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عطوفة الرئيس التنفيذي لهيئة تنظيم قطاع الاتصالات المحترم

الموضوع : الملاحظات الواردة من الشركات حول مسودات تعليمات (تطبيق مخرجات مراجعة الأسواق)

تحية طيبة وبعد،

اشارة الى الملاحظات الواردة الى هيئتكم الكريمة حول الموضوع أعلاه، والمتعلق بمسودة تعليمات Key Performance Indicators (KPIs) for Wholesale Services Instructions والتي تم نشرها على موقع الهيئة الالكتروني، تجدون مرفق طيه رد شركتنا على هذه الملاحظات آملين اخذها بعين الاعتبار.

وتفضلوا بقبول فائق الاحترام،

المدير التنفيذي للشؤون القانونية والتنظيمية والمصادر والتزويد

د. ابراهيم حرب

شركة البتراء الأردنية للاتصالات المتنقلة – أورنج

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Orange Fixed, Orange Mobile, Orange Internet (Orange) Comments on responses to the consultation: Key Performance Indicators (KPIs) for Wholesale Services Instructions

18 December 2024

Orange

About this document

This is Orange Fixed, Orange Mobile, Orange Internet (Orange) Comments on responses to the TRC's Key Performance Indicators (KPIs) for Wholesale Services Instructions consultation.

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1 Introduction

Orange welcomes the opportunity to provide comments on the responses submitted to the Jordan Telecommunications Regulatory Commission's (TRC's) proposals for a new set of regulatory measures on wholesale key performance indicators (KPIs).

Orange's comments to the responses of submitters, along with Orange's own response to the consultation, was developed with the support of its consultants, Plum Consulting (Plum). Plum was commissioned by Orange to assist it review the TRC's four consultations, analyse the telecommunications markets in Jordan and develop responses to the consultations. Plum is an independent consulting firm, focused on the telecommunications, media, technology, and adjacent sectors. Plum applies extensive industry knowledge, consulting experience, and rigorous analysis to address challenges and opportunities across regulatory, radio spectrum, economic, commercial, and technology domains.

The TRC published four consultations on 8 August 2024. Orange submitted its response to each of the consultations on 16 October. The TRC circulated copies of the responses it received to other stakeholders on 10 November. This report provides Orange's comments on the other responses received by the TRC to this consultation.

For this consultation, *Key Performance Indicators (KPs) for Wholesale Services Instructions*, responses were received from three stakeholders, in addition to Orange Jordan's own submission:

- Zain
- Umniah
- Batelco

The responses from Batelco and Umniah are identical.

This report is set out with:

- **Section 2** providing general observations of responses.
- **Section 3** providing a more granular comparison between the responses of the other stakeholders and Orange's own response to the consultation.

This consultation, *Key Performance Indicators (KPs) for Wholesale Services Instructions,* did not pose any questions to which stakeholders were requested to respond to.

2 General observations on responses

Responses to the consultation were received from:

- Zain
- Umniah
- Batelco

The responses from Batelco and Umniah are identical. We will comment on Zain and Batelco's responses and our comments on Batelco will hold for Umniah.

Generally Zain does not support the proposed KPI regime while Batelco/Umniah appear to support the regime while offering proposals to improve the specific set of proposed KPI activities.

Zain did not explicitly call for the rejection of the proposed KPIs but did explain, in detail and with useful examples, why the proposed wholesale KPIs were unnecessary and unsuitable in their proposed form:

- They do not improve the current Service Level Offers (SLOs) regime existing within regulated Interconnection agreements, where the terms of the Reference Offer (RO) is finalised with the agreement of the TRC.
- The proposed approach is not suited to wholesale services, given the huge number of 'activities' to be reported across all possible variants of the named 10 (minimum) 'relevant services', given the proposed generalised application of 'parameterised' generic matrix of 17 specified KPIs.
- It is inappropriate and unnecessary to publish the KPIs, given the small number of wholesale customers (other Licenced Operators) of a Designated Licensee. Only the effected parties will need to know and they will likely have access to the information under contract.
- It will be costly to adapt existing IT systems to fit the 'straightjacket' of the proposed 17 KPIs – both for the Designated Licensee and the access seeker, wishing to mirror the data collection for its own verification – along with long-term costs being generated due to continuous collection and proposed publication.

Batelco/Umniah appear to support the proposed KPI regime, offering no comment on the sections of the consultation document which provide explanations as to the purpose, scope, explanation, and operation, of the proposed KPI regime. Their response jumps straight to commenting on the 17 specific KPI activities proscribed within Annex A, where they:

- Record that many KPI need to recognise that there are activities which do not meet the KPIs due to factors "outside the Designated Licensee's control".
- Propose specific values for some activities.
- Offer specification or definition or call for clear definitions for specific activities.

