

Market Definition

Review of the list of the Relevant Markets

Communications Regulatory Authority “CRA”

Draft for Consultation

Closing Date is 15 September 2014

CRA 2014/06/25
25 June 2014

Table of Contents

1	Consultation	3
1.1	Background	3
1.2	Legal Basis.....	3
2	Review the list of the Relevant Markets.....	4
2.1	Consultation Questions	6
3	Instructions for Responding to this Consultation	6
3.1	Consultation Procedures.....	6
3.2	Publication of Comments	6

1 Consultation

1.1 Background

The Communications Regulatory Authority (CRA) has announced the needs to shift its focus from the Retail Relevant Markets to Wholesale Relevant Markets.

According to the CRA:

- Ex-ante regulation at the wholesale level should be considered sufficient to tackle potential competition problems on the related downstream market(s) The list of relevant markets should be defined accordingly
- Regulation shall shift its focus from the retail side to the wholesale side as a needed move towards lighter forms of regulations, less intrusive, giving ground for innovation
- A wholesale focus implies shifting the level of regulation to a higher point in the value chain focusing on the real bottlenecks, on the inputs not being replicable from a technological or economic point of view
- Such a change in focus does not mean that retail regulation will disappear overnight: the shift will be gradual and a wholesale regulation will be the main means to achieve CRA objectives to the benefit of customers, providers and of the whole national economic system.

The adoption of such an approach will require some pieces of regulation to be introduced or enhanced. The CRA believes that the first step to achieve these objectives is the review of the list of relevant markets focusing on wholesale market rather than on retail markets therefore leading to a decrease in the number of regulated markets.

This review is due to provide the CRA with a list of Relevant Markets more representative of the:

- Real network bottlenecks, impeding the development of the competition in the Retail Markets
- Retail Markets to be considered competitive, currently or forward-looking
- Markets which still need an ex ante regulation

The review of the list of the Relevant Markets shall be accompanied to a more clear definition of the products included in them, to facilitate the regulatory actions.

The scope of this consultation is to acquire the view of the industry on the Relevant Markets and on the Relevant Markets susceptible of ex-ante regulation. In the meantime, the CRA is seeking suggestions on the ex-post regulation that should be applied to monitor the markets. Hence, this consultation is a first round of discussion and will be followed by a second consultation, based on the responses provided by the SPs and on the CRA view.

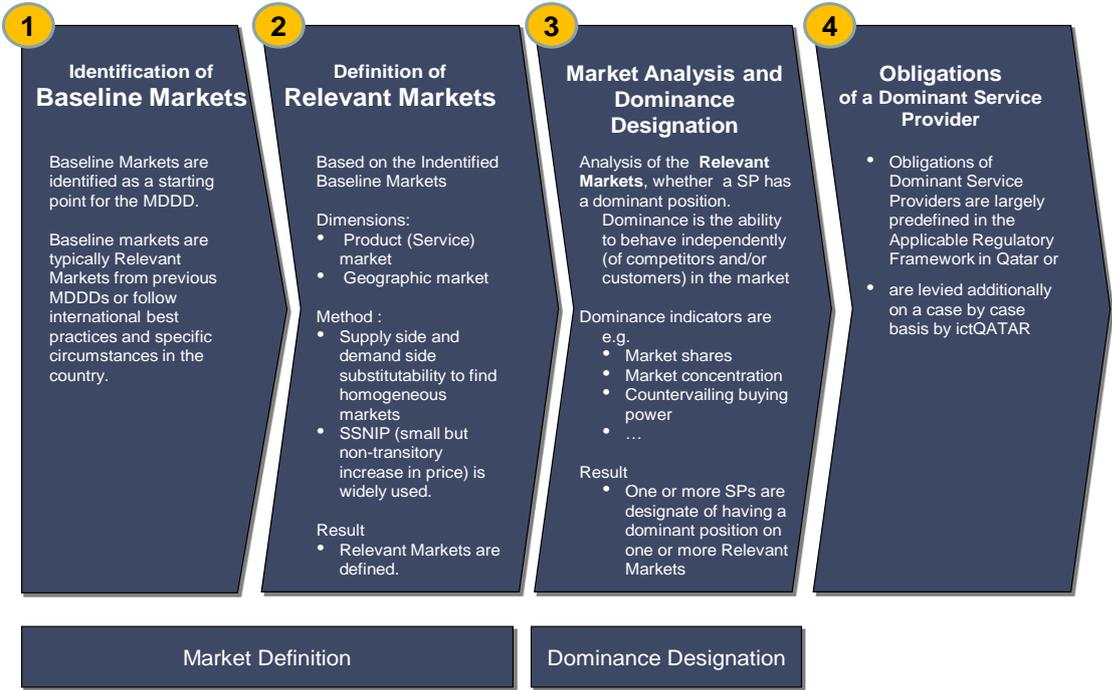
The designation of the Dominant Service Providers will be then started immediately after the definition of the Relevant Markets.

