutability

CITC considers that if a fixed service provider applied a SSNIP (say 5%); it is very unlikely that this in itself would be sufficient to attract other providers to provide a service in this market. .

It is possible that network convergence may generate supply side substitutability, however CITC has selected a technology neutral and service specific regulatory framework and therefore this should not be a significant factor at this time.

(d) Geographic scope of market

These services are provided on a national basis. CITC regulations require that the same supply conditions, including price, quality of service and terms of service apply nationally. It is not useful, in current circumstances, to define the market in geographic terms below the national level.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market, it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

Retail local and national fixed voice call services provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are only available at times and subject to terms and conditions established by the regulator. There is no entry at will. It needs to be recognised, however, that alternative means of call service are or may become available, such as via mobile services and VoIP.

(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.

There are no characteristics of this market as currently defined that would lead to the conclusion that in the short to medium term there is likely to be competition in this market of a sufficient level to protect the interests of consumers. The development of broadband services, with convergent applications including voice-mode services, will inevitably impact on the way in which customers use and manage voice calls. However, CITC does not expect those developments to be significant within the time horizon of the analysis of this market.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

Ex-post competition controls are unlikely to address concerns related to dominance in this market. Concerns are associated with new entrants who have only recently been or are still in the process of being licensed and their ability to achieve some early traction in the market. The fragility of competition is a key reason why controls over and above *ex-post* measures need to be applied in this market. The experience in other developed countries suggests that *ex-ante* remedies may be appropriate for a number of years after the introduction of network services competition in this market to ensure that the competition is taking hold.

Conclusion:

This market is appropriately defined. Consideration of the criteria in Paragraph 2.3.5 of the Regulatory Framework suggests that the market has high entry barriers, is not now or in the short term likely to be subject to competitive market forces sufficient to protect the interests of customers, and is one where *ex-post* controls and *ex-ante* regulation in other markets are unlikely to address the potential harm from dominance in this market.

Accordingly, this market should be designated for *ex-ante* regulation of dominance.

3.3 Market 3 - Retail international voice call services

(a) Market definition

This market covers international call services for all customers of both fixed and mobile access networks.

(b) Demand-side substitutability

International calling may be substituted by other services – including email, text messaging, etc. However, a small increase in price (say 5%) by the fixed or mobile service provider who is also a hypothetical monopolist would be profitable since it would not encourage *further* substitution by other services, such as email or text, to the extent of rendering the SSNIP unprofitable. Hence these services are not considered as part of the scope of this market.

(c) Supply-side substitutability

CITC considers that a SSNIP (say 5%) would not be sufficient to attract new suppliers to the market. The correspondent-relationships and network investment required for facilities-based providers represent substantial new commitments, and they are unlikely to be triggered by a price increase of SSNIP proportions.

(d) Route-by-route scope of market

CITC has considered comments received from respondents to the Public Consultation, some of whom considered that competition and other market conditions varied by route and that consequently market definition by route was appropriate (that is by country pairs). The published data makes it clear that demand levels vary significantly by route.

It is not practical to have about 200 different markets, one for each route or country that might be called from KSA. This is the typical approach in other countries broadly comparable to KSA – in Europe and the Gulf region. In KSA all providers have their own facilities or can obtain wholesale facilities to all routes. It can therefore be said that at the retail level, the scope of this market covers all routes.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

International call service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are only available at times and subject to terms and conditions established by the regulator. However, there are four licensed operators in the market at present, and they may be joined by two more in the near future.

> *(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.*

All service providers currently providing retail international call services have affiliates and/or associates in major overseas markets. Arrangements with those affiliates and with the wholesale businesses of competitors determine the terms and conditions they can provide in the KSA retail market. In general the market has the capacity to tend in the short to medium term towards more and more competition and to one without dominant service providers. There is no price leader in this market and all service providers find that they must respond to each others' pricing initiatives.

> *(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.*

CITC considers that the retail international call market has developed to a stage where *ex-ante* regulatory intervention is not necessary to ensure the delivery of the benefits of competition to customers in KSA. Any anti-competitive behaviour in the form of price predation or exclusive dealing both within KSA and abroad can be dealt with through *ex-post* controls or at the level of the wholesale market for this service. Furthermore, CITC could use its authority under Article 47 of the Bylaw to require all service providers to notify price changes, and to suspend implementation of proposed price changes pending review and analysis of any issues that are involved.

Conclusion:

This market is appropriately defined. Consideration of the criteria in Paragraph 2.3.5 of the Regulatory Framework suggests:

- Even though the operation of network facilities for the provision of international voice call services has high entry barriers, there are already four service providers who now have licences and currently are competing in this market. Two more are expected to have the ability to provide services after licensing is completed and within the time horizon of this analysis.
- The market does not have competitors who are behaving or are able to behave like dominant service providers at present and this is likely to become even more pronounced as the third mobile service provider and the second fixed service provider gain traction in the market. As noted above, the absence of price leadership reinforces this view.
- *Ex-post* competition remedies alone appear to be adequate for the regulation of behaviour that constitutes a potential threat from dominance.

Consequently CITC does not intend to designate this market for *ex-ante* regulation of dominance.

3.4 Market 4 - Retail national mobile services

(a) Market definition

This market covers all national retail services for mobile customers based on access to mobile capability, including voice, video and data/text services.

(b) Scope of services in the market

Some respondents to the Public Consultation raised the issue of whether retail national mobile services should be considered in two separate markets – one for mobile voice and one for mobile data. The market for mobile data service, both for residential and business customers, is developing quickly. The characteristics of that market in terms of service requirements, customer profiles and segments, and overall dynamics are also emerging.

CITC notes that the key feature of this retail market is mobile network *access*, with some customers seeking mobile data only services (through dongles and other data capable devices) and others seeking service packages that are voice-oriented but have a range of associated text and data service capabilities. CITC notes that in other countries, and in Europe in particular, there is no regulatory division of the market in mobile voice and mobile data. This is because the emphasis has shifted to the regulation of upstream wholesale markets and that the related retail markets for mobile services are no longer considered susceptible to *ex ante* regulation for dominance. Whether the retail mobile market is one market (voice and data together) or two markets (voice and data) has become irrelevant.

(c) Demand-side substitutability

The specific services within the market definition have existing and potential substitutes, such as:

- Fixed voice (although the overall pattern of substitution is mobile displacing fixed calls)
- Fixed data.

In terms of service functions and characteristics, substitution may occur. For example, as WiMAX services are rolled out to different locations within KSA, customers will have a choice between mobile voice and data via cellular service platforms and fixed voice and data via WiMAX platforms. However CITC considers that if a hypothetical monopolist were to increase the price of mobile services by 5% (the SSNIP level) this would be profitable, and that, while some substitution and short-term reduced usage may occur, it would be insufficient to affect the profitability of the 5% increase in price. This is because of the importance of the mobility characteristics that are valued in mobile service by most customers. For them the possible substitutes would not be effective options.

(d) Supply-side substitutability

The question is whether, if a mobile service provider applied a SSNIP (say 5%), this would be sufficient to attract other providers to provide a service in the specific market. There are providers of other products and services who would be capable of entering this market (subject to entry regulation) but CITC considers that a SSNIP alone would not have that outcome given the high cost of building and operating a mobile network.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.

Mobile service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are only available at times and subject to conditions established by the regulator. In addition, the costs of entry in terms of licensing costs, infrastructure and network deployment are high. A decision to enter this market requires a substantial and continuing financial commitment in the case of facilities-based service providers.

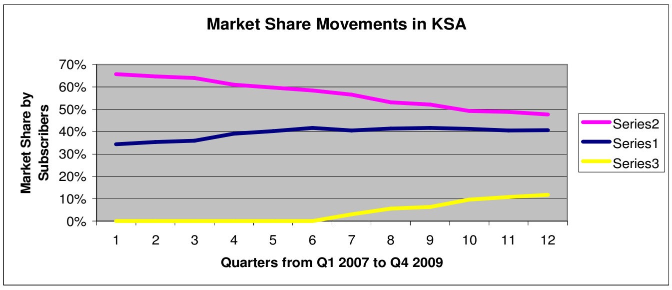
It is important to note however that despite the high entry barriers, three operators have already been licensed and are providing services. They are substantial enterprises both nationally and regionally. Based on international experience, that number is usually regarded as sufficient to ensure sustainable competition in mobile services markets.

(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention

Retail mobile service markets in many countries typically involve three or more established network-based service providers, and sometimes also MVNOs, and are typically considered competitive in an effective and sustainable manner on the basis of that structure. The KSA market has three licensed service providers, and therefore has sufficient competitors to ensure that competitive market forces have been created and are likely to develop further. There is substantial evidence that the entry of the third service provider and its launch of commercial services in August 2008 have generated higher levels of service competition and lower prices. This market is already behaving in a manner that would be expected of a robustly competitive market. Figure 2 below shows the changes in market share over the past three years. Zain's achievement of a market share of around 12% after 5 quarters of operation compares favourably with market share outcomes achieved by third entrants to the mobile market in other countries.

Figure 2: Market Share Movements in KSA (2007 - 2009)

Date	STC	Mobily	Zain
Q1 07	66%	34%	0%
Q2 07	65%	35%	0%
Q3 07	64%	36%	0%
Q4 07	61%	39%	0%
Q1 08	60%	40%	0%
Q2 08	58%	42%	0%
Q3 08	57%	41%	3%
Q4 08	53%	41%	6%
Q1 09	52%	42%	6%
Q2 09	49%	41%	10%
Q3 09	49%	41%	11%
Q4 09	48%	41%	12%



Source: CITC

Innovative mobile services are being offered, countered by alternatives by competing mobile service providers, suggesting healthy competition in this market. Importantly, there is no evidence of any price leader in this market. Pricing initiatives are coming from all the service providers and all have found it necessary to respond in order to maintain or improve their position in the market.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

CITC considers that, since competitive market forces already exist in this market, if anti-competitive behaviour is alleged, then *ex-post* competition controls, *ex-ante* remedies in other related relevant markets, and/or *ex-ante* remedies not related to dominance will be adequate to address any harm that might result.

The best way to consider the matter is to examine the issues that could arise in this market. They include:

- Predatory pricing: CITC has powers under Article 47 of the Bylaw that may be used to require service providers to notify and obtain approval for price changes. These powers may be used by CITC to require service providers to suspend implementation of proposed price changes pending CITC examination of the competition issues involved. Exercise of these powers is not conditional on the service provider in question being dominant.

