

Public consultation document

Regulatory Framework on Wholesale Infrastructure Services Licensing

Issued by Communications & Information Technology Commission

Riyadh, Saudi Arabia

on 11/06/1439H corresponding to 27/02/2018G

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1. Introduction

Pursuant to the Telecommunications Act, the Bylaw and the Ordinance, the Communications and Information Technology Commission ('CITC') is authorized to regulate the Information and Communications Technology ('ICT') sector in the Kingdom of Saudi Arabia ('KSA').

Accordingly, and stemming from the CITC's responsibilities, its strive for transparency and drive to involve the public in the decision-making process, CITC has prepared this request for public consultation soliciting opinions of the stakeholders on the draft for the "Regulatory Framework on Wholesale Infrastructure Licensing", in accordance with the KSA's ICT sector regulations and the CITC statutes.

The regulatory framework outlines the CITC's proposed regulatory measures relating to Wholesale Infrastructure Licensing.

2. Background and considerations

The ICT sector is currently transitioning from a landscape dominated by vertically integrated players, towards a market with competition across multiple layers of physical telecommunications infrastructure services and facilities.

Examples for this type of Wholesale Infrastructure Providers are:

- Tower Companies, which own, manage and commercialize telecom towers to facility-based service providers. Tower companies are increasingly present across most telecom markets, providing superior performance in terms of tower management, tower sharing and consolidation of redundant infrastructure. Tower companies can be established by independent providers or entities spun off from current facility-based service providers
- Small cells and DAS and/or wireless access network service provider, who deploy, own and manage this infrastructure and commercialize it to Facility-Based Service Providers. Small cells have become an increasingly integral part of telecommunications networks across the globe. Small cells are used to facilitate an optimized usage of spectrum and, thus, enable telecom networks to cater to a steadily increasing demand for data. Wireless access networks such as Wi-Fi provide Facility-Based Service Providers with the ability to offload their networks, especially in popular public locations, which can suffer from network congestion. As small cells and wireless access networks grow in importance for the ICT sector so do players specialized in the deployment, operation and commercialization thereof
- Fixed infrastructure service providers who deploy, operate and commercialize fixed infrastructure facilities such as dark fiber, ducts and wholesale data connectivity etc. When describing fixed infrastructure providers there are two key subcategories to consider. Providers which focus exclusively on the passive components of telecommunications infrastructure such as ducts and dark fiber, and providers which provide active connectivity such as bitstream and line sharing access services

To formulate a comprehensive and sensible regulatory approach CITC has studied and considered various aspects such as international best practices, macro-economic benefits and the current situation of the ICT sector in Saudi Arabia.

CITC conducted a comprehensive benchmarking exercise to identify best practices with regards to the subject at hand:

- **Benchmarks on wholesale infrastructure-specific service licenses:** Wholesale infrastructure-specific licenses as observed across various countries can be roughly categorized into two main groups. Service-specific licenses, including one or a small number of wholesale-infrastructure services, and broader licenses which include a wider array of services. Taking both types of licenses into consideration CITC defined a list of services that are in line with the Saudi ICT market requirements and CITC's long-term vision for this market. These services are subject of this public consultation. In addition, CITC identified key license obligations to which wholesale infrastructure service providers in the observed markets have to adhere to and used these as a basis for the proposed list of obligations and requirements
- **Benchmarks on the service portfolios of best-in-class infrastructure providers:** Studying the services offered by these players across multiple geographies enabled CITC to cross-check and validate the short-list of services as outlined in this document

Apart from the learnings derived from benchmarks there are economic benefits for the Saudi ICT market which reinforce CITC's proposal to introduce regulations and licensing for wholesale infrastructure service providers.

