Retail Tariff Instruction

for

Individually Licensed Service Providers in Qatar

The Ministry of Information and Communications Technology
"ictQATAR"

Final Response Document

ICTRA 2013/09/16-A
16 September 2013

Table of Contents

1 Introduction 6

2 Analysis of Responses 7

2.1 Question 1 General Points Raised and Summaries 7
2.1.1 General Points raised by QTel 7
2.1.2 General Points raised by Vodafone 7
2.1.3 QTel's comments on Vodafone's response 8
2.1.4 Vodafone's comments on QTel's response 8
2.1.5 ictQATAR's Analysis, Conclusion and Response 8
2.2 Question 2 Respondents are asked whether other relevant parts of the ARF should be taken into account. 12
2.2.1 QTel's response 12
2.2.2 Vodafone's response 12
2.2.3 QTel's comments on Vodafone's response 13
2.2.4 Vodafone's comments on QTel's response 13
2.2.5 ictQATAR's Analysis, Conclusions and Response 13
2.3 Question 3: We ask for comments on the introduction of a specific filing process for SPs with greater than 15% in a specified market. 14
2.3.1 QTel's response 14
2.3.2 Vodafone's response 14
2.3.3 QTel's comments on Vodafone's response 14
2.3.4 Vodafone's comments on QTel's response 15
2.3.5 ictQATAR's Analysis, Conclusion and Response 15
2.4 Question 4 ictQATAR asks for suggestions to improve the tariff filing process. 15
2.4.1 QTel's response 15
2.4.2 Vodafone's response 15
2.4.3 QTel's comments on Vodafone's response 16
2.4.4 Vodafone's comments on QTel's response 16
2.4.5 ictQATAR's Analysis, Conclusion and Response 16
2.5 Question 5 ictQATAR is concerned about the flurry of promotions without accompanying changes in the rate card prices. Respondents are requested to give their general view on promotions. 17
2.5.1 QTel's response 17
2.5.2 Vodafone's response 18
2.5.3 QTel's comments on Vodafone's response 18
2.5.4 Vodafone's comments on QTel's response 18
2.5.5 ictQATAR's Analysis, Conclusion and Response 18
2.6 Question 6 ictQATAR is aware that the limitation on repetition of promotions and overall length of promotions days is imposing limits on the SPs. Respondents are requested to produce quantitative evidence of the pro-competitive effects of Promotional Offers. 18
2.6.1 QTel's response 19
2.6.2 Vodafone's response 19
2.6.3 QTel's comments on Vodafone's response 19
2.6.4 Vodafone's comments on QTel's response 19
2.6.5 ictQATAR's Analysis, Conclusion and Response 19
2.7 Question 7 Respondents are requested to submit alternative suggestions with regard to the quantity of Promotional Offers. 20
2.7.1 QTel's response 20
2.7.2 Vodafone's response 20
2.7.3 QTel's comments on Vodafone's response 20
2.7.4 Vodafone's comments on QTel's response 20
2.7.5 ictQATAR's Analysis, Conclusion and Response 20

2.8 Question 8 Respondents are requested to submit alternative suggestions with regard to managing complexity with regard to overlapping Promotional Offers on specific tariffs. 20
2.8.1 QTel's response 21
2.8.2 Vodafone's response 21
2.8.3 QTel's comments on Vodafone's response 21
2.8.4 Vodafone's comments on QTel's response 21
2.8.5 ictQATAR's Analysis, Conclusion and Response 21
2.9 Question 9 Respondents are requested to provide reasoned arguments for shortening or extending promotional periods. 21
2.9.1 QTel's response 21
2.9.2 Vodafone's response 21
2.9.3 QTel's comments on Vodafone's response 22
2.9.4 Vodafone's comments on QTel's response 22
2.9.5 Analysis, Conclusion and Response 22
2.10 Question 10 Respondents are requested to submit their views on mobile device subsidies and extended contract periods. In case Respondents have an opposing view, they are requested to submit reasoned argument and evidence for their view. 23
2.10.1 QTel's response: 23
2.10.2 Vodafone's response: 23
2.10.3 QTel's comments on Vodafone's response 23
2.10.4 Vodafone's comments on QTel's response 23
2.10.5 ictQATAR's Analysis, Conclusion and Response 24
2.11 Question 11 Respondents are requested to submit their views on fixed device (cross) subsidies. In case Respondents have an opposing view, they are requested to submit reasoned argument and evidence for their view. 24
2.11.1 QTel's response: 24
2.11.2 Vodafone's response: 24
2.11.3 QTel's comments on Vodafone's response 24
2.11.4 Vodafone's comments on QTel's response 24
2.11.5 ictQATAR's Analysis, Conclusion and Response 25
2.12 Question 12 ictQATAR is aware that some CPE is "network specific", in the sense that it has to be obtained from the SP and cannot be bought on the general market. Respondents are requested to supply well founded arguments why the cost of such CPEs should be given "for free" to the customer. 25
2.12.1 QTel's response: 25
2.12.2 Vodafone's response: 25
2.12.3 QTel's comments on Vodafone's response 25
2.12.4 Vodafone's comments on QTel's response 25
2.12.5 ictQATAR's Analysis, Conclusion and Response 25
2.13 Question 13 Respondents are requested to submit their views on the Minimum Service Period (MSP) and Commitment Period with supporting evidence. 26
2.13.1 QTel's response: 26
2.13.2 Vodafone's response: 27
2.13.3 QTel's comments on Vodafone's response 27
2.13.4 Vodafone's comments on QTel's response 27
2.13.5 ictQATAR's Analysis, Conclusion and Response 27
2.14 Question 14 Respondents are requested to submit their views on the Minimum Validity of Credit and offer supporting evidence on why the proposed limits should be changed. 28
2.14.1 QTel's response: 28
2.14.2 Vodafone's response: 28
2.14.3 QTel's comments on Vodafone's response 28