- Access to infrastructure, such as towers, national roaming and other wholesale services: For example, one concern that arises for mobile service providers when they extend their networks into areas with little or no fixed telecommunications infrastructure, is the availability of transmission services to enable base stations to be connected to base station controllers and to mobile switching centres. Later in this Report, the wholesale leased line market is examined. It is the *ex-ante* regulation of that market, rather than of the retail mobile market, that would address the concern associated with dominance in this case.

In addition, exercise of *ex-ante* controls are likely to unduly interfere with and distort the further development of the competitive dynamics that are now evident in the KSA retail mobile service market.

Conclusion:

This market is appropriately defined. Consideration of the criteria in Paragraph 2.3.5 of the Regulatory Framework suggests:

- The market for retail national mobile services has high entry barriers, but there are already three facilities based service providers now competing in this market.

- The market does not have competitors who are behaving or are able to behave like dominant service providers at present and this is likely to become even more pronounced as the third service provider gains more traction in the market. There is no price leader in this market and all service providers find that they must respond to each others' pricing and marketing initiatives.
- *Ex-post* remedies, considered alone and also in conjunction with *ex-ante* wholesale market remedies, appear to be sufficient to address concerns related to market dominance.

Consequently the CITC does not intend to designate this market for *ex-ante* regulation of dominance.

3.5 Market 5 - Retail business data services at fixed locations

(a) Market definition

This is the retail market for business data services, such as managed IP services (e.g. IP VPN), ATM, Frame Relay and Leased Lines.

(b) Scope of services in the market

This market is intended to cover both national and international data services provided to business customers at fixed locations in KSA. Retail business data services markets are in a state of rapid change. One example of such change is the retail market for leased lines. Leased Lines have been the subject of *ex-ante* regulation in other counties. Leased line service involves the provision of dedicated transmission service between specific locations. The demand for such services is continuing, but is subject to substitution by more recently developed alternative offerings such as managed services i.e. IPVPN.

In determining whether the collection of services referred to above should be considered as a separate and single market CITC has considered how they are used and by which customers. Retail business data services are services typically, but not exclusively, used by multi-location mid to large businesses primarily for internal communications. Such services can be distinguished from, for example, broadband internet access services, which are used by business and residential customer to access the public internet.

(c) Demand-side substitutability

As noted, this market relates to retail business data services of the kind that medium to large businesses typically use for internal communications, but which may also connect their information systems with those of suppliers and large customers. In applying a SSNIP test, it is highly unlikely that a 5% price increase to the set of services that constitute this market would be unprofitable because of substitution by broadband services that allow access to the public internet. They are sufficiently differentiated services for different purposes.

(d) Supply-side substitutability

It is highly unlikely that a supplier of services in adjacent service markets (such as mobile) would be encouraged by a SSNIP of 5% to overcome the high regulatory and investment barriers required to establish a business providing some or all of the services, such as IP-VPN, ATM or leased lines, and further that such a move would be profitable.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Using the broad definition of the market in paragraph (a) it is appropriate to consider the three criteria n Paragraph 2.3.5 of the Regulatory Framework.

(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.

Infrastructure-based service providers are subject to licensing. The provision of connectivity and access services to support specific services in the market requires substantial investment in fixed network infrastructure in situations where the first entrant advantage is significant. This is because replication of infrastructure is often not economic. This market therefore has high barriers to entry and they will remain high for the time horizon of this analysis.

(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.

Three data service providers exist and two backbone networks are also in operation. One additional fixed facilities-based service providers was licensed, and has commenced operation in June 2009 using WiMAX platforms; another two service providers are in the process of being licensed. Although these new licensees will change the potential for competition in the market, this is unlikely to have a major impact on overall levels of competitiveness and market share in the time horizon of this analysis. CITC would expect that competition will be embryonic for some time. For all practical purposes, therefore, the market as presently considered does not yet have characteristics that allow CITC to conclude that it will develop of its own accord to a level of competitiveness sufficient to protect the interest of customers.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

There are some upstream wholesale markets – such as the market for wholesale leased lines and managed data services (Market 11) – the *ex-ante* regulation of which will assist in ensuring that the risk of potential harm from dominance in the market under consideration will be reduced. However, on balance, CITC considers that *ex-post* remedies alone in relation to the market under consideration will not be sufficient to address concerns related to market dominance at this stage of market development.

Conclusion:

This market is appropriately defined. It has high entry barriers, is not likely to develop in the time frame of this analysis into a competitive market, and is one where *ex-post* remedies alone are unlikely to address the potential harm from dominance in this market.

Accordingly, this market should be designated as appropriate for *ex-ante* regulation of dominance.

3.6 Market 6 – Retail fixed internet access services

(a) Market definition

This is the retail market for fixed internet access and covers broadband access services. Dial-up internet access services are included in Market 1.

(b) Demand-side substitutability

Dial-up and broadband internet access are technically substitutable. In practice, however, the substitution is one way only. Customers will move from dial-up internet access to broadband access when the latter is available and when they have determined that the convenience of always-on access and higher download speeds are worth the (possibly) higher price. The substitution effect does not work the other way. Customers are not likely to migrate back to dial-up access, and would certainly not do so in response to a SSNIP.

Customers may choose to access the internet using mobile data services. Mobile data is a developing service in KSA which CITC has considered to be marketed with and have many of the same characteristics as other retail national mobile services. It should be noted that the data speeds available with mobile are often lower than those that can be achieved with a fixed connection. For that reason CITC has included mobile data services as part of Market 4. Although there is clearly some overlap in the applications and use of fixed internet broadband and mobile data services, the differences in price, speed, mobility and other characteristics of the services indicate that they are not substitutes except at the margin, and therefore not appropriately considered to be in the same market. There is likely to be substantial complementary use as well, which is likely to grow in future. CITC considers that it is unlikely that a SSNIP of 5% would be profitable, because such a price increase would be unlikely to encourage sufficient customers to forego their fixed service in favour of mobile data usage

(c) Supply-side substitutability

A price increase of 5% would be unlikely to encourage service providers into the retail fixed internet access market. Far more important factors would weigh with them, such as the overall investment required for this means of broadband provision and the expected demand in the market that might be served by such an investment. The investment would be substantial and unlikely to be triggered by a price increase of this magnitude.

(d) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

The three criteria in Paragraph 2.3.5 of the Regulatory Framework are considered in relation to Market 6 below:

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

To compete in this market as a facilities-based service provider requires an individual licence. There are four licensed facilities-based service providers at present and two additional facilities-based service providers are expected to be licensed and operational in the near future. The resources needed to establish an infrastructure-based service are substantial. The market entry barriers are high and non-transitory, and although the number of potential competitors who have entered or are entering should be sufficient to offer competition in the future, their network developments and operations are at an early stage.

> *(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.*

The market under consideration has a long way to go before the new entrants gain traction in the market. At this stage, CITC considers that the market will not develop sufficiently to protect the interests of customers in the time frame for analysis of this market.

> *(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.*

CITC has examined the appropriateness of designating the wholesale broadband access market (Market 10 below). The question is whether *ex-ante* regulation of that upstream market, together with *ex-post* competition controls, would likely be sufficient to address dominance concerns in this retail market. Two data service providers are providing WiMAX based internet access. One additional new entrant has deployed service on a limited basis in the past six months and the other two are potential additional licensees at this stage and have yet to deploy services. The competition may take some time to have a significant impact and *ex-post* controls may not be adequate or timely to address concerns related to market dominance in the meantime.

Conclusion:

This market is appropriately defined. It is not likely to develop into a competitive market in the time horizon of this study, and is one where *ex-post* remedies are unlikely to address the potential harm from dominance in this market in the medium term.

Accordingly, this market should be designated as appropriate for the purposes of *ex-ante* regulation of dominance.

3.7 Market 7 - Wholesale fixed call termination services

(a) Market definition

This wholesale market covers the termination of calls that are conveyed from the KSA networks of other licensed service providers to end-users connected to each fixed network, so that each fixed network defines a separate market. This market also covers self-provision of fixed call termination services.

(b) Demand-side substitutability

There are no substitute services. All service providers have monopolies in relation to call termination on their own networks. If a user wishes to call a specific subscriber on that subscriber's fixed service there is only one way of doing so – and that is via the network to which the fixed service is connected. The SSNIP test is therefore irrelevant.

(c) Supply-side substitutability

There can be no substitute suppliers. The only supplier able to provide termination of a call on a particular fixed service is the supplier operating the network to which service is connected. The SSNIP test is therefore irrelevant.

(d) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

Entry barriers to the market are high and non-transitory. No competitive service providers can provide this service.

> *(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.*

The market will always have a single service provider. Therefore there is no trend towards competition in this market.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

In these markets the issues that arise relate to the price and other conditions of access to the termination service. These issues can be readily anticipated and are generally addressed through *ex-ante* remedies. *Ex-post* remedies alone are insufficient to address issues or to prevent them from recurring. The absence of *ex-ante* remedies service providers could have serious commercial consequences for new entrants and effectively delay or prevent their entry and continued operation in the market.

Conclusion:

This market is appropriately defined. It has high entry barriers (no other entry is possible), will not develop into a competitive market over time, and is one where *ex-post* remedies will not effectively address concerns related to market dominance.

Accordingly, this market should be designated as appropriate for *ex-ante* regulation of dominance.

3.8 Market 8 - Wholesale transit interconnection service

(a) Market definition

This is a wholesale service for the conveyance of traffic between points of interconnection ("POI") for other service providers. This market also covers self-provision of transit interconnection service.

(b) Current situation

Wholesale transit interconnection services are currently offered in the STC RIO but are not currently provided in the Kingdom and there has been no apparent specific demand. However CITC expects that situation may well change including when new fixed licensees become operational within the time horizon of this analysis.

(c) Demand-side substitutability

Theoretically a service provider seeking transit services may substitute one or a combination of dedicated interconnect link services instead. However, this is not likely to provide the low unit costs and flexibility associated with conveyance between two POIs using the capacity and diversity options of an existing ubiquitous switched network. If a hypothetical monopolist introduced a SSNIP of 5% for transit services, this would be profitable since it is not likely to offset the inherent cost savings relative to self provision or leasing of interconnect links for the wholesale customers involved.

(d) Supply-side substitutability

A SSNIP of 5% would not encourage a fixed facilities based service provider operating in adjacent markets to enter the market for transit services. The price increase would be insufficient to encourage the significant initial investment required.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.