1.2 Legal Basis

Article 42 of the Telecommunications Law prescribes a process for the designation of Dominant Service Providers that includes determining Relevant Markets.

Article 72 of the Executive By-Law The General Secretariat shall issue a notice which establishes the standards and methodology that it will apply in determining whether Significant Market Power exists in a particular relevant market. The General Secretariat shall publish the methodology on the website of the Supreme Council and may be modified from time to time by it. The methodology may include the following elements and any other relevant factors which will be applied in accordance with criteria set out in third paragraph of this Article: (1) definition of the relevant telecommunications market or markets in terms of products and geographic scope.

In accordance with Article 42 of the Telecommunications Law and Article 72 of the Executive By-Law the Market Definition process follows the process steps as described below (step 1 and 2).



Step (1) Identification of Baseline Markets; and, step (2) Definition of Relevant Markets have the scope to identify the list of proposed retail and wholesale markets in terms of products and geographic scope, which are typically used as Baseline Markets. Following a consultation process and discussions with market entities about the proposed Baseline Markets, ictQATAR defines the “Relevant Markets”. Together, these two steps form the Market Definition process, which applies an international best practice approach and universal competition law principles and takes into account national circumstances. This takes into consideration major criteria for defining markets according to the product specifics and the geographic scope, and considers supply and demand side characteristics.

Steps 3 and 4 will be part of a separated consultation, to be launched.

The “Notice of the Standards, Methodology and Analysis to be applied in the Review of Market Definition and Dominance Designation in the Telecommunication Sector in Qatar” has been issued on 31/03/2011 (ICTRA 2011/03/31b).

2 Review the list of the Relevant Markets

The current Relevant Markets, as defined by the Notice and Orders ICTRA 2011/10/31, are listed below.

Relevant Retail Markets

- M1 Access to public telecommunications networks at a fixed location

M2	Public national telecommunications services at a fixed location
M3	Public international telecommunications services at a fixed location and via a mobile device ¹
M4	Broadband services at a fixed location
M5	Retail leased lines ²
M6	Public national telecommunications service via a mobile device ³
M7	Broadband services via a mobile device ⁴

Relevant Wholesale Markets

M8	Origination on public telecommunications networks at a fixed location ⁵
M9	Termination on public telecommunications networks at a fixed location ⁶
M10	Wholesale physical network infrastructure access ⁷
M11	Wholesale access to broadband services at fixed locations ⁸
M12	Wholesale leased lines ⁹
M13	Access and origination on public mobile networks
M14	Termination on public mobile networks ¹⁰

The CRA proposes:

- To review the “Notice of the Standards, Methodology and Analysis to be applied in the Review of Market Definition and Dominance Designation in the Telecommunication Sector in Qatar” (ICTRA 2011/03/31b) for the Market definition, including the assessment of the Markets susceptible for ex-ante regulation. More specifically, the CRA would like to consider the adoption of the Three Criteria Test (TCT) used in the European Union¹¹
- To reduce the number of the Retail Markets subject to ex-ante regulation, relying on the wholesale reference offers to favorite the competition
- To use ex-post regulation to monitor the markets and the Service Providers behavior
- To analyze the existence of “sub-markets” within the current Mobile Relevant Retail Markets. For instance:
 - the Mobile Retail Markets could be divided by post-paid and pre-paid Markets
 - the Retail Markets could be divided by residential and business customers
- To review the geographic definition of the Markets, with the aim to break and regulate geographic monopoly that may impede the customers residents in certain areas to choose freely between the SPs operating in Qatar
- To clarify the content of the current M10 “Wholesale physical network infrastructure access”. An investigation related to the international connectivity should be also performed

¹ This is irrespective of the terminating network abroad, i.e. fixed or mobile.

