

Umniah Mobile Company
Response Document to the
Public Consultation issued by the TRC
Review of Dedicated Capacity (Leased lines)
Markets in Jordan

December 2019

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1. Introduction

Umniah Mobile Company (Umniah) welcomes the opportunity to participate in responding to the TRC's Public consultation for the Market Review on Dedicated Capacity (Leased Lines) Markets issued by the TRC on 29 July 2019 hereinafter referred to as the (Consultation Document). Umniah has made general comments in each chapter of the Consultation Document, where specific questions have been posed and responses provided.

Umniah appreciates the TRC's efforts and its thorough analysis on the wholesale and retail level. Umniah finds that the TRC, while conducting this market review, has to take into consideration and focus on ensuring that a fair competitive environment is created in the mobile market. The TRC should undertake a thorough impact assessment to demonstrated that the impact of Orange Fixed not implemented the remedies imposed in the previous market review conducted in 2010 on the retail and wholesale leased lines markets or increase market share of smaller operators.

The TRC needs to consider in its assessments the new business model introduced in the market of exclusive telecom service provider such as the airport zone being dominated by Zain, the Boulevard's dominated by Orange, and other mega projects where Umniah has to pay extra charges for service availability and coverages in these areas. Umniah and other licensed operators are facing unfair competition against the exclusive operator, which even has no published or fixed price list for the telecom services provided.

Umniah notes that the data upon which the TRC has relied, such market shares and market concentration have not been disclosed and therefore full comment and response is not possible. Therefore, Umniah must reserve its position with respect to its comments and responses contained in this document.

We elaborate on each of these points, and many others, in this response.

2. Responses to Consultation Questions

This chapter lists each question, describes and summarizes Umniah's response.

1. Do you agree with the TRC's preliminary conclusions regarding the relevant product and geographic market definitions for retail leased line services?

Umniah agrees with the majority of the TRC's preliminary conclusions relating to the product market definition, except for the treatment of xDSL and the lack of clarity on contention ratios.

The TRC defined Dedicated capacity (DC) in the market structure part of this consultation document as “ the supply of dedicated transmission capacity between fixed locations, through fixed or, potentially, wireless connections, and is commonly referred to as leased line (LL(s)) services. LL services include guaranteed high quality service levels, symmetric upload and download speeds, and guaranteed availability”. No statement is made by the TRC on contention ratios, but the use of the word “dedicated”, and the reference to leased lines, suggests that a 1:1 contention ratio may be meant by the TRC.

Umniah requests the TRC to make it fully explicit that, either, 1:1 contention ratio is what is meant, or that all contention ratios are meant. If the Dedicated Capacity Markets include only symmetric connections with 1:1 contention ratio then the implication has to be that xDSL connections over metallic loops that provide for symmetric dedicated connections (which are easy to deploy on the copper network and are effectively used to provide leased lines) must be included in the DC markets.

2. Do you agree with the TRC's preliminary conclusions regarding the relevant product and geographic market definitions for wholesale leased line services?

Umniah agrees, in general, with the TRC's preliminary conclusions relating to the product and geographic market definition.

We wish to emphasize that wholesale DC markets need to be defined as input markets for any type of use that OLOs choose to make (e.g. self-provision to support interconnection and backhaul, wholesale to third parties and partners, retail services of any kind, not only DC to end-users, etc.).

3. Do you agree with the TRC's preliminary conclusions regarding the wholesale leased line markets found to be susceptible to ex ante regulation?

Umniah agrees that the relevant markets for wholesale leased line markets are clearly characterized by high and persistent structural barriers to entry and Orange fixed is the predominant provider of the wholesale terminating segment and wholesale trunk segment for the TI services that are legacy services and any new entrant seeking to provide wholesale terminating leased lines will do so using MI technology.

4. Do you agree with the TRC's preliminary conclusions regarding the retail leased line markets found to be susceptible to ex ante regulation?

Umniah agrees that the relevant markets for retail DC services are characterized by the presence of strong economies of scale, scope and density in access and core networks. These factors, in combination with sunk costs, create a major structural barrier to entry. It is clear that replication of a copper fixed local access network will not occur. It is also clear that deployment of direct access fiber connections is only feasible to an extremely limited extent in the present circumstances. What is needed to progress towards the roll-out of alternative fixed local access networks is a ladder of investment, enabling competitors to acquire a sizeable customer base, enabling them to serve that customer base profitably, and then make optimization investments, allowing them to progressively reduce their reliance on the incumbent fixed network operator.

