

Comments on Umniah responses to Public Consultation on Dedicated Capacity Markets

1. In its response to the consultation, Umniah makes a number of comments that we would like to address:
 - Umniah states that wholesale DC market should be defined as input for any service that the OLO chooses to use, not only DC to end users;
 - Umniah states that the wholesale and retail TI markets are susceptible to regulation;
 - Umniah's view is that the remedies imposed on Orange Fixed should be stronger.
2. Orange Fixed disagrees that the wholesale DC market should include any input for any (fixed) service. Wholesale inputs for other retail services are already included in the markets for local access and wholesale broadband access.
3. However, we agree with Umniah that the market should be defined more broadly. In particular, we consider that it should include all leased lines regardless of technology. The TRC finding that Orange Fixed has SMP in the markets for TI dedicated capacity is the result of using an incorrect methodology applied by TRC to analyse asymmetric substitution. As the main concern for TRC is the competitive situation in TI, TRC should have taken TI to be the focal product and analyse whether MI is a substitute for TI. Recognising that MI is a substitute for TI, this should have either led to a conclusion that there is one competitive market for leased lines, encompassing both TI and MI technology, or to a conclusion that the competitive pressure from MI eliminates any market power of Orange Fixed in the TI segment.
4. We strongly disagree with Umniah's view that wholesale and retail leased lines are susceptible to regulation. The market for DC is competitive. There are six operators providing DC using their own infrastructure. The revenue market shares of Orange Fixed and Orange Internet are below 50% both in wholesale and retail markets, and Orange Internet have been rapidly decreasing. This shows that the market for dedicated capacity in Jordan is already characterised by effective infrastructure competition. Regulation introduced in 2010 has played no role in this development of competition, and if introduced now, it will not stimulate future competition. To the contrary, regulating TI will have a negative impact on the market, slowing down migration to MI and thereby hampering technological progress.

5. Umniah further states that:

A ladder of investment is needed, allowing alternative operators to build a customer base, allowing them to progressively reduce their dependence on the access to the incumbent's network.¹

6. It is not clear whether Umniah means here the ladder of investment in the provision of TI, or all leased lines. As Umniah correctly states elsewhere, new entrants wishing to provide DC will do it using MI rather than the outdated TI technology.² This means that that no ladder of investment is to be expected in TI leased lines. If Umniah means all leased lines, then the analysis is flawed. There is already effective infrastructure competition in the provision of DC services, other operators already have a large customer based and they do not depend on access to Orange Fixed's network.
7. Finally, Umniah argues that remedies imposed on Orange Fixed should be stricter. Orange Fixed strongly opposes any remedies, given that it has no SMP in the DC market which is effectively competitive. Imposing strict reporting obligations to monitor regulation in a small segment in decline leads to a high administrative burden and provides no benefits to customers.
8. When commenting on wholesale remedies, Umniah further states:
- Target should be on non-discrimination between internal and external provision of wholesale DC, vertical leverage of power from wholesale to retail and margin squeeze.*
9. We point out that in the current market situation, where there is infrastructure competition and other operators are not dependent on Orange Fixed's inputs to provide DC services, there is no danger of margin squeeze or vertical leverage from wholesale to retail.

¹ Umniah Mobile Company Response Document to the Public Consultation issued by the TRC Review of Dedicated Capacity (Leased lines) Markets in Jordan, page 5.

² *Idem*, page 5.