Entry barriers to the market are high and non-transitory. Facilities based entrants would need to make significant network investments to extend their networks nationwide and be able to operate in this market. Although these entry barriers are high and non-transitory there are a number of licensed service providers within the barriers already.

(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.

The market has not developed yet and demand is potential rather than actual. However, it is CITC's assessment that only one service provider is likely to have the network ubiquity to address potential demand in this market in the time horizon of this analysis. Therefore there is unlikely to be a tendency towards any material level of competition in this market in the time frame of this analysis.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

Lack of transit services at fair and reasonable prices may be a significant barrier for effective competition and may prevent timely interconnection by new entrants to markets for fixed and mobile services. *Ex post* remedies would likely be too late in their application to effectively address concerns related to market dominance in this market, or to undo actual damage that may have occurred.

Conclusion:

This market is appropriately defined. It has high entry barriers, will likely not develop into a competitive market in the short to medium term, and is one where *ex-post* remedies will not effectively address concerns related to market dominance.

Accordingly, this market should be designated as appropriate for *ex-ante* regulation of dominance.

3.9 Market 9 - Wholesale broadband access services

(a) Market definition

This wholesale market covers the wholesale bitstream access and line sharing services that a. service provider provides to other service providers and to its own retail arm. CITC has included these services in a combined market after consideration of the comments from the public consultation, and because both line sharing and bitstream access are ways in which wholesale customers may obtain the basic subscriber access on which to develop their own retail broadband services, and may require access to both depending on the characteristics of the individual locations where they are providing service.

(b) Demand-side substitutability

The common characteristic of both services that comprise this market is that they provide access to non-replicable network elements. One or both of the services may be necessary as inputs into a retail broadband access operation. Matters affecting availability, price and preferred business model will determine whether a particular wholesale customer chooses one or the other or a mix of the services.

There is no other service that would be an acceptable substitute and which the customer could consider in response to a SSNIP.

(c) Supply-side substitutability

Wholesale service providers with other technologies such as wireless-based systems would not be encouraged to enter the market in response to a SSNIP due to the scale of the infrastructure involved and the investment required.

(d) Geographic scope of market

The market is national in scope; however, the availability of services will vary from place to place depending on the technical characteristics of the network platforms deployed.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

There are high and non-transitory entry barriers to this market. They take the form of regulatory constraints (licensing) as well as the capital and other resources that are required to operate in this market.

> *(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.*

The infrastructure that is required to support the services in this market is of a bottleneck nature. That infrastructure cannot be economically replicated in many locations. In the timescales of this analysis, this relevant potential market will not tend to be subject to competitive forces that are sufficient to protect the interests of customers. While two data service providers and a fixed service provider have been licensed (in addition to the incumbent) and have deployed some access facilities mainly based on WiMAX technology, their deployments are relatively limited at this stage and are not in a position to effectively provide competitive wholesale broadband access service..

> *(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.*

Ex-post remedies are unlikely to address concerns related to dominance in this market. The opportunities and incentives for price squeezing are very apparent. There is a substantial risk that the downstream retail market for broadband will not develop competitively unless such risks are addressed in advance through *ex-ante* regulation. Consequently *ex-post* measures will likely be inadequate to protect competition.

Conclusion:

This market is appropriately defined. It has high entry and non-transitory entry barriers, is not likely to develop in the short to medium term into a competitive market, and is one where *ex-post* remedies are unlikely to be sufficient to address concerns related to dominance.

Accordingly, this market should be designated as appropriate for *ex-ante* regulation of dominance.

3.10 Market 10 - Wholesale leased line services and managed network transmission services

(a) Market definition

This wholesale market covers the provision of leased lines and managed network transmission services where connectivity is provided on an equivalent but not dedicated basis between separate locations of another service provider. The market includes national and international wholesale leased line services. This market also covers self-provision of the relevant services.

(b) Demand-side substitutability

There are no effective substitutes for leased lines and managed network transmission services at the wholesale level. Leased lines provide dedicated transmission capacity between two locations, and are used by competitors mainly for traffic transport and backhaul in areas where it is not economic to establish their own infrastructure for that purpose. It is possible that leased lines may be used as a substitute for managed network transmission services under certain circumstances, and vice versa. This form of substitution is likely to be encountered more frequently in the retail than the wholesale market, but has been included in the market definition because, depending on the wholesale customer's needs and own retail services, it may be a viable substitute for dedicated leased line connectivity at the wholesale level.

The customers in this wholesale market are technologically competent and sophisticated. They will require the services outlined above as inputs into the services that they in turn provide to their own retail customers. As in most wholesale markets there are limited substitutes that they can consider and for that reason a SSNIP of 5% would, in CITC's view, be profitable.

(c) Supply-side substitutability

A SSNIP of 5% is unlikely to attract new providers into the market or to trigger self-supply to a level that would make the SSNIP unprofitable.

(d) Geographic scope of market

Both existing transmission networks in the Kingdom are national networks, but not necessarily with the same geographical scope and coverage. Competition in the provision of leased line services however may develop further in future on a route by route or other geographic basis.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to initially consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

Service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are subject to terms and conditions established by CITC. However the cost of provision of alternative network infrastructure to support leased line services is generally high, with the possible exception of short-distance lines that might use microwave systems, for example. The height of entry barriers will depend on whether the need is for short-distance or longer distance leased lines.

> *(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.*

. The market is characterised by extensive transmission infrastructure investments with substantial scale economies. The incumbent operates an extensive transmission network which is national in scope. An alternative national fibre networks is being constructed but is unlikely to have the scope to address the requirement of large customers for national or near-national solutions at this time. The operation of this network, and its effect on overall competition in this market, will need to be monitored. In addition, a limited set of leased line service requirements are being addressed through self-provision, it is expected that full competition in this market will take some time to emerge and that the market will continue to exhibit dominance in the short to medium term horizon of this analysis

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

Given the current level of competition, it is unlikely that *ex-post* remedies will adequately address concerns related to market dominance, particularly where the concern is a refusal to supply except at prices pitched above cost.

Conclusion:

This market is appropriately defined. It has generally high entry barriers (save for some limited self-supply opportunities), is not likely to develop into a competitive market in the time frame of this analysis, and is one where *ex-post* remedies are unlikely to address the potential harm from dominance. Accordingly, this market should be designated as appropriate for *ex-ante* regulation of dominance.

3.11 Market 11 – Wholesale mobile call termination services

(a) Market definition

This wholesale market covers the termination of calls that are conveyed from the KSA networks of other licensed service providers to end-users connected to each mobile network, so that each mobile network defines a separate market. This market also covers self-provision of mobile call termination services.

(b) Demand-side substitutability

There are no substitute services. All service providers have monopolies in relation to call termination on their networks. If a caller wishes to access a subscriber to a particular mobile service there is only way of doing so – and that is via the network to which the mobile subscriber's service is connected. The SSNIP test is therefore irrelevant.

(c) Supply-side substitutability

There can be no substitute suppliers. The only supplier able to provide termination of a call to a particular mobile subscriber is the service provider to whose mobile network that subscriber's service is connected. The SSNIP test is therefore irrelevant.

(d) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.

Entry barriers to the market are high and non-transitory. No competitive service providers can provide this service.

(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.

The market will always have a single service provider. Therefore there is no trend towards competition.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

In these markets the issues that arise relate to the price and other conditions of access to the termination service. These issues can be readily anticipated and are generally addressed through *ex-ante* remedies. *Ex-post* remedies alone are insufficient to address issues or to prevent them from recurring on a continuous basis. The absence of *ex-ante* remedies service providers could effectively deny terminating interconnection services to other service providers. This would almost certainly have serious commercial consequences for new entrants and potentially prevent their entry and continued operation in the market.

Conclusion:

This market is appropriately defined. It has high entry barriers (no other entry is possible), will not develop into a competitive market over time, and is one where *ex-post* remedies are unlikely to be sufficient to address concerns related to market dominance.

Accordingly, this market should be designated as appropriate for *ex-ante* regulation of dominance.

3.12 Market 12 - Wholesale national roaming services

(a) Market definition

This is the wholesale market for roaming of customers between national mobile networks.

(b) Market status

In KSA there is only one customer, Zain, and two potential service providers, STC and Mobily. Zain has entered into a commercial agreement for these services with Mobily until it completes building its network. It is unlikely that there will be more customers in the time frame of this analysis.

There is no need for CITC to intervene in this area at present. CITC notes that a similar stance has been adopted by regulators in other developed countries.

Conclusion:

This market is appropriately defined. There is no need for CITC *ex-ante* regulatory intervention at this time. If and when the need arises, the CITC may undertake a review of the market, either on its own motion or on the application of an interested person.

Consequently CITC does not intend to take further action in relation to this market at this time.

3.13 Market 13 - Wholesale international voice call services

(a) Market definition

This market covers the provision of wholesale international voice connectivity. The market definition of this wholesale market includes self-provision of the relevant services.

(b) Demand-side substitutability

A hypothetical monopolist applying a SSNIP is highly likely to make a profit. The wholesale customer requires international voice minutes in order to provide its own retail services. If the price for those minutes becomes 5% more expensive the wholesale customer could not substitute with another service. There is no effective substitute. It is more likely that the wholesale customer would seek to pass on the additional costs of the SSNIP to end-users, subject to the extent permitted by competition in the retail market.

(c) Supply-side substitutability

A SSNIP is unlikely to encourage alternative suppliers to enter the market. Substantial investment is required for market entry by alternative suppliers and a SSNIP of 5% is unlikely to be sufficient to encourage this. Market entry requires international switching and transport capability and the development of a set of correspondent relationships to enable call conveyance and termination in other countries.

(d) Route by route definition of the market

Some respondents to the Public Consultation commented that this market would be best considered as a number of different markets defined on a route basis rather than as a single market because the level of competition could conceivably vary on a route by route basis.