- Increased competition in the telecommunications infrastructure space is a crucial factor towards greater infrastructure availability, variety and quality, benefitting the digital and the technology sector, which are highly dependent on infrastructure availability and quality to effectively build and scale their businesses and services
- The presence of new segments and new investors who are keen to be market players specializing in the roll-out of telecommunications infrastructure will

provide alternative infrastructure access to facility-based service providers. As the CAPEX burden on facility-based providers is reduced, these providers will have the opportunity to shift focus on the retail sector offering better products at competitive prices leveraging a more focused and leaner operation

In addition to general economic benefits that make the introduction of infrastructure players in the Kingdom sensible, CITC also considered the current reality of the Saudi ICT market to derive the kind of infrastructure service providers and business models that may help to resolve current issues in the market.

- The current degree of infrastructure (fixed and wireless access) sharing e.g. tower sharing in the Kingdom is relatively low when compared to benchmarks, thus, tower companies can play a crucial role in driving effective usage and reducing redundancy of telecom towers in the Kingdom. In addition, CITC has also considered that multiple facility-based service providers in the Kingdom are currently considering a sale or carve-out of their tower portfolios.
- Data usage in the Kingdom is among the highest in the world, bringing local networks close to the maximum of their capacity. Consequently, specialized players deploying and operating small cells and wireless access networks can play a pivotal role in future proofing telecommunications networks for the steady growth in data demand and the need for a better quality of service
- Availability of infrastructure (e.g. fiber) and especially last mile access is a key issue in the Saudi ICT market today comparing unfavorably to international benchmarks. The introduction of new infrastructure players in the space can drive new deployments and increase service options for the end user

Based on the findings of the study described above, CITC recognizes the need to provide the regulatory basis for new categories of players competing across different parts of the telecom infrastructure value chain.

3. Scope and objectives of the public consultation

This public consultation is being issued to seek comments from all stakeholders and interested members of the public on the need for a regulation of Wholesale Infrastructure Service Providers in the Kingdom and on the draft version of “Regulatory framework for Wholesale Infrastructure Licensing” stated in section (5) of this document.

This Public Consultation Document, including its annexes (if any), are available on CITC’s website at (www.citc.gov.sa).

4. Providing comments on the public consultation

Respondents who wish to express opinions on this public consultation document are invited to submit their comments in writing to CITC. All comments must be received by CITC no later than 27/07/1439H, corresponding to 12/04/2018G. Comments filed in relation to this public consultation must be submitted to one of the following addresses:

- E-mail to: wholesale_infra@citc.gov.sa
- Delivery by hand or by courier to:

*Communications and Information Technology Commission (CITC)
Corner Prince Turki Ibn Abdulaziz Al Awwal Road and Al Imam Saud Ibn Abdulaziz Road
P.O. Box 75606, Riyadh 11588, Kingdom of Saudi Arabia*

CITC invites comments and responses to the specific numbered questions set out in this public consultation document. CITC encourages respondents to support their comments with a relevant justification and analysis, data and information based on the current situation or on their relevant domestic/international experience. In their comments, respondents are requested to indicate the question number or article number to which each comment relates. CITC is under no obligation to adopt the comments of any respondent.

Generally, CITC will not treat the statements of opinion or responses to this document as confidential.

5. Regulatory framework for Wholesale Infrastructure Licensing

5.1. Definitions

- The words and expressions defined in the Act, its Bylaw and the Ordinance of the Communications and Information Technology Commission shall have the same meaning in this document, in addition, the following words and expressions shall have the meaning stated in front of them except where the context in this Regulation otherwise requires.
- Towers and masts: Ground-based or rooftop towers, which provide space for facility-based service providers to install their active equipment (e.g. antennas, cables) and other associated equipment such as power generators, shelters etc. Towers and masts do not include any active equipment
- Small cells/DAS (Distributed Antenna System): Small cells/DAS can be defined as low-powered cellular radio access nodes that operate in licensed and unlicensed spectrum and have a range of 10 meters to a few kilometers. There are multiple types of small cells differentiated by their size e.g. femtocells, picocells, and microcells
- Wireless access points: Access points to networks that are communication networks used to provide wireless services in a specific area and provide the user with the ability to move within the network
- Ducts: Ducts are infrastructure components (such as conduits or pipes) that enclose underground telecommunications cables to protect them and to enable pulling of additional cables into empty ducts without further digging. Ducts can be divided into sub-ducts
- Dark fiber: Fiber optic cable which is not connected to any transmission equipment, and which can be used in all parts of the network (e.g. access, metro and national)
- Fixed Wholesale data connectivity: Commercialization of any Layer-1 data connectivity product (e.g. DWDM) and FTTH Bitstream on GPON
- Large developments: Large development means a development with a total area of more than 100,000 m², or with a build-up area (office space, living space, etc.)