² Leased lines represent dedicated connections and bandwidth.

³ This includes but is not limited to voice, SMS, MMS, and video calling services. This market covers both access and usage.

⁴ This includes data services which are not included in retail market no. 6 such as, but not limited to, broadband Internet services.

⁵ This includes e.g. local call conveyance, dial-up services, carrier selection, and carrier pre-selection.

⁶ This includes e.g. local call conveyance. Although Vodafone is not yet active in this market, it is being regarded as DSP and the remedies are proposed to apply as of the time when Vodafone commences fixed services.

⁷ This includes access to passive infrastructure in a technologically neutral manner for the supply of domestic and international telecommunications services, i.a. but not limited to: access to and use of network and facilities, such as ducts, dark fibre, copper, sites, towers, international gateway facilities and other facilities.

⁸ This includes i.a. but not limited to bitstream access.

⁹ This includes associated services irrespective of the technology used to provide leased or dedicated capacity.

¹⁰ This includes i.a. but not limited to voice, SMS, MMS, video calls.

¹¹ EU Commission Recommendation of 17 December 2007, OJ L 344, 28.12.2007 and Current Draft UE Commission Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services

2.1 Consultation Questions

The CRA seeks comments specifically on the following questions.

Question 1	Do you agree to review “Notice of the Standards, Methodology and Analysis to be applied in the Review of Market Definition and Dominance Designation in the Telecommunication Sector in Qatar” (ICTRA 2011/03/31b)? If so, which criteria do you suggest to use to assess the Markets susceptible for ex-ante regulation?
Question 2	Please provide the CRA with your proposal on the list of the Relevant Markets, suggesting the Relevant Markets which should be withdrawn from the current list and the Relevant Markets which should not be susceptible for ex-ante regulation
Question 3	Please provide your comments on the proposal to monitor the Markets and the Service Providers behavior through regulatory ex-post controls, listing the instruments that you believe would be more effective
Question 4	Please provide your comments on the proposal to introduce Retail Relevant Sub-markets
Question 5	Please provide your view on the existence of local markets in Qatar
Question 6	Please specify the products to be included in the Market 10

Respondents are of course welcome to submit other, substantiated, comments.

3 Instructions for Responding to this Consultation

3.1 Consultation Procedures

In keeping with open and transparent regulatory processes, the CRA herewith initiates a consultation on the list of the Relevant Markets.

All interested parties are invited to provide their views and comments on the consultation questions.

The CRA asks that, to the extent possible, submissions be supported by relevant evidence. Any submissions received in response to this CD will be carefully considered by CRA. Nothing included in this CD is final or binding. However, CRA is under no obligation to adopt or implement any comments or proposals submitted.

Comments should be submitted by email to fmassone@cra.gov.qa before the date stated on the front cover. The subject reference in the email should be stated as "Market Definition Review of the list of the Relevant Markets". It is not necessary to provide a hard copy in addition to the soft copy sent by email.

3.2 Publication of Comments

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

In order to claim confidentiality for information in submissions that stakeholders regard as business secrets or otherwise confidential, stakeholders must provide a non-confidential version of such documents in which the information considered confidential is blacked out. This “blacked out” portion/s should be contained in square brackets. From the non-confidential version it has to be clear

where information has been deleted. To understand where redactions have been made, stakeholders must add indications such as “business secret”, “confidential” or “confidential information”.

A comprehensive justification must be provided for each and every part of the submission required to be treated as confidential. Furthermore, confidentiality cannot be claimed for the entire or whole sections of the document as it is normally possible to protect confidential information with limited redactions.

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

For more clarification concerning the consultation process, please contact Francesco Massone (fmassone@cra.gov.qa).

*** End of Document ***