2.14.4 Vodafone's comments on QTel's response 28
2.14.5 Analysis, Conclusion and Response 28
2.15 Question 15 Respondents are asked about their view on Geographic Differentiation. Respondents are requested to quantify the consumer benefit of geographically differentiated charging. 28
2.15.1 QTel's response:...28
2.15.2 Vodafone's response: 29
2.15.3 QTel's comments on Vodafone's response 29
2.15.4 Vodafone's comments on QTel's response 29
2.15.5 ictQATAR's Analysis, Conclusion and Response.........................29
2.16 Question 16 ictQATAR is aware that the formula as presented above is a proxy formula. In absence of a more valid approach ictQATAR suggests using this formula until the DSP's current Regulatory Accounting System (RAS) has been approved by ictQATAR. Respondents are invited to produce reasoned suggestions whether a different approach should be pursued and how it can be implemented. 29
2.16.1 QTel's response:...29
2.16.2 Vodafone's response: 30
2.16.3 QTel's comments on Vodafone's response 30
2.16.4 Vodafone's comments on QTel's response 30
2.16.5 ictQATAR's Analysis, Conclusion and Response.........................30
2.17 Question 17 The Compound Risk Factor (CRF) was introduced recently as an additional safeguard to ensure the validity of the calculated price floor. Being a prudent regulator ictQATAR intends to continue to use the CRF until the DSP's current RAS has been approved by ictQATAR, which will deliver some better understanding of the DSP's costs. In case Respondents are not in agreement to this approach, ictQATAR invites SPs to suggest a reasoned counter approach, which is workable and ensures that the calculated price floor is above cost...30
2.17.1 QTel's response:...31
2.17.2 Vodafone's response: 31
2.17.3 QTel's comments on Vodafone's response 31
2.17.4 Vodafone's comments on QTel's response 31
2.17.5 ictQATAR's Analysis, Conclusion and Response.........................31
2.18 Question 18 The experience with the pre-approval frameworks has so far been largely positive. ictQATAR requests Respondents to bring forward suggestions of improvement. 31
2.18.1 QTel's response:...32
2.18.2 Vodafone's response: 32
2.18.3 QTel's comments on Vodafone's response 32
2.18.4 Vodafone's comments on QTel's response 32
2.18.5 Analysis, Conclusion and Response 32
2.19 Question 19 Do Respondents see the need for other Pre-Approval Frameworks? In this case Respondents are requested to bring reasoned suggestions and a draft text. 32
2.19.1 QTel's response:...32
2.19.2 Vodafone's response: 32
2.19.3 QTel's comments on Vodafone's response 33
2.19.4 Vodafone's comments on QTel's response 33
2.19.5 ictQATAR's Analysis, Conclusion and Response.........................33
2.20 Question 20 Respondents are requested to forward their reasoned view on on-net/off-net differentiation for DSPs and non-DSPs. 33
2.20.1 QTel's response:...33
2.20.2 Vodafone's response: 33
2.20.3 QTel's comments on Vodafone's response 33
2.20.4 Vodafone's comments on QTel's response 33