5. Do you agree with the TRC's preliminary competition assessment and SMP designations on the market for wholesale TI trunk segments of leased lines?

Umniah agrees with the TRC's preliminary conclusions that Orange Fixed evidently has a dominant position on this market. This is consistent with relevant international precedent and does not require additional comments.

6. Do you agree with the TRC's preliminary competition assessment and SMP designations on the market for wholesale TI terminating segments of leased lines?

Umniah agrees with the TRC's preliminary conclusions that Orange Fixed evidently has a dominant position on this market. This is consistent with relevant international precedent and does not require additional comments.

7. Do you agree with the TRC’s preliminary competition assessment and SMP designations on the market retail TI leased lines?

Umniah agrees with the TRC’s preliminary conclusions that Orange Fixed evidently has a dominant position on this market. This is consistent with relevant international precedent and does not require additional comments.

8. Do you agree with the TRC’s preliminary assessment of competition problems and appropriate remedies in the wholesale market for TI trunk segments of leased lines?

Umniah general accepted the the remedies proposed by the TRC except for the accounting separation remedy, but these remedies need to be strengthened to have the desired effect. Our comments below address this in detail.

Access to wholesale trunk dedicated capacity

The wholesale access obligations put forward by the TRC are clear and do not require particular comment. However, the notion of “reasonable request” is not developed by the TRC in the document. In Umniah’s opinion, the TRC should either remove this notion, since it is not further developed, or state that all the points listed qualify intrinsically as a “reasonable request” and any further refusal by Orange Fixed beyond these points should be justified and notified to the access seeker with copy to the TRC.

Non-discrimination

Umniah welcomes the TRC’s proposals on non-discrimination, including the provision of annual statement of compliance .Umniah believes that the TRC should be much more explicit in clarifying the content of a statement of compliance. TRC shall be targeting any discrimination between internal and external provision of wholesale DC in price and non- price terms, the vertical leveraging of market power from the wholesale market into all downstream retail markets, and margin squeezes, which each are key in DC and downstream markets.

Transparency, Including Publication of a Reference Offer

Umniah welcomes the TRC’s proposal to require a reference offer for wholesale trunk DC, and the reference made to KPIs.

This is a clear necessity. An annual cycle of review of the reference offer would be suitable, but we insist that there must also be a possibility for the TRC to mandate,

unilaterally (after consultation) deletions and additions on the reference offer and its associated contractual, technical, etc. documentation. This has proven to be essential in making wholesale access fit-for-purpose in many jurisdictions, especially in the early stages of its introduction.

Accounting Separation

Umniah disagrees with the TRC proposal of requesting Orange Fixed to provide relevant accounting information as specified by the TRC considering that the detailed specification of the relevant accounting information was not clear in the scope of this consultation document and the content will follow in further TRC documentation, after the adoption of the TRC's decision. An accounting separation obligation is essential and must be imposed on Orange Fixed. The approach put forward by the TRC seems to give excessive freedom to Orange Fixed in the definition and implementation of accounting information.

Cost accounting and price control

Umniah supports the adoption of a cost base of FW-LRIC standard for cost of wholesale DC.

9. Do you agree with the TRC's preliminary assessment of competition problems and appropriate remedies in the wholesale market for TI terminating segments of leased lines?

Umniah generally accepted the remedies proposed by the TRC except for the accounting separation remedy, but these remedies need to be strengthened to have the desired effect. Our comments below address this in detail.

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Cost accounting and price control

Umniah supports the adoption of a cost base of FW-LRIC standard for cost of wholesale DC.

10. Do you agree with the TRC's preliminary assessment of competition problems and appropriate remedies in the retail market for TI leased lines?

Umniah general accepted the remedies proposed by the TRC except for the accounting separation remedy, but these remedies need to be strengthened to have the desired effect.

Umniah welcomes the TRC proposal of:

- Imposing a safeguard price cap to certify that Orange Fixed retail prices have not increased.
- Orange to report annually on volume of retail TI circuits sold, and revenue, and to confirm that prices have not increased.
- Orange to submit a sample of contracts and invoices to the TRC, showing that retail prices have not increased, and that it is compliant with its price control obligation.

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