of more than 100,000 m², or with one or more buildings of more than 40 planned stories above ground

- Wholesale Infrastructure provider: Company which owns, operates and commercializes telecom infrastructure such as towers, small cells, wireless access networks, dark fiber etc. Wholesale Infrastructure providers differ from facility-based providers as they do not provide end-user services
- Commercialization: Hereafter defined as commercial agreements such as lease agreements and coverage service schemes between the licensee under the regulatory framework proposed in this document and facility-based service providers
- Rate cards: Part of the commercial agreement stating the rates charged to all tenants under the respective agreement. The rate card will list all lease rates for all types of tenants (e.g. anchor, second and third tenant) by tower typology e.g. the lease rate for a second tenant on a tower of a certain type in an urban area.

Question 1: Do you agree with CITC's definitions as provided in this document, if not, what are the suggested alternative definitions?

5.2. Scope of services

Entities authorized under the scope of this regulation shall be allowed to provide wholesale infrastructure services across various layers of telecom infrastructure in the Kingdom. This includes the deployment, operation and commercialization of the respective infrastructure elements. Licensees under this regulatory framework shall provide their services and infrastructure to facility-based service providers licensed by CITC. The proposed regulatory framework shall in no way include any services provided to end users. CITC has full discretion when determining which infrastructure elements may or may not be included under the scope of this regulation.

CITC has formulated an initial view on the scope of the proposed regulation. This scope has been derived from a thorough review of the current situation in the market as well as the evolution of the ICT sector towards multi-layered competition in services and infrastructure.

The scope of licensed services under this regulatory framework shall include the deployment, operation and commercialization of the following infrastructure components:

- Towers and masts
- Small cells, distributed antenna systems, and wireless access points
- Dark fiber and ducts
- Wholesale Fixed data connectivity

Other services such as international gateways, national & International internet exchanges or landing stations are not allowed under this regulatory framework. However, CITC may further extend or reduce the scope of services at its discretion.

Entities licensed and regulated under this regulatory framework may deploy, operate and commercialize the aforementioned infrastructure components kingdom-wide whether in outdoor spaces, inside buildings or within the confinements of large developments. CITC may extend or reduce the geographical scope of the services at its discretion.

Question 2: Do you agree with CITC's proposal for the scope of services to be included under Wholesale Infrastructure Licensing, if not, what are your concerns and what alternatives do you suggest?

5.3. Categorization of services

CITC has structured the scope of services as outlined in article 5.2. in service categories defined by the infrastructure elements they include. Different requirements and obligations may be placed on licensed entities wishing to offer services that fall within these different service categories.

- **Category A:** Towers and masts
- **Category B:** Small cells, distributed antenna systems and wireless access points
- **Category C:** Dark fiber and ducts
- **Category D:** Wholesale data connectivity

CITC may add and remove categories and services at its discretion.

5.4. Obligations of the licensee

The conditions stated in this article are applicable to all licensed entities regulated under this regulatory framework regardless of which service category(s) they may choose to offer unless specified otherwise. CITC may add further obligations and requirements at its discretion.