It is not practical to define and separately regulate over 200 different wholesale markets, and such an approach is not adopted in other developed countries. Route diversity and total route management arrangements suggest that at this level of the market there is little to be gained in route by route market definition. Providers have their own facilities or can obtain wholesale access to all or most routes through foreign correspondents or from competitors. Indeed, it is possible to adopt different approaches depending on the routes and commercial relationships. In this way the scope of the market covers all routes. However CITC understands the concern that arises when a service provider has affiliated companies at both ends of a route and may have the opportunity and the power to reduce prices below cost. This can be adequately addressed through *ex post* remedies as discussed in the next section.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

Regulatory barriers exist in that service providers need an individual licence in order to enter the wholesale market. When international call markets in other countries were being liberalised, entrants focussed on the provision of international call services at both the wholesale and retail levels. This is because the profit margins and future profit opportunities seemed to be attractive. Although wholesale international voice call prices have reduced substantially over the past decade, including as a result of the introduction of IP-based technologies which offer high capacity and low unit cost, the sector remains attractive relative to the investment required to establish an operation. In resource and investment terms the entry barriers are relatively not high. In any case, three service providers are in the market and have established their own international gateways. The concentration of landing points for submarine cable facilities is of concern, however, that bottleneck could be bypassed if required.

(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.

This market will trend in the short to medium term toward sufficient competition to protect customer interests because of the substantial numbers of service providers involved globally and the numbers licensed within KSA. Maintaining any form of power in this market is difficult, and more difficult than in purely national markets. There is no price leader in this market and all service providers find that they must respond to each others' pricing initiatives.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

It is likely that *ex-post* remedies would be adequate to address the competition issues likely to arise in this market as a result of dominance. Competition already exists in this market. Further, the competition is not at a fragile or early stage such that anti-competitive behaviour would threaten it before *ex-post* remedies could be considered and applied. If competition issues occur in this market, they might take the form of exclusive dealing or price predation. In both cases *ex-ante* measures that are not related to dominance should be adequate to address the problem. For example, CITC could use its authority under Article 47 of the Bylaw to require all service providers, whether dominant or not, to notify price changes, and to suspend implementation pending review and analysis of any issues that are involved. *Ex-post* remedies are available as well. Exclusive dealing, which typically involves refusal to deal and unjustified discrimination, is likely to be difficult in this market, but allegations can be addressed by CITC in response to complaints about specific behaviour (that is, *ex-post*), without a material risk of competitors failing in the market in the interim. All of the competitors in this market in KSA are substantial operations with significant affiliations in foreign-country markets.

Conclusion:

This market is appropriately defined. Consideration of the three important criteria suggests:

- Leaving aside regulatory requirements for licensing, the barriers to entry are not particularly high and there are already three service providers who are now inside the barriers and who are authorised and capable of competing n this market.
- The market does not have competitors who are behaving or are able to behave like dominant service providers at present and this is likely to become even more pronounced as the third mobile service provider and the second fixed service provider gain traction in the market.
- *Ex-post* competition controls appear to be adequate for the regulation of behaviour that constitutes a potential threat from dominance.

Consequently CITC does not intend to designate this market for *ex-ante* regulation of dominance.

3.14 Market 14 - Wholesale fixed voice call origination service

(a) Market definition

This wholesale market covers the origination of voice calls from fixed locations where the calling customer specifies the network on which the call will be conveyed. This market also covers self-provision of fixed call origination services.

(b) Market status

This service is not operational at this time. It could become operational in the time horizon of this analysis

(c) Demand-side substitutability

Unlike fixed voice call termination service (where the customer receiving the call does not control or pay for the call), with call origination, if the calling customer does not accept the price charged for call origination, he may seek to transfer his access service to another provider. Thus, at the wholesale level the originating network service provider does not have an effective monopoly as in the call termination case.

For example, a typical call origination situation would be where a customer elects to have national long distance calls conveyed by a service provider other than the one providing the fixed access service – that is, Carrier Pre-selection Service or CPS. If in such a case the provider of the fixed access service increases the costs for call origination to the pre-selected carrier, that increase would most likely be passed on to the customer. The customer is therefore directly impacted by the originating service provider's actions at the wholesale level, and has the option of transferring to another access provider,

If the fixed operator providing the access service is a hypothetical monopolist and applies a SSNIP, it is likely that this would be profitable. The customer has the option of transferring his service to a mobile network, but the price and other features of mobile access are significantly different and this would not be a likely outcome.

(d) Supply-side substitutability

The issue here is whether, if a hypothetical monopolist applied a SSNIP (say 5%), would this be sufficient to attract other providers to provide a service in the specific market? CITC considers that there is no supplier that would be attracted to the market in response to a SSNIP. The mobilisation of resources to enter a market with substantial fixed costs associated with infrastructure rollout would not be considered likely in response to a price increase of only 5%. Further, CITC has selected a technology neutral and service specific regulatory framework and therefore mobile licensees are not automatically eligible to provide fixed services.

(e) Determination of whether a market should be designated as appropriate for *ex-ante* regulation

Having defined the market it is appropriate to consider the three criteria in Paragraph 2.3.5 of the Regulatory Framework.

> *(a) Whether the telecommunications market under consideration is subject to high and non-transitory entry barriers.*

Retail fixed access service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are subject to terms and conditions established by CITC.

Furthermore, certain infrastructure required to connect premises to the network is not generally economically replicable, so there is a significant first-in advantage in favour of the incumbent. In particular, it is not generally economic to replicate easements, ducting systems and conduit.

These barriers to entry are non-transitory. They have been in place for a long time and are unlikely to be reduced in the short to medium term.

(b) Whether the telecommunications market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without regulatory intervention.

The access component of the local network has bottleneck characteristics, in that it is not generally economically feasible to duplicate it, and these characteristics are unlikely to change in the short term. Although new wireless and broadband technologies are enabling alternative service providers to address demand for fixed access service in some areas, the process of providing competitive alternatives with near national reach and to gain significant market share takes a long time. In the Kingdom, the processes of capital formation, market assessment, licence procurement and service mobilisation are now under way and it will take considerably more time for the nascent competitive forces to be sufficient to protect the interests of customers.

(c) Whether ex-post remedies alone, in the absence of ex-ante regulation in the same telecommunications market, would likely be sufficient to address concerns related to market dominance.

In these markets the issues that arise relate to the price and other conditions of access to the origination service. These issues can be readily anticipated and are generally addressed through *ex-ante* remedies. *Ex-post* remedies alone are insufficient to address issues or to prevent them from recurring. In the absence of *ex-ante* remedies service providers could have serious commercial consequences for new entrant service providers that seek to attract information service providers to their networks or to provide alternative long distance or other services to an established service provider's customer base.

Conclusion:

This market is appropriately defined. It has high entry barriers, will not develop into a competitive market over time, and is one where *ex-post* remedies will not effectively address concerns related to market dominance.

Accordingly, this market should be designated as appropriate for *ex-ante* regulation of dominance.

4 Dominance

The considerations to which CITC has regard in assessing whether there are one or more dominant service providers in any market are set out in Bylaw Article 30 of the Bylaw and supplemented by the additional criteria in Section 2.4 of the Regulatory Framework, as listed, for convenience, below.

The relevant article reads:

"**Article 30 Designation of Dominant Service Providers**

30.1 In accordance with Article One of the Act, every service provider that earns forty per cent (40%) or more of the gross revenues in a specific telecommunications market shall be designated a dominant service provider in that market, until and unless the Commission specifies otherwise in a decision.

30.2 The Commission may designate a service provider with more or less than forty per cent (40%) of the gross revenues in a specific telecommunications market as a dominant service provider if, either individually or acting together with others, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors or users, taking into account its market share and the factors set out in paragraphs 30.6(b) to 30.6(f) of this Article.

30.3 The Commission shall post and maintain on its official web site a current list of all dominant service providers, specifying the markets in which they have been designated to be dominant.

30.4 Decisions designating dominant service providers shall specify and define the relevant markets for which a service provider is designated to be dominant.

30.5 Prior to issuing any designation decision the Commission shall consult with the public and with the affected service providers, except in the case of an initial decision to designate the incumbent service provider as dominant. Notice of such consultation shall be made in accordance with the Rules of Procedure.

30.6 In determining whether to designate a service provider as dominant, or to change its designation, with respect to any relevant market, the Commission shall, in respect of the relevant market only, take into account the following factors:

(a) the service provider's market share and whether it gives the service provider a position of economic strength affording it the power to behave to an appreciable extent independently of competitors or users, taking into account the other factors set out below;

(b) the number of other service providers and their market shares;

(c) pricing behaviour and the ability of any service provider to take the lead in setting prices;

(d) whether the service provider has exclusive or dominant control over essential facilities for the provision of services and/or telecommunications facilities that provide access to users;

(e) the availability of reasonably substitutable services; and

(f) the nature and extent of barriers to entry.

The supplementary criteria in Paragraph 2.4 of the Regulatory Framework are:

2.4.1 the degree of market concentration as determined by reference to revenues, numbers of subscribers or other relevant statistics;

2.4.2 the evolution of telecommunications service providers' market share over time;

2.4.3 the degree to which a telecommunications service provider's tariffs have varied over time;

2.4.4 the ability of the telecommunications service provider to earn higher than normal profits;

2.4.5 the telecommunications service provider's financial resources and access to funding;

2.4.6 the telecommunications service provider's vertical integration and the existence of a highly developed distribution network;

2.4.7 the ability of the telecommunications service provider to benefit from preferential or limited access to superior technology; and

2.4.8 the ability of the telecommunications service provider to obtain preferential or long-term contracts for the supply of relevant services to large users.

In this Report the factors for consideration have been numbered and abbreviated for convenience as follows:

1. Market share – that is the percentage of the market that a service provider has in subscriber, revenue or traffic volume terms
2. Power to act independently
3. Market structure
4. Pricing behaviour
5. Control over essential facilities
6. Availability of substitutable services
7. Barriers to entry
8. Market concentration – that is, the distribution of shares amongst service providers in a market
9. Evolution of market share over time
10. Price variations over time
11. Ability to earn above normal profits
12. Financial resources and access to capital
13. Vertical integration and distribution networks
14. Preferential access to superior technology
15. Preferential or long-term contracts for supply of relevant services to large users

Not all of the above 15 factors are relevant for all markets under consideration.

In the case of factors 12, 13 and 14, the CITC has found that in general they do not affect the assessment of dominance in the markets being considered, or if they do, their effect is common to all markets. In the interests of brevity, their impact on all markets is discussed below and not repeated in the assessment of each market.

In relation to factor 12 all of the service providers have access to financial resources and capital sufficient to support their investments and operations in the markets. It is not the case in any of the markets that one service provider has financial resources and access to capital while others do not, and that, as a result, there is a point of significant differentiation which can be leveraged to give that service provider additional power in the market.

In relation to factor 13, STC is vertically integrated and provides a comprehensive range of fixed, mobile and value added services. This gives it significant advantage in all markets and potential for the exercise of market power in the absence of regulation. With regard to the availability of distribution networks, CITC has reviewed the situation in the Kingdom and has found that in practice there are many alternative distribution outlets available to all service providers, and that service providers are able to set up such distribution networks without being unduly hindered by exclusive arrangements.