2.20.5 ictQATAR’s Analysis, Conclusion and Response....33
2.21 Question 21 It is ictQATAR’s endeavour to keep the Tariff Approval Process as simple as possible. After deliberation ictQATAR choose consciously not to introduce an elaborate test with criteria of what might constitute “anti-competitive cross subsidies” and what might be permissible. ictQATAR finds that the ARF is clear in this regard and that the Compound Risk Factor (CRF) above provides currently an effective safeguard. Nevertheless, ictQATAR invites submissions of a workable framework with relevant criteria and justification of what might constitute “anti-competitive cross subsidies” and which cross subsidies might be permissible. QTel’s response: 34
2.21.1 QTel’s Response. 34
2.21.2 Vodafone’s response: 34
2.21.3 QTel’s comments on Vodafone’s response 34
2.21.4 Vodafone’s comments on QTel’s response 34
2.21.5 ictQATAR’s Analysis & Conclusions 34
2.22 Question 22 With currently prevailing high-market shares and the presence of clear dominant positions ictQATAR does not find that “competitive market forces are solely capable of protecting the interests of customers”. ictQATAR believes that the process set out in the MDDD is appropriate to deal with this issue. Should a Respondent have an alternative methodology for measuring whether “competitive market forces are solely capable of eliminating the harmful threat to competition” the Respondent is requested to come forward with an argument supported by objective evidence. 35
2.22.1 QTel’s response: 35
2.22.2 Vodafone’s response: 35
2.22.3 QTel’s comments on Vodafone’s response 35
2.22.4 Vodafone’s comments on QTel’s response 35
2.22.5 Analysis, Conclusion and Response 35

1 Introduction

This Final Response Document (**FRD**) closes the consultation process and defines the Retail Tariff Instruction that The Ministry of Information and Communications Technology (**ictQATAR**) will adopt in regulating retail tariffs in the State of Qatar. This instruction will apply to all individually licensed Telecommunications Service Providers (**SP**s) offering retail services in the State of Qatar.

The initial Consultation Document (**CD** (ICTRA 2012/11/11) was issued on the 08th of December 2012).This CD set out the proposed rules, guidelines and methodology to be adopted in the approval and/or review and publication of Retail Tariffs for all individually licensed Service Providers (SPs) in Qatar.

Responses were received from:

- Qatar Telecom (Qtel) Q.S.C.(**QTel**)[1];
- Vodafone Qatar QSC (**Vodafone**);
- Qatar National Broadband Network Co. (**Q.NBN**) acknowledged the consultation but did not respond to the CD.

In addition QTel and Vodafone requested clarification meetings, which were held with:
QTel on January 24th 2013 and Vodafone on February 3rd 2013.

ictQATAR agreed, upon the request of the respondents, to adopt a “comment on comment” approach. Responses were received by QTel and Vodafone on 25th March 2013.

The consultation document (**CD**)[2] set out the legal framework supporting the tariff instruction and contained a number of proposals and clarifications on how ictQATAR intends to regulate Retail Tariffs on an ongoing basis. This Final Response Document FRD takes into account the submissions of all the parties who participated in commenting on the consultation, providing a clear analysis of all the submissions and includes ictQATAR’s analysis and final conclusions.

The Retail Tariff Instruction (**Instruction** ICTRA 2013/09/16-B) is a separate document to this Final Response Document (FRD). The Instruction incorporates ictQATAR’s final decision on Retail Tariffs and approval. The FRD includes an examination, analysis and ictQATAR’s conclusion of the points raised by the respondents in the CD, hearings and comments on comments submission.

A number of useful and constructive inputs were provided by the respondents which enables a well refined Instruction Document. ictQATAR has examined carefully the issues raised by the respondents and has carried out further clarifications and reviews to the original proposals discussed. These clarifications and reviews which are explained in the Final Draft Instruction, conclude the consultative process and reflects ictQATAR’s final decision.

ictQATAR further states that the Tariff Approval Process defined in the instruction may require further discussions and fine tuning during the implementation phase and requires Service Providers to continue to cooperate with the relevant individuals within The Regulatory Authority at ictQATAR.

ictQATAR maintains that retail tariff regulation remains vital in ensuring that the telecommunications market in Qatar continues its swift journey to effective competition. ictQATAR recognizes that retail regulation may be burdensome and sometimes restrictive, however the Applicable Regulatory Framework (**ARF)** gives ictQATAR the clear mandate and obligation to approve the SPs retail tariffs.