Orange shares Zain's concerns of the inappropriateness of duplicating the existing SLO's within regulated interconnection offers and the additional cost implementing and running the proposed KPIs will inflict on the industry and ultimately on customers.

Disappointingly none of the other stakeholder called for the TRC to abandon its plans to introduce a wholesale KPI regime. In its response to the consultation, Orange made clear that the proposal to introduce a suite of KPIs, onerous reporting requirements, and 'target values' for each of them, to be unnecessary regulatory overreach.

By the time the proposed KPI regime might be implemented in 2025, they will be redundant. It will be six years since the last market review and over the time Jordan has seen major developments in the fixed broadband markets. Orange made a strong and evidenced case for the TRC to conduct a new market review before any of its proposed changes to Instructions be implemented.

Orange then made a strong case that the proposed wholesale KPIs replicate the existing KPIs and SLOs in its reference offers and introducing them would be disproportionate and costly. All factors unchanged by any the responses of the other stakeholders.

3 A more granular review of comments raised within the responses

Stakeholder response	Orange comments
General Comments	
Zain considers the KPIs are not needed. • Licensees are already subject to existing Service Level Offers (SLOs) within the regulated Reference Offers (ROs). • The TRC already has the right to see and comment upon SLOs within ROs and can requests reports. • The parameterised generalised approach proposed, where the "same set of prescribed indicators across all services with the same target values" and "not tailored to the specific requirements of access seekers" will reduce the "effectiveness" of the KPIs and will lead to hundreds if not thousands of meaningless KPI. **Zain** offers an alternative approach based on the practice of the EU and provides illustrations of how the EU approach is significantly smaller, targeted and "relevant to the business issues faced by the purchaser of the service" (the access seeker).	Orange notes and agrees with Zain's overarching comments that: • the proposed KPI reports **"are not required at all"**; • the propose regime is appears to be designed for retail transactions and **"not for the wholesale market"**; and • within the EU the proposed wholesale KPIs are **"not the norm"**. Zain makes a range of different points, to those raised by Orange in its submission, in objecting to the introduction of the proposed KPIs, but they are equally compelling and reinforcing of the need to abandon the proposed KPI instructions, as proposed by Orange in its submission.
Batelco/Umniah make no comment as to the need or support for the introduction of the Wholesale KPI Instructions. It would appear they support the introduction. They provide no response to any of the general explanation and details of the propose Instructions, jumping straight to offer specific comments on most of the individual 17 KPIs	If Batelco/Umniah support the introduction of the Wholesale KPI Instructions, Orange rejects that support and notes that Batelco/Umniah offer no reasoning in support or need for the proposed KPIs. Orange largely agrees with Batelco/Umniah's proposals regarding the need for better definitions of KPIs and the need to account for matters beyond the control of a Designated Licensee. However, not withstanding these minor adjustments, Orange's position is clear that these need not be considered given the lack of any need for the KPI regime.
Article 5. Reporting and Monitoring	
Zain • The publishing of KPIs is not international best practice – quoting EU practice. • The only parties interested in wholesale KPIs is the Designated Licensee and its wholesale customer (another Licensee), of which there are few "in the low single digits", both of whom are "large and expert companies" able to a) monitor the performance of each other and b) "enforce contracts through commercial means". • It is not reasonable for the TRC to have total discretion on which KPIs to publish. The KPIs to be published need to be known before the data is collected. • The requirement to publish the KPI report within a month following the close of a reporting period is too short a	Orange shares Zain's concerns and the complete mismatch between what appear to be KPIs originally designed for use in retail markets, being completely disproportionate to be proposed for wholesale markets. The regime, besides being unnecessary and a duplication of the existing KPI and SLOs being part of existing ROs, illustrates a misunderstanding as to how wholesale markets work and the contractual relationship between a Designated Licensee and its access seeking wholesale customers. The proposed regime should be abandoned, as proposed by Orange in its own submission, and without prejudice to that position, then the changes to reporting not being published, being on an annual basis, and with a materiality threshold, as proposed by Zain, should be adopted.