In relation to factor 14, all participants in the market have access to latest technology and to global telecommunications equipment and systems vendors supplying that technology. The equipment and systems supply market is open and fully competitive.

The numbering scheme for the relevant markets that has been used earlier in this report is continued below for ease of reference.

4.1 Market 1 - Retail fixed access services

4.1.1 Market share

STC has close to 100% share in this market. EATC has some limited coverage with its WiMAX network but at this stage has a very small market share.

4.1.2 Power to act independently

Leaving regulatory constraints aside, STC has the power to act independently of its competitors and customers, taking account of the various factors listed below.

4.1.3 Market structure

This market is structured in terms of one large long-established incumbent and three new providers who were selected for licensing. One of these three, EATC, has since been licensed and has recently commenced providing commercial service.

4.1.4 Pricing behaviour

STC’s prices in this area are regulated. The prices that are in place today therefore do not represent the behaviour of STC alone. STC's dominant market share gives it price leadership in this market.

4.1.5 Control over essential facilities

STC controls a range of essential facilities that are needed for the provision of the services in this market, including:

- Acquired rights of way
- An extensive duct system to support the customer access network
- Masts and towers in favourable locations
- An extensive fixed customer access network (including copper loops)

These are essential facilities because they cannot be economically replicated in most locations.

4.1.6 Availability of substitutable services

Some subscribers have substituted mobile for fixed voice communication. However, fixed and mobile access services have different characteristics and typical uses, and mobile access services are not considered full substitutes for fixed access services. For example they are not household services and are not suitable as the basic communications service in many business office environments.

4.1.7 Barriers to entry

Facilities based fixed access service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are only available at times and subject to terms and conditions established by the regulator. In addition, substantial capital and other resources are required to enter this market and to achieve a viable scale of operation.

4.1.8 Market concentration

This is a very concentrated market. STC has close to 100% market share.

4.1.9 Evolution of market share over time

The new entrants will gain market share over time, however CITC expects that STC will retain a majority market share well beyond the time frame of this analysis.

4.1.10 Price variations over time

Price variations have been subject to careful scrutiny and control by CITC. Changes over time reflect CITC policy considerations and not only the commercial preferences of STC.

4.1.11 Ability to earn above normal profits

Absent regulation, STC has the potential to earn above normal profits in this market.

4.1.12 Preferential or long-term contracts for supply of relevant services to large users

Given its historical position in this market STC has long-term arrangements with large customers including Government. If there are volume discounts or other arrangements that tend to encourage customer 'loyalty' in these situations they are amenable to examination and, if found to be anti-competitive, to remedial action on an *ex-post* basis.

Conclusion:

STC is dominant in this market because –

- it has close to 100% market share in a market with high barriers to entry and limited substitute services,
- it has control over relevant essential facilities, and
- absent regulation, it has a clear ability to act independently.

A lesser factor, but not insignificant, is STC's relationship with large customers built up over a long period.

No other service provider is dominant in this market.

4.2 Market 2 - Retail local and national fixed call services

4.2.1 Market share

STC has almost 100% share in this market and the new fixed operator (EATC) has no material share in this market at present.

4.2.2 Power to act independently

Leaving regulatory constraints aside, STC has the power to act independently of its competitors and customers, taking account of the factors listed below.

4.2.3 Market structure

This market is structured in terms of one large long-established incumbent and three new providers who were selected for licensing. One of these three has since been licensed and has recently commenced providing commercial fixed voice service.

4.2.4 Pricing behaviour

STC's prices in this area are regulated. The prices that are in place today therefore do not represent the behaviour of STC alone.

4.2.5 Control over essential facilities

Local and national call services are supported by circuit-switched network platforms. The switching systems are economic to replicate, but the customer access transmission systems and the infrastructure platforms on which they operate are not replicable on a national basis at this time. Implementation of competitive Wireless Broadband Access and fibre networks is occurring, particularly in urban areas, however, these systems are not expected to approach the extensive coverage of the legacy network operated by STC within the time frame of this analysis.

4.2.6 Availability of substitutable services

Mobile-originated calls can be used as substitutes for most local and national fixed voice calls, but with different characteristics and with pricing that reflects a different cost structure and different capabilities (such as mobility). The mobile premium, discussed in Section 3.2(b), means that mobile call substitutability is limited at this stage.

4.2.7 Barriers to entry

Facilities based fixed call service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are only available at times and subject to conditions established by the regulator.

4.2.8 Market concentration

This is a very concentrated market, with STC having almost 100% of the fixed voice call traffic.

4.2.9 Evolution of market share over time

CITC expects the new entrants to gain market share over time, however CITC expects that STC will retain a majority market share well beyond the time frame of this analysis.

4.2.10 Price variations over time

Price variations have been subject to careful scrutiny and control by CITC. Changes over time reflect CITC policy considerations and not only the commercial preferences of STC.

4.2.11 Ability to earn above normal profits

Absent regulation, STC has the potential to earn above normal profits in this market.

4.2.12 Preferential or long-term contracts for supply of relevant services to large users

Given its historical position in this market STC has long-term arrangements with large customers including Government. If there are volume discounts or other arrangements that tend to encourage customer 'loyalty' in these situations they are amenable to examination and, if found to be anti-competitive, to remedial action on an *ex-post* basis.

Conclusion:

STC is dominant in this market because:

- It has almost 100% of this market,
- It is the large service provider in a highly concentrated market and the three licensed service providers remain small, individually and in aggregate,
- Entry is regulated, and
- It has ability to act independently on price, absent regulatory controls.

A lesser factor, but not insignificant, is STC's relationship with large customers built up over a long period. On the other hand, the availability of mobile voice call alternatives will have an impact on this market but is not expected to affect the conclusion in the time frame of this analysis.

No other service provider is dominant in this market.

4.3 Market 5 - Retail business data services

4.3.1 Market share

CITC does not have specific information, but it estimates that STC's share would be well over 90% in each of the key service sub-markets – for leased line services and for IP-VPN services. No alternative figures were offered in the course of the public consultation.

4.3.2 Power to act independently

Absent regulation, STC would have the power to act in this market independently of its customers and competitors, having regard to the factors set out below.

4.3.3 Market structure

There is one large, long-established incumbent service provider and two licensed data service providers. In addition, three new facilities based fixed service providers were selected for licensing recently. One of these three has since been licensed and has recently commenced operations. Licensed competitors are small and have relatively limited market presence at this stage of development.

4.3.4 Pricing behaviour

Prices are regulated. STC is a price leader in this market.

4.3.5 Control over essential facilities

These services use essential access facilities of the same kind as those listed in paragraph 4.1.5. However other technologies such as WiMAX bypass these facilities and enable a level of facilities based competitive service. In future the ongoing construction of competitive metropolitan fibre rings and national fibre networks will progressively reduce the impact of control over essential facilities.

4.3.6 Availability of substitutable services

The services in this market are, to some extent, substitutable amongst themselves. The group of services that comprise this market are typically used by medium to large enterprises for internal communications or communication amongst a closed group of suppliers and large customers. These services are not readily substituted by other data services such as broadband internet services used by residential and business customers to access public internet facilities.

4.3.7 Barriers to entry

Entry is subject to licensing. The platforms on which the services are provided require substantial investment for establishment and operation. These are substantial barriers to entry.

4.3.8 Market concentration

The market is very concentrated. See paragraphs 4.3.1 and 4.3.3.

4.3.9 Evolution of market share over time

CITC expects that services in this market will evolve toward IP-based applications on broadband platforms. This evolution may provide an opportunity for competition to develop and for new entrants to gain share through service delivery via new broadband access networks, rather than through service-specific networks. However, CITC expects that STC will retain a significant majority market share beyond the time frame of this analysis.

4.3.10 Price variations over time

Prices of the dominant service provider are regulated. Changes over time reflect CITC policy considerations and not only the commercial preferences of STC.

4.3.11 Ability to earn above normal profits

Absent regulation, STC has the potential to earn above normal profits in this market.

4.3.12 Preferential or long-term contracts for supply of relevant services to large users

Given its historical position in this market STC has long-term arrangements with large customers including Government. If there are volume discounts or other arrangements that tend to encourage customer ‘loyalty’ in these situations they are amenable to examination and, if found to be anti-competitive, remedial action on an *ex-post* basis.

Conclusion:

STC is dominant in this market because:

- It has a very high share of the market and is expected to retain a significant majority share beyond the time frame of this analysis,
- Licensed competitors in this market are small with relatively limited presence at this stage, and
- Absent regulation, STC has a clear ability to act independently and to earn above normal profits in this market.

No other service provider is dominant in this market.

4.4 Market 6 - Retail fixed broadband internet access services

4.4.1 Market share

STC has close to 100% share in this market. In relative terms, the two licensed data service providers and one fixed service provider who recently initiated commercial service, do not have a significant share in this market at present.

4.4.2 Power to act independently

Absent regulation, STC would have the power to act independently of its customers and competitors having regard to the factors below.

4.4.3 Market structure

There is one large, long-established incumbent service provider and three new entrants, one of whom has recently been licensed and commenced operations, and two of whom are in the process of being licensed. In addition there are two licensed data service providers.

4.4.4 Pricing behaviour

Prices and price changes are regulated. STC is a price leader in this market.

4.4.5 Control over essential facilities

STC has control over the two main underlying facilities on which this service is based – unbundled local loops (ULL) and, where established, fibre. Access to the customer is not economically replicable in many locations and therefore control of both kinds of facility (copper loops and fibre) constitutes control over essential facilities. This control is not expected to be substantially affected by alternative infrastructure rollout in the time horizon of this analysis. Even though alternative fibre networks are being deployed it is expected that their role in the development of effective competition will take time.

4.4.6 Availability of substitutable services

This market is for fixed broadband internet access. There is no effective substitute service that provides the same features that customers are seeking – namely high transaction speeds, low price and an always-on service. Mobile data services are growing rapidly but they are largely complementary and likely to remain that way because they have different service characteristics in terms of capacity and price. .

4.4.7 Barriers to entry

There are regulatory licensing barriers to entry. The resources and investment required to gain significant share in this market at the retail level are substantial.

4.4.8 Market concentration

The market is very concentrated. See paragraphs 4.4.1 and 4.4.3.