[1] ictQATAR notes that QTel is undergoing a name change to Ooredoo. As of writing this change of company has not been legally formalized and therefore throughout this document QTel will be used.
[2] (ICTRA 2012/11/11 issued 08 December 2012)

2 Analysis of Responses

2.1 Question 1 General Points Raised and Summaries

Only significant general points are noted in this section. Where general points are also raised by SPs again in answers to the detailed questions, then these are discussed under the pertinent specific question, unless they are particularly relevant to the more general discussion.
In the CDs ictQATAR specifically requested that responses be supported by examples or relevant evidence. Hence, ictQATAR has not taken unsubstantiated comments and pure “pleadings” into account when responding in this Final Response Document.

2.1.1 General Points raised by QTel

Ad hoc approval process and lack of clarity

QTel generally points out that the “ … experience with the existing tariff approval process is that it has been unpredictable, often appears arbitrary, unnecessarily complex, resource intensive and highly disruptive to achieving its legitimate business goals. ” As one of the two supporting example QTel sets out that “QTel’s business Fibre offer has been pending verification of a minor element for over seven months and has still not been approved”.

QTel states that the tariff approval process “… has been characterized by shifting approval criteria, .. outcomes that are difficult to predict, which is .. slowing down the introduction of new offers and making it more difficult for QTel to make innovative product offerings. QTel urges ictQATAR to remedy this situation by moving toward a more systematic and predictable approach to tariff review.”

Protecting competition

QTel states that many of ictQATAR’s decisions to reject QTel’s proposed tariff offerings are based on ictQATAR’s mandate to protect competition. QTel asserts that this has the potential to distort the market and that ictQATAR may be inadvertently stifling the development of the telecommunications market.
QTel also points out that in its opinion ictQATAR is acting to protect QTel’s competitor.

Advertising and Marketing

QTel refers to the definition of Tariff in its License and in Article 28 of the Telecommunications Law. QTel points out that it would appear that there is no legal basis for rejection of proposed tariffs because of marketing or advertising issues. QTel makes reference to some roaming related tariffs, which were allegedly rejected on proposed sales and/or marketing practices.

QTel notes that Article 48 of the Telecommunications Law requires ictQATAR to prepare a “consumer Protection policy”, which would be a more suitable vehicle for regulating advertising, marketing and branding than the retail tariff approval process.
QTel also proposes that ictQATAR develop a clear set of consumer protection guidelines.

2.1.2 General Points raised by Vodafone

Vodafone considers the Retail Tariff approval process to be critical to creating and delivering the benefits of genuine and effective competition.

Effectiveness of the Retail Regulatory Framework

Vodafone does not believe that the existing Retail Regulatory Framework (**RRF**) has been applied to best effect in addressing QTel's aggressive and anti-competitive behaviors. Vodafone considers that the application of the mandated retail price floor together with other available tools under the RRF is crucial to enabling Vodafone to continue to grow and reach critical mass sufficient to enable it to compete with QTel across multiple market segments.

Market Situation

Vodafone refers to the Market Definition and Dominance Designation (**MDDD**) process and points out that QTel has been declared as a Dominant Service Provider (**DSP**) in all Relevant Markets. Vodafone submits market shares and profitability figures to point out that QTel remains dominant in all key measures.

Vodafone believes there is scope for further, pro-competitive interventions at the retail level to further enhance retail competition. Vodafone believes that without further appropriate interventions, it will continue to face considerable challenges in growing market share taking into account the unique effect of prevailing market demographics.

2.1.3 QTel's comments on Vodafone's response

QTel requested that ictQATAR should clarify that its mandate is based on the objectives in the Telecommunications Law to protect competition and consumers and not to skew the market in one way or another.

2.1.4 Vodafone's comments on QTel's response

Advertising and Marketing

Vodafone support's QTel's comment that the definition of tariff is not linked to advertising and marketing. Vodafone agrees that there is no legal basis for rejection of proposed tariffs because of marketing or advertising issues. Furthermore, Vodafone agrees that the consumer protection policy required by Article 48 of the Telecommunications Law is a more suitable vehicle for addressing such issues than through the Retail Tariff Instruction.

Undue Discrimination

Vodafone submit that they may wish to market to specific demographics such as Qataris and that this provision would prevent this type of activity. Vodafone seek clarification on invitation only type programs such as Al Nokhba.

