**VIVA Bahrain B.S.C. (c) response to ITU Consultation**

**on “Online Open Consultations on "Public Policy considerations for OTTs”**

1. **What are the opportunities and implications associated with OTT?**

Electronic communications are becoming a prominent part of our social and economic environment. Technological developments are also changing the value chain of electronic communications services and the relationship between internet players.

Over-The-Top (“OTT”) communications services, particularly VoIP applications constitute today a perfect substitute to legacy voice service, and OTT messaging services have already overtaken and substituted mobile SMS service.

VoIP applications are considered as a major threat to mobile operators’ revenues, putting at risk their investment capabilities in future network development and service innovation. VoIP applications are significantly cannibalizing the largest telecommunications revenue stream of telecom operators (consumer segment revenues representing more than 65% of total revenues), for both local and international voice services, and such impact is expected to increase with the proliferation of smart phones and the decline of mobile data prices due to the intense competition in the mobile market.

The growth of OTT providers has created a situation of free riding, where the OTT players benefit from the infrastructure and connectivity that MNOs have so extensively invested in, without shouldering any of the financial burdens themselves. In small economies, this has made it increasingly difficult for MNOs to continue to offer internet access at viable economical rates, given the very limited economies of scale. OTT players maintain an expansive presence and with an ever-growing volume of data consumption, MNOs will be unable to maintain ease of access indefinitely.

1. **What are the policy and regulatory matters associated with OTT?**
* National Security:

Inability of licensees to comply with the regulatory obligations of allowing security organizations to fulfill the requirements of national security related to access to certain OTT communication services.

Data traffic of OTT communications services is encrypted and hence technically not accessible. This could impose serious threats to national security considering that OTT services might be used to transmit unlawful content without being detected or monitored.

* Personal Data Protection:

MNOs and ISPs are mandated in their licenses to ensure subscribers privacy and personal data protection.

In this context, most of OTT VoIP providers do not guarantee to consumers such compliance with data protection, and regulatory authorities are not in a position to control and ensure compliance with data protection and consumers privacy obligations. Indeed, the proliferation of the number of OTT VoIP applications, such as: Facetime, IMO, WhatsApp, Facebook, Skype, Line, Tango, Viber, etc. confirms the risk of non-compliance since they are not subject to any regulation.

* Licensing:

OTT Communications services providers offer national and international voice and data telecommunications services to end-users without holding the appropriate licenses, creating an unlawful regulatory asymmetry with licensed operators.

* Numbering Resources:

OTT communications services available to end-users in local jurisdictions with the usage of national numbering resources can be in breach of country specific Telecommunications law since OTT communications providers are normally not licensed. Furthermore, the inability of end-users to access emergency services could have serious consequences on end users’ safety.

* Internet Access:

Ensuring internet access to end users is a cornerstone to the development of OTT services. VoIP traffic on mobile networks has increased exponentially in most economies and it is expected to continue growing significantly. The provision of open internet access is particularly enabled by a capital-driven commitment which fundamentally requires continuous investment and network improvement by ISPs.

1. **How do the OTT players and other stakeholders offering app services contribute in aspects related to security, safety and privacy of the consumer?**

Most offer low security and privacy measures, constraining consumers to provide access to their contacts, photos and camera, before accessing their services. Few offer encrypted communications which is also a threat to national security.

1. **What approaches might be considered regarding OTT to help the creation of environment in which all stakeholders are able to prosper and thrive?**

OTT communications services are now considered as substitutes of legacy services, and hence National Regulatory Authorities (NRAs) should ensure a level playing field which promotes for a fair competitive environment to ensure that network operators continue investing in new technologies and introducing innovative services to consumers.

In case regulation of OTT services is not enforced, NRAs should allow ISPs offering OTT communications applications as premium services to customers.

1. **How can OTT players and operators best cooperate at local and international level? Are there model partnership agreements that could be developed?"**

Cooperation between OTT players, which are becoming mega players operating globally at international level, and operators is not always possible because of the size asymmetry. However, partnerships might be possible to share content, but this excludes OTT communications services which are direct competitors to MNOs’ legacy services.