4.4.9 Evolution of market share over time

The market shares will evolve over time as the new entrants deploy their services and roll out their networks. However, this is expected to be gradual process and will not significantly affect STC's market position or market share in the time frame of this analysis.

4.4.10 Price variations over time

Prices for the relevant services of the dominant service provider are regulated, and therefore reflect CITC policy as well as commercial forces.

4.4.11 Ability to earn above normal profits

Absent regulation, STC has the ability to earn supernormal profits in this market at this time.

4.4.12 Preferential or long-term contracts for supply of relevant services to large users

The services in this market are directed to all residential and business customers. They are not designed for the special requirements of large users. This is not a market in which one would expect to find preferential or long-term contracts for supply that benefit large users, unless the services are part of a total solution with overall price and other advantages for such large users.

Conclusion:

STC is dominant in this market because:

- It has close to 100% market share in a concentrated market in which it has relatively recent entrants as competitors,
- In the absence of regulation it has the capacity to act independently and to earn above normal profits,
- It has control over access network facilities which are essential for competitors to deliver services extensively in this market, and
- There are high regulatory barriers to entry.

No other service provider is dominant in this market.

4.5 Market 7 - Wholesale fixed call termination services

This is really a collection of markets – with each fixed network constituting a separate market.

4.5.1 Market share

Each service provider that operates a network has 100% share of the market for call termination on its own fixed network, irrespective of its share in other markets, including retail markets.

4.5.2 Power to act independently

Absent regulation, each service provider has the power to act independently of its customers having regard to the factors below. .

4.5.3 Market structure

There are two current and two prospective service providers (separate markets) in this field – STC, EATC, SITC and OCC. However only one service provider will be dominant in each market, because each service provider's network defines a separate market.

4.5.4 Pricing behaviour

Prices in this market are regulated.

4.5.5 Control over essential facilities

Not relevant.

4.5.6 Availability of substitutable services

No substitute is available.

4.5.7 Barriers to entry

No entry is possible apart from the service provider who is the network operator.

4.5.8 Market concentration

There is only ever one service provider in each termination market so by definition the market is fully concentrated.

4.5.9 Evolution of market share over time

This will not change at all over time.

4.5.10 Price variations over time

Prices of the dominant service provider are regulated. Changes reflect initiatives by the regulator, not necessarily the commercial interests of the service provider.

4.5.11 Ability to earn above normal profits

There is a very clear ability to earn above normal profits in this market, because other service providers need the call termination service to complete calls made by their customers.

4.5.12 Preferential or long-term contracts for supply of relevant services to large users

Not relevant.

Conclusion:

STC and EATC are dominant in this market. SITC and OCC will be dominant in this market when they are licensed and their networks are operational and capable of terminating voice calls.

4.6 Market 8 - Wholesale transit interconnection service

4.6.1 Market share

This market is currently non-operational. However when it becomes operational, and given its extensive fixed network, STC is expected to have a very high share of any potential market

4.6.2 Power to act independently

STC potentially has the power to act independently, having regard to the factors below.

4.6.3 Market structure

STC is the long-standing incumbent service provider. STC, Mobily, Zain and EATC have the technical capability to provide service, however some may be subject to constraints due to the geographic coverage of their networks and, where applicable, license conditions or limitations.

4.6.4 Pricing behaviour

Prices in this market are subject to CITC regulation. Prices have not yet been established for this market.

4.6.5 Control over essential facilities

STC owns certain essential facilities, such as ducts and transmission platforms that may not be economically replicable and may be needed to establish interconnection between networks for the provision of transit services.

4.6.6 Availability of substitutable services

In time there will be an increasing number of alternative service sources available based on the national fibre and metropolitan fibre networks now being put in place by network operators other than STC. In the short to medium term there will be limited substitutes depending on the location of the POIs to be connected.

4.6.7 Barriers to entry

There are high barriers to entry. They take the form of regulatory constraints (licensing) as well as the capital and other resource requirements that are required to operate in this market. The barriers are non-transitory.

4.6.8 Market concentration

There are four potential service providers at this time, one of which, STC, has potentially total market share at present.

4.6.9 Evolution of market share over time

Market share is expected to change over time. However the rate of evolution will be dependent on the rate at which national reach can be achieved by the fibre networks now being deployed. It is expected that full national reach will not occur within the time horizon of this analysis.

4.6.10 Price variations over time

The service that constitutes this market is not currently operational, and as a result there is no history of price variation at this time. .

4.6.11 Ability to earn above normal profits

Absent regulation, STC has the ability to earn above normal profits in this market, and this is expected to last beyond the time frame of this analysis.

4.6.12 Preferential or long-term contracts for supply of relevant services to large users

Not relevant.

Conclusion:

STC is dominant in this market because:

- It has a capability which should result in close to 100% market share in a concentrated market with limited other competitive service options on a national basis,
- There are high and continuing barriers to entry including licensing barriers, and
- STC has control over essential facilities that are needed to provide this service with a national reach.

No other service provider is dominant in this market.

4.7 Market 9 - Wholesale broadband access services

4.7.1 Market share

No providers have taken advantage of this service to date, however, given STC's extensive wire line access network; it has the potential to have a substantial majority of the market.

4.7.2 Power to act independently

STC has the power to act independently, having regard to the factors below.

4.7.3 Market structure

STC is the long-standing incumbent service provider. Bayanat and ITC potentially have the capacity to provide wholesale Bitstream service through their metropolitan fibre ring infrastructure, but no such service is currently on offer and in any case it would have relatively limited geographical coverage. EATC has established initial commercial operations but is not providing this service, and SITC and OCC have not yet been licensed.

4.7.4 Pricing behaviour

Prices for the current dominant service provider in this market are regulated, however since the service is not in operation, there is no history of price variation to date

4.7.5 Control over essential facilities

Service is provided by network platforms established on essential facilities of the kinds listed in paragraph 4.1.5 of this report.

4.7.6 Availability of substitutable services

There are no direct substitutes for the services that constitute this market.

4.7.7 Barriers to entry

There are high barriers to entry. They take the form of regulatory constraints as well as the capital and other resource requirements that are required to operate in this market. The barriers are non-transitory.

4.7.8 Market concentration

There are four potential service providers at this time, but only one, STC, has the reach and coverage to provide a comprehensive national service. It is therefore likely that the market will be very concentrated.

4.7.9 Evolution of market share over time

The service is not yet operational, but if and when it is operational, it is expected to result in substantial market share for STC given its position in the sector and its national reach, as described above. Market share would be expected to change over time. However the rate of evolution will be dependent on the rate at which competitive wholesale bitstream services are deployed. This is a longer term transition and will not occur within the time horizon of this study.

4.7.10 Price variations over time

There has been no price history to date.

4.7.11 Ability to earn above normal profits

Absent regulation, STC has the potential ability to earn above normal profits in this market, and this is expected to apply for some considerable time.

4.7.12 Preferential or long-term contracts for supply of relevant services to large users

Not relevant.

Conclusion:

STC is dominant in this market because it is uniquely positioned with its extensive wireline access network. Absent regulation STC has the ability to act independently and to earn above normal profits.

No other service provider is dominant in this market.

4.8 Market 10 - Wholesale leased line and managed network transmission services

4.8.1 Market share

STC has close to 100% market share.

4.8.2 Power to act independently

STC has the power to act independently, having regard to the factors below.

4.8.3 Market structure

There are four licensed facilities based fixed data service providers; STC, Bayanat, ITC and EATC. Of these, only STC, Bayanat and ITC are providing services at this time, with STC having the most extensive transmission network.

4.8.4 Pricing behaviour

Prices for the current dominant service provider in this market are regulated.

4.8.5 Control over essential facilities

Transmission systems over “thin” (low demand) and long distance routes are bottleneck services because they are not economically replicable. The network platforms on which leased line services are based include essential facilities of the kind set out in paragraph 4.1.5.

4.8.6 Availability of substitutable services

There are no substitutes for most services. Self-supply may be considered as a substitute for a limited sub-set of services where short distance microwave and other wireless solutions might be economic.

4.8.7 Barriers to entry

Wireless technologies are relatively inexpensive and therefore the barriers to entry for short distance leased lines may be low. In general however such solutions will not deliver the required capacity or address the distance or terrain constraints at locations between which dedicated capacity is required. For most of the market CITC considers the barriers to entry to be high and non-transitory.

4.8.8 Market concentration

The market is concentrated.

4.8.9 Evolution of market share over time

Given the barriers to entry and the current levels of concentration in the market CITC considers that the evolution of market share growth by service providers other than STC will be slow, and well beyond the time horizon of this study.

4.8.10 Price variations over time

Prices for the current dominant service provider in this market are regulated.

4.8.11 Ability to earn above normal profits

Absent regulation STC has the ability to earn above normal profits. That ability is only constrained when the threshold of the buy-build decision is reached.

4.8.12 Preferential or long-term contracts for supply of relevant services to large users

Not relevant.

Conclusion:

STC is dominant in this market because:

- It has close to 100% share in a market in which other licensed service providers are relatively recent entrants who do not have the reach or presence yet to compete across the whole market,
- In the absence of regulation, STC has the ability to act independently, to refuse supply and top earn above normal profits, and
- STC has control over the essential facilities in many service areas.

No other service provider is dominant in this market.

4.9 Market 11 - Wholesale mobile call termination services

This is really a collection of markets – with each mobile network constituting a separate market.

4.9.1 Market share

Each network operator has 100% share of the market for call termination on its own mobile network, irrespective of its share in other markets, such as the market for retail mobile services.

4.9.2 Power to act independently

Absent regulation, each service provider has the power to act independently having regard to the factors below.

4.9.3 Market structure

There are three service providers (separate markets) in this field – STC, Mobily and Zain.

4.9.4 Pricing behaviour

Prices in this market are regulated.

4.9.5 Control over essential facilities

Not relevant.

4.9.6 Availability of substitutable services

No substitute is available.

4.9.7 Barriers to entry

No entry is possible apart from the service provider operating the network.

4.9.8 Market concentration

There is only ever one service provider in each termination market, so by definition the market is fully concentrated.

4.9.9 Evolution of market share over time

This will not change over time.

4.9.10 Price variations over time

Prices of the dominant service provider are regulated. Changes reflect initiatives by the regulator, not necessarily the commercial interests of the service provider.

4.9.11 Ability to earn above normal profits

There is a very clear ability to earn above normal profits in this market, because other service providers need the call termination service to complete calls made by their customers.