2.1.5 ictQATAR's Analysis, Conclusion and Response

General purpose of the Tariff Approval Regime and its effect on protecting competition and Market Situation

ictQATAR clarifies here the general purpose of the Tariff Approval Regime.
ictQATAR's mandate is based on the objectives in the Telecommunications Law to protect competition and consumers and not to skew the market in one way or another. ictQATAR is mandated to protect consumers and the competitive process in the telecommunications industry. It is not ictQATAR's role to protect competitors or promote ineffective market players. This must not be confused with ictQATAR's mandate to enable competition, which may include grace periods for new entrants.

ictQATAR recognizes, that Retail Tariff approval by a regulator, is a naturally restrictive exercise that may be viewed by the interested parties in accordance with their economic imperative or bias in their own favor.

It is reasonable to expect QTel to view the provision in the Applicable Regulatory Framework (**ARF**) as overly restrictive, whereas Vodafone's view might be that ictQATAR is not utilizing all its powers adequately when dealing with QTel Tariffs.

It is clear in the analysis below that QTel has a Dominant Position in all 14 Relevant Markets as per the MDDD.
Vodafone has an appreciable market share, in only three markets:-

M3: Public international telecommunications and a fixed location and via a mobile device;
M6: Public national telecommunications services via a mobile device; and
M7: Broadband services via a mobile device.

ictQATAR believes that the current market figures do not point toward fully enabled competition, but rather to an overwhelmingly strong market position of QTel.

Qatar has a specific market situation in contrast to the international and regional norms where there are typically at least three mobile operators and more than one competitor in the fixed market.
This means that the market power in Qatar is much more concentrated than in other jurisdictions. Monopolies and Duopolies are recognized as not delivering the best value for consumers, but trend toward retaining high profits for the Service Providers.
The higher the market concentration, i.e. in the current Monopoly/Duopoly, the more regulatory intervention is warranted. We refer here to the European situation, where a multitude of Service Providers are active and hence nearly no Retail Tariff Regulation exists anymore.
Qatar is far from such a competitive setting and hence the lifting of regulatory obligations would be wholly inappropriate and indeed damaging to the market place leading to potential consumer detriment.

Ad hoc approval process and lack of clarity

The statement by QTel in this regard have not been substantiated with examples or been quantified with evidence of loss of business.
ictQATAR points out, that QTel and ictQATAR have scheduled weekly Tariff Meetings and QTel is free to discuss future products and their conformity with the ARF on an informal basis.
It is the nature of the telecommunications business, that offers evolve, often rapidly, and it is therefore not possible for ictQATAR to predict and or specify future acceptable offers.

Protecting competition and Market Situation

QTel's statements have not been substantiated or accompanied with evidence, e.g. with an impact analysis.

The MDDD designated QTel as having a Dominant Position in all 14 markets. In all fixed retail markets QTel retains a near 100% market share. Only in three mobile retails markets has Vodafone gained appreciable market share. QTel's overall mobile market share has been stable at around 75% (+/-3%age points) over the last 9 quarters, which is a remarkable.

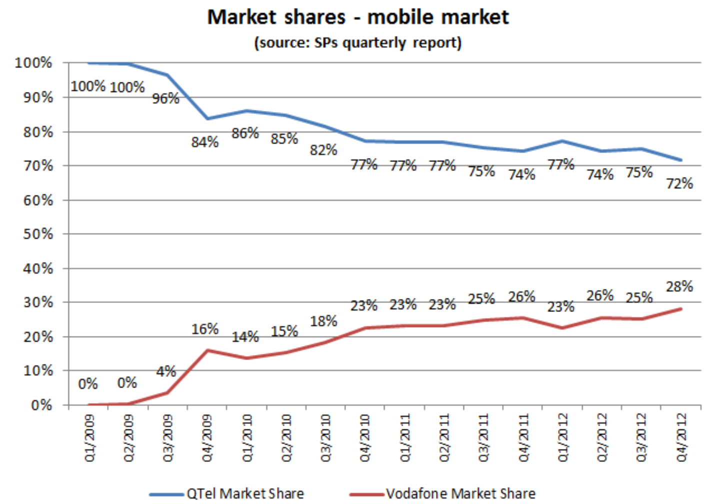

Figure 1 Market Shares (source: public reporting of operators)

Generally the telecommunications industry in Qatar is expanding (cf. Figure 2 below). Despite some competition in the mobile markets with falling prices QTel's and Vodafone's revenues continue to rise. QTel's profits remain on the pre-duopoly level.

