



BOTSWANA COMMUNICATIONS REGULATORY AUTHORITY

REGULATORY DIRECTIVE NO. 1 OF 2017

(Pursuant to Section 5 and 6 of the Communications Regulatory Authority Act of 2012)

REGULATION OF TELECOMMUNICATION/ICT WHOLESALE AND RETAIL SERVICES

DEFINITIONS

1. The following words shall have meanings ascribed to them hereunder:

"Act" means the Communications Regulatory Authority Act, 2012;

"BOCRA" means the Botswana Communications Regulatory Authority or the Authority;

"this Directive" means Directive No. 1 of 2017;

"Service Provider" means any person who provides a telecommunications service;

"PTOs" means Public Telecommunications Operators;

"Report" means the Report of the Development of Cost Model and Pricing Framework for ICT Services in Botswana (Final Report March 2017);

"Retail service" means service or product offerings by an operator to the public or consumers;"

"Wholesale service" means service or product offerings by an operator to Other Licensed Operator (OLO) for purposes of resale or own use by the OLO."

Any other words used in this Directive which are defined in the Communications Regulatory Authority Act of 2012, shall have the same meanings as are ascribed to them under the Act.

INTRODUCTION

2. The Botswana Communications Regulatory Authority (BOCRA or the Authority) was established in April 2013 following the repealing of the Telecommunications Act [CAP.72:03] and the enactment of Communications Regulatory Authority (CRA) Act of 2012. In terms of Section 5 and 6 of the Act, BOCRA is mandated to fulfil among others the following:
 - 2.1 Promote and protect interests of consumers and other users of services in the regulated sectors in respect of, among others, prices charged;
 - 2.2 Monitor the performance of the regulated sectors in terms of levels of competition, cost of services and the efficiency of production and distribution of services; and
 - 2.3 Monitor and seek ways to improve efficiency of the communications sector both for the benefit of the consumer and licensed operators.

3. In pursuance of the above mandate, the Authority embarked on development of Cost Model and Pricing Framework for ICT Services in Botswana in 2016, the purpose of which was to establish cost of supplying services by service providers and create an appropriate forward looking pricing framework for the market. The exercise was a sequel to two previous exercise of the same nature and intent that were conducted in 2005 and 2010. This was a consultative exercise that involved PTOs, Policy maker, internet service providers and consumers and the general public

and the results of the exercise were derived from empirical data sourced from service providers.

PURPOSE

4. The purpose of this Directive is to implement the final recommendations of the 2016 Cost Model and Pricing Framework study in line with the mandate of the Authority. This Directive reflects considerations by the Authority having received input from all concerned stakeholders, including Service Providers which are in competition against each other as well as consumers who seek value for money in the services they buy.

CHALLENGES

5. Certain telecommunication facilities are essential for the provision of services by other Service Providers and therefore price regulation of such facilities, where competition fails to manage prices, remains critical. It is also important that users and consumer services are not unfairly charged by service providers. Concerns continue to be raised regarding the following;
 - 5.1 Pricing of wholesale and retail services;
 - 5.2 Pricing of mobile broadband;
 - 5.3 Uncompetitive behaviour and opportunity for abuse of market power;
 - 5.5 Prices of Off Net mobile calls being too high leading to multiple SIM ownership and distorted market;
 - 5.6 Lack of transparency on provision of wholesale services and opportunity for undue discrimination by wholesale providers.
6. The above have been expressed by consumers and also revealed by the costing studies conducted before and other studies such as Market Study of the Telecom and ICT Sector in Botswana, Regulatory Impact Assessment (RIA) on Mobile Number Portability, RIA on National Roaming and as well as the draft Broadband Strategy of 2013.

SCOPE

7. In order to address the challenges within the different market segments, this Directive shall focus on:

- 7.1 Fixed termination rates;
- 7.2 Mobile termination rates;
- 7.3 Off Net mobile voice call prices;
- 7.4 Wholesale Fixed Broadband Services;
- 7.5 International Voice Transit;
- 7.6 Facilitation of market entry by Mobile Virtual Network Operators (MVNOs);
- 7.7 Wholesale and Retail bandwidth services;
- 7.8 Accounting Separation; and
- 7.9 Wholesale Reference Offers.

8. It should be noted that while the focus is on wholesale services, retail mobile voice, MVNOs and Accounting Separation, this Directive has not made pronouncement on mobile broadband data. The Authority has, through the 2016 Cost Model and Pricing Framework, established that the cost of supplying mobile broadband is high and this is attributable to high costs incurred in the radio access network (or base stations) that are extensively rolled out nationwide. The related prices for mobile broadband as offered through "data bundles" in the competitive market reflect in some instances, the high cost of supply. However, the various data bundle packages are priced to meet the varied characteristics of the target markets. In recognition of various factors, including among others, the fact that supply of mobile broadband is high and the service has been subjected to competition in a bid to put pressure on pricing, the Authority has not made a pronouncement on mobile broadband. The Authority in collaboration with Service Providers and other relevant stakeholders, are working to find ways of managing cost of supplying broadband. The newly developed National Broadband Strategy contains a set of initiatives that will be implemented in the expectation that cost of supplying broadband services will be reduced. Further, Service Providers are mandated to

educate consumers to take advantage of mobile broadband packages that offer lower rates per Megabyte.