4.9.12 Preferential or long-term contracts for supply of relevant services to large users

Not relevant.

Conclusion:

STC, Mobily and Zain are dominant in this market because competition does not and cannot exist in each of the network-defined markets in which they each operate. There are no other service providers in this market.

4.10 Market 14 - Wholesale fixed voice call origination service

4.10.1 Market share

This service is not operational at this time. Should it become operational in the time horizon of this analysis STC is expected to retain close to 100% share. EATC has some limited coverage with its WiMAX network but is expected to have a relatively very small market share in this time frame.

4.10.2 Power to act independently

Absent regulation, STC service provider has the power to act independently having regard to the limited coverage of EATC's network and the other factors below. EATC does not have the same power because its customers would be directly affected and have the ability to switch to STC's fixed access service.

4.10.3 Market structure

There are potentially two current and two prospective service providers in this market – STC, EATC, SITC and OCC.

4.10.4 Pricing behaviour

Prices in this market are regulated.

4.10.5 Control over essential facilities

The essential facilities that are relevant to this market are the same facilities that apply in the case of fixed access markets generally. STC controls a range of essential facilities that are needed for the provision of the services in the fixed access market, including:

- Acquired rights of way
- An extensive duct system to support the customer access network
- Masts and towers in favourable locations
- An extensive fixed customer access network (including copper loops)

These are essential facilities because they cannot be economically replicated in most locations.

4.10.6 Availability of substitutable services

Effectively no substitutes are available. The size and reach of EATC's means that it is not a potential substitute. Mobile services are not substitutes at this stage based on current trend information that has already been cited.

4.10.7 Barriers to entry

Facilities based fixed access service provision is subject to regulatory barriers, in that entry is subject to an individual licence. Such licences are only available at times and subject to terms and conditions established by the regulator. In addition, substantial capital and other resources are required to enter this market and to achieve a viable scale of operation.

4.10.8 Market concentration

This is a very concentrated market. STC is expected to have close to 100% market share.

4.10.9 Evolution of market share over time

EATC and potential new entrants may gain market share over time, however CITC expects that STC will retain a majority market share well beyond the time frame of this analysis.

4.10.10 Price variations over time

Prices of the dominant service provider are regulated.

4.10.11 Ability to earn above normal profits

Absent regulation, STC has the potential to earn above normal profits in this market.

4.10.12 Preferential or long-term contracts for supply of relevant services to large users

Not relevant.

Conclusion:

STC is dominant in this market because it has in the absence of regulation a clear ability to act independently of its competitor and customers, who have effectively no alternatives. STC’s power derives from its almost 100% share of fixed origination, a position protected by high barriers to entry in terms of licensing requirements, high investment requirements and access to essential facilities. There are no other service providers dominant this market.

5 Remedies

This chapter sets out the potential harm that the dominance of each dominant service provider in each relevant market may cause and the *ex-ante* remedies for dominance that CITC may apply having regard to the procedures and principles set forth in Section 2.5 of the Regulatory Framework.

In determining the appropriate remedies that are proportionate to the risk of harm from dominance the CITC takes into account that there are *ex-ante* measures that arise under the Bylaw and in the Regulatory Framework, once a service provider has been designated as dominant in a market. The remedies that CITC considers are appropriate to the risk of harm are listed below for each of the designated markets.

Where the applied remedies are found to be insufficient to address the potential harm associated with dominance, the CITC shall require a dominant service provider to institute effective regulatory separation, such as operational or functional separation.

This chapter does not address the *ex-post* regulation of dominant service providers, nor does it address *ex-ante* regulation that is of general application to all service providers, regardless of whether or not they are dominant in a telecommunications market. CITC has applied a number of *ex-ante* remedies to some or all service providers irrespective of dominance, including in relation to Quality of Service and Terms of Service.

5.1 Market 1: Retail fixed access services

Only STC is dominant in this market. The extent of STC's dominance is substantial, and it is unlikely to be tempered to any extent by developments in the market in the near term.

There are a number of areas that offer potential for harm from market dominance, both to customers and to competitive entrants now in the course of being licensed:

- Over-charging: The risk of STC seeking to over-charge for services that are not part of the initial service menu of new entrants.
- Anti-competitive pricing: The risk of STC seeking to reduce tariffs to below cost in locations or for services that will be initial targets by new entrants.
- Unfair terms and conditions adverse to the interests of customers.

The remedies that are required to address concerns related to dominance in this market:include the following measures set forth in the Bylaw:

(a) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(b) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition STC is required to::

(a) Provide other licensed service providers with access to certain essential facilities that may be required for effective competition in this market, such essential facilities, terms and conditions to be specified by CITC from time to time; and,

(b) Segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including a requirement that STC submit to CITC on an annual basis, and on a more frequent basis should CITC so require, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market, in accordance with CITC accounting separation guidelines

(c) Provide to users information related to tariffs, and other matters as set out in the Bylaw.

5.2 Market 2: Retail local and national fixed voice call services

Only STC is dominant in this market. The extent of STC's dominance is significant, although it may be somewhat tempered in practice by fixed mobile substitution

There are a number of areas that offer potential for harm from market dominance, both to customers and to competitive entrants now in the course of being licensed:

- Over-charging: The risk of STC seeking to over-charge for services that are not part of the initial service menu of new entrants.
- Anti-competitive pricing: The risk of STC seeking to reduce its tariffs to below cost in locations or for services that will be initial targets by new entrants.
- Unfair terms and conditions adverse to the interests of customers.

The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw:

(a) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(b) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition, STC is required to:

(a) Segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including a requirement that STC submit to CITC on an annual basis, and on a more frequent basis should CITC so require, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market, in accordance with CITC accounting separation guidelines.

(b) Provide to users information related to tariffs, and other matters as set out in the Bylaw.

5.3 Market 5: Retail business data services

Only STC is dominant in this market. The extent of STC's dominance is significant, although it may be tempered in practice by the potential competition from new entrants when they deploy services in this market.

There are a number of areas that offer potential for harm from market dominance, both to customers and to competitive entrants now in the course of being licensed:

- Over-charging: The risk of STC seeking to over-charge for services that are not part of the initial service menu of new entrants.
- Anti-competitive pricing: The risk of STC seeking to reduce its tariffs to below cost in locations or for services that will be initial targets by new entrants.
- Unfair terms and conditions adverse to the interests of customers.

The remedies that are required to address concerns related to dominance in this market:include the following measures set forth in the Bylaw:

(a) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(b) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition, STC is required to:

(a) Segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including to submit to CITC on an annual basis, and on a more frequent basis should CITC so require from time to time, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market consistent with CITC accounting separation guidelines.

(b) Provide to users information related to tariffs, and other matters as set out in the Bylaw.

5.4 Market 6: Retail broadband internet access services

Only STC is dominant in this market. The extent of STC's dominance is currently significant, although it may be tempered over time by the entry of three additional service providers, and by the prospective entry of a further two who are in the process of being licensed.

There are a number of areas that offer potential for harm from market dominance, both to customers and to competitive entrants now in the course of being licensed:

- Over-charging: The risk of STC seeking to over-charge for services that are not part of the initial service menu of new entrants.
- Anti-competitive pricing: The risk of STC seeking to reduce tariffs to below cost in locations or for services that will be initial targets by new entrants.
- Unfair terms and conditions adverse to the interests of customers.
- Customer lock-in: The risk of STC seeking to lock customers into longer term contracts, by inducements that are not cost-based in advance of market entry by the new licensees.

The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw:

(a) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(b) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC.

On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition STC is required to:

(a) Segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including to submit to CITC on an annual basis, and on a more frequent basis should CITC so require from time to time, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market consistent with CITC accounting separation guidelines; and

(b) Prepare, submit for CITC's approval and publish an approved reference offer (specifically a Reference Offer for Data Access or RODA) setting out the terms and conditions to the provision of wholesale broadband access services that are needed for retail competition to be effective in this market. This ex ante remedy is considered further in Section 5.7 (on Market 9: Wholesale broadband access services).

(c) Provide to users information related to tariffs, and other matters as set out in the Bylaw.

5.5 Market 7: Wholesale fixed voice call termination services

STC and EATC are currently dominant in this market, bearing in mind that each of their respective networks is a separate market.

There are a number of areas that offer potential for harm from market dominance, both to competitors, and, through them, to end users, including:

- Anti-competitive pricing through over-charging: The risk of STC and/or EATC seeking to over-charge for call termination services relative to the cost of service provision. This could increase the costs of competitors and reduce their competitiveness in downstream retail markets.
- Unfair terms and conditions adverse to the interests of wholesale customers and end users.
- Denial or delay in providing services - including not offering to wholesale customers the same bandwidth services that STC provides to its own retail arm.
- Reduction in service quality– reducing service quality relative to the quality of services STC provides to its retail arm.

The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw:

(a) Article 39 - Offer interconnection services: Dominant service providers shall offer to provide interconnection and access to any service provider by means of a written interconnection agreement

(b) Article 40 - Interconnection charges: Dominant service providers, in establishing charges for interconnection and access, shall comply with the Interconnection Guidelines, including any pricing, costing and cost separation guidelines set out therein.

(c) Article 41 – Reference Interconnection Offer: Dominant service providers shall prepare a Reference Interconnection Offer for approval by CITC.

(d) Article 42 - Interconnection agreements: Dominant service providers shall submit to the CITC copies of interconnection agreements within 10 days after execution for publication.

(e) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(f) Article 52 - Cost studies: Preparation of cost studies as required by CITC to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

The above measures are sufficient to address concerns from dominance in this market in relation to EATC.

The circumstances of STC however are significantly different from those of EATC. STC is an integrated service provider with wholesale and retail services in the mobile, fixed, and broadband parts of the sector. This means that the potential and opportunities for harm to customer interests from dominance could arise across a broad range of commercial activities. Accordingly, in addition to the remedies set out above, STC is required to segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including submit to CITC on an annual basis, and on a more frequent basis should CITC so require, accounts that separate the costs and revenues attributable to regulated services and also attributable to each service in this market consistent with CITC accounting separation guidelines.

5.6 Market 8 - Wholesale transit interconnection service

STC will be in a dominant position in this market as soon as the market becomes operational.