Any applicant to a license under the regulatory framework proposed in this document shall:

- Provide CITC with a financial comfort letter from a Saudi bank or an international bank accredited by Saudi Arabia Monetary Authority (SAMA) verifying the financial capabilities of the license applicant
- Provide CITC with a five-year (5) business plan including detailed financial and operational plans (e.g. Profit & Loss statement, Balance sheet, Cash Flow statement, Capital structure)
- Provide documentation that illustrates the relevant experience and expertise of the Applicant and its management team in particular

Any licensee regulated under the regulatory framework proposed in this document shall:

- Provide CITC with a compliance declaration letter. As per the declaration in such letter the licensee shall:
 - Not engage in any practices that would result in the creation of a dominant player or in behavior that would constitute as abuse of market power pursuant to the provisions outlined in the Telecom Act and its Bylaws
 - Offer its services in a non-discriminatory manner
 - Enter into good faith negotiations with facility-based service providers to reach commercial agreements. In case a commercial agreement cannot be reached CITC reserves the right to intervene
 - Not engage in or offer any exclusive agreements
 - Provide CITC with all final commercial agreements, CITC may reject submitted commercial agreements at its discretion. Commercial

agreements must include a set of service level agreements (SLAs) as agreed between the licensee and the facility-based service provider

- Provide CITC with financial and operational KPIs. CITC shall determine the KPIs to be provided
- Provide its services only to facility-based service providers holding an individual license awarded by CITC and shall not maintain any relationship to the end user
- Allow any concerned government authorities to use its' facilities in case of an emergency or disaster as determined by the relevant authorities. The licensee shall be entitled to be compensated by those authorities for such use.
- Deploy and maintain the infrastructure facilities as per CITC accepted standards.
- Use any type of network equipment, that meets the telecommunication standards recognized by CITC.
- Ensure that its infrastructure is interoperable and interconnectable with the networks of other licensees under this regulatory framework and those of the facility-based service providers.
- Bear the cost of any modifications in its infrastructure required to maintain such interoperability and interconnectivity.
- Comply with the conditions of this regulatory framework, and all other laws and regulations under CITC provision. The CITC reserves the right to define new markets and determine dominance based on market structures that may develop as a result of this regulation. CITC may apply a set of remedies to regulate dominant players
- Comply with all other relevant Saudi regulations and laws as issued by other government authorities (e.g. MOMRA, SAGIA)

Any licensee regulated under the regulatory framework proposed in this document and offering services under category A as defined in article 5.3. shall:

- Notify CITC about its intend to offer services under Category A as defined under article 5.3 above.
- Operate a minimum portfolio of at least 100 towers within two (2) years after notifying CITC about the intent to offer Category A services

- Provide CITC with rate cards for each commercial agreement. Rate cards will determine price ceilings for the sites included under the respective commercial agreement. The price ceiling will be the rate charged to the anchor tenant (first tenant to enter into a commercial agreement with the licensee on a given site)

Question 3: Do you agree with CITC's proposal for the obligations of Wholesale Infrastructure Licensing, if not, what are the alternatives suggested?

5.5. License fees

The Licensee shall pay the following fees:

- An annual fee of one percent (1%) of net revenues to CITC
- An annual Commercial Provisioning Fee of ten percent (10%) of net revenues.
- A fee in accordance with the Universal Service and Universal Access policy may be imposed;
- A fee in respect of any work and services provided by CITC in accordance with its Statutes.
- "Net Revenues", in the context of wholesale infrastructure licensing, means the total operating revenues received by the licensee under this proposal from providing its services commercially, less the dues to any other domestic and international telecommunication service providers that are reflected in the settlement results of these services in accordance with the CITC Statutes.
- The Commission shall determine and inform the licensee of the method of issuance of invoices, and the periodicity and details of payment, with which the licensee shall comply. Unless otherwise specified under any applicable commission statute.
- Payment shall be due immediately upon issuance of the invoice and shall be subject to the provisions stated in Articles 13 and 14 of the Royal Decree No. M/68 dated 11/18/1431H and any provisions that may supersede or replace them in the future

Question 4: Please provide us with any further comments, observations or doubts you might have concerning the proposed approach on Wholesale Infrastructure Licensing?