Stakeholder response	Orange comments
period. • While noting that it does not consider reporting is required at all (see above) it considers the proposed 6 monthly reporting to be too frequent and if KPI reporting is to happen at all, it should be on an annual basis. • Reporting on each Licensee, without a materiality threshold, will increase the size of the report to "balloon even further than the many hundreds already identified" with many KPIs having very low values. • No mention is made of who pays for a possible audit. • The data used to substantiate KPIs arises from transactions through an operator's operational support system (OSS) and network operations centre (NOC) and is considerable. It is not feasible to retain this data for long, so any audit would need to be undertaken immediately following any KPI reporting.	
Article 6. Key Performance Indicators	
Zain • The TRC says it "has taken into consideration international best practice" but does not say which countries it is choosing to refer to. • The TRC seems to misunderstand the use and setting of service credits, not even designating the unit of measurement • Considers the TRC's proposals to impose unspecified penalties or fines to be "potentially arbitrary and subjective" and calls for commercial negotiation to also be included.	Like Zain, Orange, in its consultation submission, similarly raised the question of just what 'internation best practice' the TRC was referring to, given no citation was provided. Orange agrees with Zain that the reference to imposing 'penalties/fines' (Clause 41) appears arbitrary and should be specified. Similarly Orange would support the inclusion of settlement by commercial negotiation.
Annex A – Wholesale KPI definition and methodology	
Zain characterises the proposed 16 KPIs [in fact there are 17] as generic in that they are the same for all wholesale services. It notes that there is no definition of the term 'Service' or 'Wholesale service' suggesting a lack of attention to implementation. • It notes that while 10 'services categories' are referenced as being specified in the Interconnection Instruction, this represents a minimum number given each service category will have 'numerous different types of "services"' all of them demanding 17 KPIs, leading to hundreds of individual data points to be monitored, recorded and reported according to the forms illustrated in Annex B. • The magnitude of these hundreds of KPIs for each service category will be further 'exacerbated' should future market reviews add new service categories. • This "parameterised generic matrix might be appropriate for retail performance indicators" but not for wholesale services.	Orange welcomes Zain's analysis of the proposed design of the KPI regime and highlighting just how quickly the proposed 17 generic KPIs would multiply across all the variants of services within the original proposed 10 regulated services. This analysis illustrates the totally disproportionate approach being proposed, which when considered within the context of both duplicating the existing KPI SLOs within regulated interconnection offers, can only lead to the conclusion that the TRC should abandon its proposals, as proposed by Orange..
Annex A.I Service Ordering and Provisioning	

Stakeholder response	Orange comments
Batelco/Umniah suggests the need to "clearly define the specific circumstances under which orders are rejected and should be excluded" for KPI A1. It makes a similar point for all other KPIs A1-6, noting that "including these rejections in the KPI calculation will lead to misleading performance assessments." It expands on this to also propose excluding "factors outside the Designated Licensee's control"	While considering the whole proposed KPI regime needs to be abandoned, as proposed by Orange, and without prejudice to Orange's position, Orange agrees with Batelco's proposals that if KPIs are to be implemented then they need to be clearly defined, e.g. the circumstances under which an order is rejected. To not provide this clarity, and identify and recognise instances when specific activity is excluded from consideration due to it being outside the control of the Designated Licensee, will lead to inaccurate performance assessments and potentially fines. Batelco also makes a good point regarding the reality that in many instances certain factors are under the control of other parties such as municipalities, landlords and utility companies, and these will need to be taken into account in assessing performance.
Annex A.II Service Assurance	
Batelco/Umniah makes suggestions for specifying or setting target values or providing "clear definitions" for each of the B1-4 KPIs.	Not withstanding Orange's position that the propose regime should be abandoned, it repeats its agreement with Batelco's call for greater specificity of KPIs and recognition of matters beyond the control of the Designated Licensee.
Annex A.III Service Administration	
Batelco/Umniah proposes the need for clearly defined KPIs for C1, C3 and C7.	While recognising the basis for Batelco's call for improved definitions of the Service Administration KPIs, Orange repeats its observation, communicated in its response to the consultation, that commercial matters are not appropriately addressed within a KPI regime given they are not necessarily part of a non-discrimination requirement and are better addressed through commercial negotiation under contract.
Costs	
Zain notes that "The introduction of this Instructions can be expected to generate a significant cost" for both access seekers and Designated Licensees, stemming from: • the need to adapt existing IT systems to fit "the straitjacket of the Instruction's 17 KPIs; and • the "continuous collection of these KPIs and any required updates" leading to long-term costs for both sides. A telling quote from the European Telecommunications Network Operators Association (ETNO) on the cost impact of using KPIs is provided.	Orange shares Zain's observations and concerns relating to the significant costs that would flow to both Designated Licensees, its wholesale clients, and ultimately to customers if this complex and unnecessary KPI regime where introduced. Again, we call for the TRC to abandon it, as proposed in Orange's submission.