ORDER OF PRECEDENCE

9. This Directive supersedes all past Directives issued by the Authority, however only in relation to matters specifically addressed herein.

APPLICABILITY

10. This Directive applies to all licensed Service Providers which offer a service or product that is directed herein.

REGULATED PRODUCTS AND SERVICES

11. The Authority hereby directs as follows:

Fixed Termination Rates

- 11.1 The following cost oriented fixed termination rates shall be charged for the periods as specified in Table 1:

Table 1: Fixed Termination Rates (in BWP) excluding VAT

Year	Current	1 st June 2017	1 st June 2018
Termination rate	0.200	0.170	0.130

Mobile Termination Rates

- 11.2 The following cost oriented mobile termination rates shall apply for the periods as specified in Table 2:

Table 2: Mobile Termination Rates (BWP) excluding VAT

Year	Current	1 st June 2017	1 st June 2018
Termination rate	0.295	0.220	0.130

Off Net Mobile Voice Call prices

11.3 All Public Telecommunications Operators (PTOs) including Mascom Wireless, Orange Botswana and Botswana Telecommunications Corporation Limited (BTCL) shall review their prices to remove the Off Net premium for all Off Net mobile voice calls by 1st June 2018. The PTOs shall by 30 April 2017, file for approval with the Authority, the first instance of removal of Off Net premium charge. The revised prices shall be implemented by 1st June 2017. The PTOs shall have filed by 30 April 2018, for approval by the Authority, the second instance and final removal of Off Net premium for Off Net mobile voice calls. The converged prices for Off Net and On Net mobile voice calls shall be implemented on 1st June 2018. On removal of the Off Net premium, PTOs shall not alter any pricing component of the Off Net price or On Net price in an attempt to make up for reduced Off Net prices.

The Table 3 below is the reference for the above:

Table 3: Activity table for removal of Off -Net premium

Year	30 th April 2017	1 st June 2017	30 th April 2018	1 st June 2018
Activity	Retail Filing	First Implementation	Retail Filing	Final Implementation and removal of Off Net premium.

Wholesale Fixed Broadband Services

11.4 Botswana Telecommunications Corporation Limited (BTCL) shall;

11.4.1 Implement Retail Minus Pricing for ADSL services;

11.4.2 Transfer charge equivalent prices from their wholesale business to retail business;

- 11.4.3 Avail wholesale ADSL to its retail business and Other Licensed Operators using the same prices, processes and terms;
- 11.4.4 File with the Authority by 30 June 2017, for approval, Wholesale Reference Offers for offering wholesale ADSL to its retail business and Other Licensed Operators.
- 11.4.5 Have the approved Wholesale Reference Offers publicly available by September 2017.

International Voice Transit

- 11.5 All inter-operator business relating to international inbound services must be founded on commercial negotiations and agreements.

Mobile Virtual Network Operators (MVNOs)

- 11.6 The Authority shall facilitate market entry by Mobile Virtual Network Operators (MVNOs) through awarding of Provisional Licenses to deserving prospective MVNOs. The Authority shall not impose MVNOs on Mobile Network Operators (Mascom Wireless, Orange Botswana and BTCL), however, the Authority shall intervene when commercial negotiations between the MVNO and the MNO reach a stalemate. The MNOs shall do as follows;

- 11.6.1 File with the Authority by 30 June 2017, for approval, Wholesale Reference Offers for hosting MVNOs.
- 11.6.2 Have the approved Wholesale Reference Offers publicly available by September 2017.
- 11.6.3 Negotiate with prospective MVNOs in good faith and to respond promptly to requests made by prospective MVNOs.

Accounting Separation

11.7 The Authority shall impose Accounting Separation on identified Service Providers when need arises.

Wholesale Reference Offers

11.8 All Service Providers which offer wholesale services or desire to offer wholesale services shall file with the Authority, by 30 June 2017, for approval, Wholesale Reference Offers for each specific wholesale service that is on offer.

11.9 The concerned Service Providers shall make the Wholesale Reference Offers publicly available by September 2017. The Authority shall not allow any wholesale service to be offered without a Wholesale Reference Offer.

11.10 All Service Providers which desire to offer new wholesale services shall, as part of the tariff filing process for the new services, submit Wholesale Reference Offers for approval by the Authority.

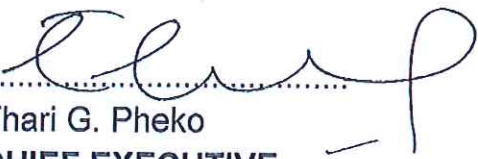
ENFORCEMENT

12. The Authority shall enforce compliance to this Directive as provided in the Act.

COMMENCEMENT OF DIRECTIVE

13. This Directive shall become effective on the date of its issuance.

Issued at Gaborone on this ^{24th}..... day of March 2017.


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Thari G. Pheko
CHIEF EXECUTIVE