There are a number of areas that offer potential for harm from market dominance, both to competitors, and, through them, to end users, including:

- Over-charging: The risk of STC seeking to over-charge for transit interconnection services relative to the cost of service provision. This will increase the costs of competitors and reduce their competitiveness in downstream retail markets where they compete with STC.
- Unfair terms and conditions adverse to the interests of wholesale customers and end users.
- Denial or delay in providing services: Denial or delay in providing transit services may prevent new entrants from interconnecting and therefore from competing effectively in the retail fixed, mobile and internet access markets they seek to enter.
- Reduction in quality – reducing service quality relative to the quality of services STC provides to its retail arm

(a) The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw: Article 39 - Offer interconnection services: Dominant service providers shall offer to provide interconnection and access to any service provider by means of a written interconnection agreement

(b) Article 40 - Interconnection charges: Dominant service providers, in establishing charges for interconnection and access, shall comply with the Interconnection Guidelines, including any pricing, costing and cost separation guidelines set out therein.

(c) Article 41 – Reference Interconnection Offer: Dominant service providers shall prepare a Reference Interconnection Offer for approval by CITC.

(d) Article 42 - Interconnection agreements: Dominant service providers shall submit to the CITC copies of interconnection agreements within 10 days after execution for publication.

(e) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(f) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition, STC is required to:

Segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including to submit to CITC on an annual basis, and on a more frequent basis should CITC so require from time to time, accounts that separate the costs and revenues attributable to regulated services and also attributable to each service in this market consistent with CITC accounting separation guidelines.

5.7 Market 9: Wholesale broadband access services

STC will be in a dominant position in this market as soon as the market becomes operational. The extent of STC's dominance is potentially significant, notwithstanding that there are two licensed data service providers, and one additional fixed service provider in the market, and two additional entrants are in the process of being licensed and may decide to enter this market.

There are a number of areas that offer potential for harm from market dominance, both to customers and to competitive entrants now in the course of being licensed:

- Over-charging: The risk of STC seeking to over-charge for services that are not part of the initial service menu of the new entrants.
- Anti-competitive pricing: The risk of STC seeking to reduce its tariffs to below cost in locations or for services that will be initial targets by new entrants.
- Unfair terms and conditions adverse to the interests of wholesale customers and end users.
- Denial or delay in providing services
- Reduction in quality or service range – reducing service quality relative to the quality of services STC provides to its retail arm, or not offering to wholesale customers the same bandwidth services that STC provides to its own retail arm.

(a) The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw: Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(b) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition, STC is required to:

(a) Segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including to submit to CITC on an annual basis, and on a more frequent basis should CITC so require from time to time, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market consistent with CITC accounting separation guidelines; and

(b) Prepare, submit for CITC's approval and publish an approved reference offer (specifically a Reference Offer for Data Access or RODA) setting out the terms and conditions relating to the provision of wholesale broadband access services.

(c) Provide to users information related to tariffs, and other matters as set out in the Bylaw.

5.8 Market 10: Wholesale leased line and managed network transmission services

Only STC is dominant in this market. The extent of STC's dominance is significant, although there are two licensed data service providers and one additional fixed service provider in the market, and two additional entrants are in the process of being licensed and may also decide to enter this market. There are a number of areas that offer potential for harm from market dominance, both to customers and to competitive entrants now in the course of being licensed:

- Over-charging: The risk of STC seeking to over-charge for services that are not part of the initial service menu of the new entrants.
- Anti-competitive pricing: The risk of STC seeking to reduce its tariffs to below cost in locations or for services that will be initial targets by new entrants.
- Unfair terms and conditions
- Denial or delay in providing services
- Reduction of quality relative to the service that STC provides to itself
- Other discrimination in favour of the service provider's own retail operations

(a) The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw: Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(b) Article 52 of Bylaw - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition, STC is required to

(a) Offer leased lines and managed network transmission services on a wholesale basis. Further STC is required to provide leased lines and managed network transmission services on a wholesale basis at bandwidths and in locations that it provides on a retail basis.

(b) Segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including to submit to CITC on an annual basis, and on a more frequent basis should CITC so require from time to time, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market consistent with CITC accounting separation guidelines.

(c) Provide to users information related to tariffs, and other matters as set out in the Bylaw.

5.9 Market 11: Wholesale mobile call termination services

STC, Mobily and Zain are currently dominant in this market. The mobile network of each service provider constitutes a separate market.

There are a number of areas that offer potential for harm from market dominance, both to competitors, and, through them, to end users:

- Over-charging: The risk of STC, Mobily and Zain seeking to over-charge for call termination services relative to the cost of service provision. This will increase the costs of competitors and reduce their competitiveness in downstream retail markets.
- Unfair terms and conditions adverse to the interests of wholesale customers and end users.
- Denial or delay in providing services
- Reduction of quality relative to the service the dominant provider provides to itself

(a) The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw: Article 39 - Offer interconnection services: Dominant service providers shall offer to provide interconnection and access to any service provider by means of a written interconnection agreement

(b) Article 40 - Interconnection charges: Dominant service providers, in establishing charges for interconnection and access, shall comply with the Interconnection Guidelines, including any pricing, costing and cost separation guidelines set out therein.

(c) Article 41 – Reference Interconnection Offer: Dominant service providers shall prepare a Reference Interconnection Offer for approval by CITC.

(d) Article 42 Interconnection agreements: Dominant service providers shall submit to the CITC copies of interconnection agreements within 10 days after execution for publication.

(e) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(f) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition, STC is required to segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including to submit to CITC on an annual basis, and on a more frequent basis should CITC so require from time to time, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market.

The case for requiring Mobily and Zain to submit separate accounts of the costs and revenues of regulated and unregulated services is less compelling. The only services that these service providers have that are regulated for dominance are services associated with wholesale call termination on their respective mobile networks. Having regard to CITC's policy of symmetrical cost based rates for wholesale mobile call termination, it is unlikely that there would be sufficient opportunity for cross subsidy of competitive, unregulated services from the revenues of regulated services to justify the cost and resources required to implement and supervise a separate accounting system in the case of these two service providers. Such a remedy would appear to CITC to be excessive and not proportionate to the risk of harm from dominance. Therefore CITC does not intend to require separate accounts from Mobily and Zain. However the matter will be reconsidered if circumstances suggest that a different outcome may be required in future.

5.2 Market 14 - Wholesale fixed voice call origination service

This market is not yet operational. However, when the market becomes operational STC will be in a position of dominance.

There are a number of areas that offer potential for harm from market dominance, both to competitors, and, through them, to end users, including:

- Over-charging: The risk of STC seeking to over-charge for fixed voice call origination services relative to the cost of service provision. This will increase the costs of competitors and reduce their competitiveness in downstream retail markets.
- Anti-competitive pricing and price squeezing: The risk of STC seeking to set tariffs above cost. In the market for wholesale fixed voice call origination services and set retail prices lower in the related retail markets so that retail customers will be encouraged to maintain all of their call business with STC
- Unfair terms and conditions adverse to the interests of wholesale customers and end users.
- Denial or delay in providing services
- Reduction in quality relative to the quality of services each dominant provider provides to itself

The remedies that are required to address concerns related to dominance in this market include the following measures set forth in the Bylaw:

(a) Article 39 - Offer interconnection services: Dominant service providers shall offer to provide interconnection and access to any service provider by means of a written interconnection agreement

(b) Article 40 - Interconnection charges: Dominant service providers, in establishing charges for interconnection and access, shall comply with the Interconnection Guidelines, including any pricing, costing and cost separation guidelines set out therein.

(c) Article 41 – Reference Interconnection Offer: Dominant service providers shall prepare a Reference Interconnection Offer for approval by CITC.

(d) Article 42 Interconnection agreements: Dominant service providers shall submit to the CITC copies of interconnection agreements within 10 days after execution for publication.

(e) Article 47 – Tariff filing and approval: Dominant service providers shall file with and obtain the approval of the CITC for all tariffs of telecommunications services in markets in which the CITC has designated them as dominant.

(f) Article 52 - Cost studies: Requiring cost studies as required by CITC to be undertaken to support proposed tariff changes, such studies to be subject to directions provided by CITC. On the basis of such cost studies CITC may also direct tariff changes to be filed to ensure that tariffs better reflect costs.

In addition STC is required to segregate telecommunications services in this market for accounting and regulatory purposes as may be required by CITC, including to submit to CITC on an annual basis, and on a more frequent basis should CITC so require from time to time, accounts that separate the costs and revenues attributable to regulated and unregulated services and also attributable to each service in this market consistent with CITC accounting separation guidelines.

.

6 Summary

Figure 6.1 below summarizes the telecommunications markets that have been examined in this study and the conclusions that CITC has reached in each case.

Figure 6.1: Summary of decisions on market designation and dominance

Candidate Market	***Designation of Market for Dominance***	***Dominant Service Provider***	***Remedies***
1. Retail fixed access services	Yes, designated	STC	Tariff filing and approval, cost studies, user information requirements, and accounting separation
2. Retail local and national fixed call services	Yes, designated	STC	
3. Retail international voice call services	No		
4. Retail national mobile services	No		
5. Retail business data services at fixed locations	Yes, designated	STC	Tariff filing and approval, cost studies, user information requirements, and accounting separation
6. Retail fixed internet access services	Yes, designated	STC	
7. Wholesale fixed call termination services	Yes, designated	STC	Offer interconnection services, interconnection charge regulation, and RIO, tariff filing and approval, cost studies, and accounting separation
		EATC	Offer interconnection services, interconnection charge regulation, and RIO, tariff filing and approval, and cost studies
8. Wholesale transit interconnection service	Yes, designated	STC	Offer interconnection services interconnection charge regulation, and RIO, tariff filing and approval, cost studies, and accounting separation
9. Wholesale broadband access services	Yes, designated	STC	Tariff filing and approval, cost studies, user information requirements, reference offer (RODA), and accounting separation
10. Wholesale leased line and managed network transmission services	Yes, designated	STC	Offer wholesale leased line services, tariff filing and approval, cost studies, user information requirements and accounting separation
11. Wholesale mobile call termination services	Yes, designated	STC	Offer interconnection services, interconnection charge regulation, RIO, tariff filing and approval, cost studies and accounting separation
		Mobily and Zain	Offer interconnection services, interconnection charge regulation, RIO, tariff filing and approval, and

Candidate Market	*Designation of Market for Dominance*	*Dominant Service Provider*	*Remedies*
			cost studies
12. Wholesale national roaming services	No		
13. Wholesale international voice call services	No		
14. Wholesale fixed voice call origination service	Yes, designated	STC	Offer interconnection services, interconnection charge regulation, and RIO, tariff filing and approval, cost studies, and accounting separation