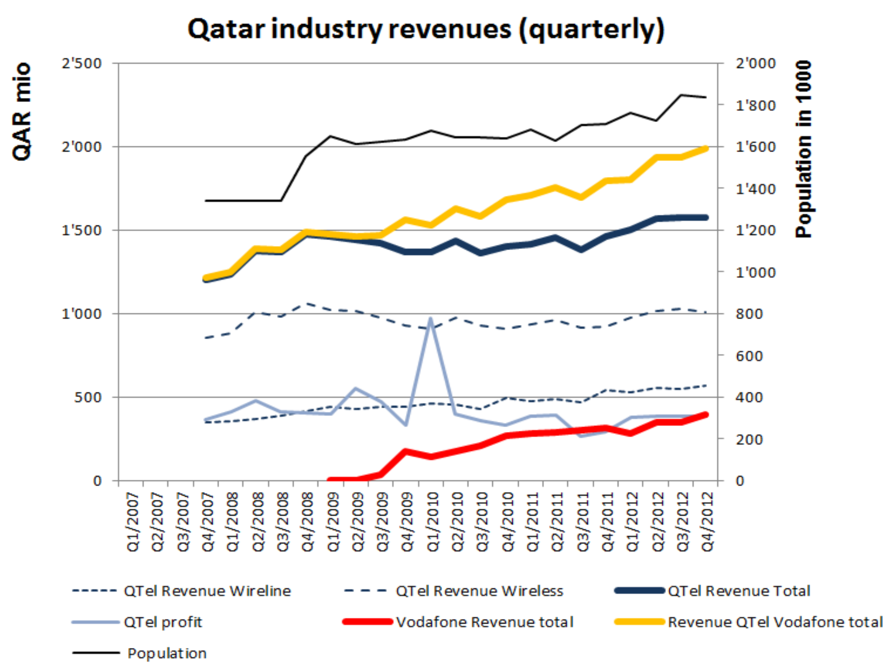

Figure 2 Revenues and profits in the Qatari telecommunications industry (source: public reporting of operators)

The mobile subscribers in QTel Qatar have a much higher ARPU than the rest of the QTel group, which gives a good indication of QTel's strong market position in Qatar. It also shows the actual level of competition and prices in Qatar.

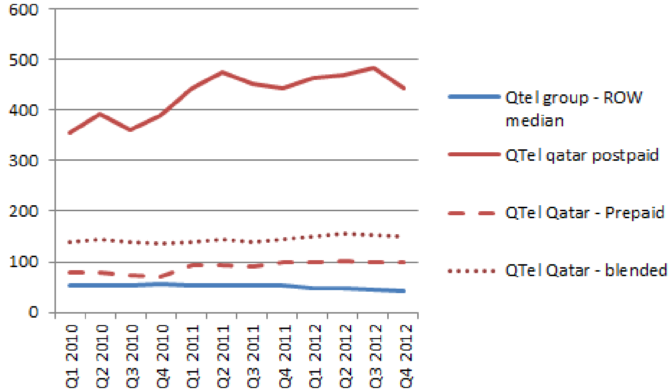

Figure 3 ARPUs: QTel Qatar and rest of the QTel group (source: QTel group reporting)

QTel remains a highly profitable company, which has managed to increase revenue and profits over the last years and has a nearly unparalleled EBITDA rate. QTel group and specifically QTel Qatar continue to outperform its peers in the region and worldwide.

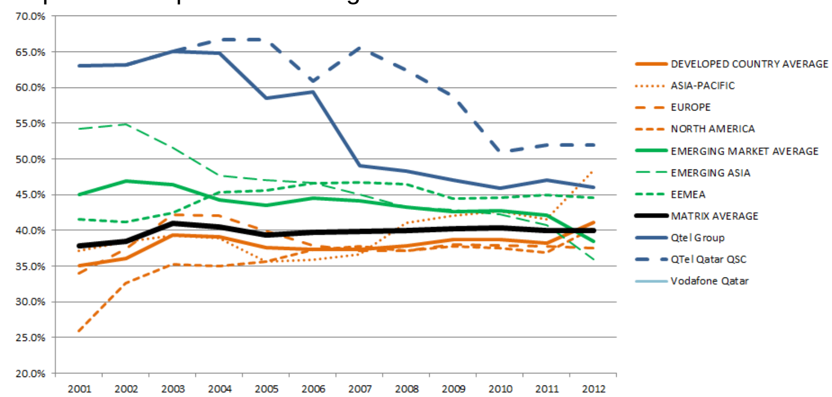

Figure 4 EBITA: QTel Qatar and rest of the QTel group in worldwide comparison (source: Merrill Lynch global wireless matrix)

Advertising and Marketing – Consumer Protection

Within ictQATAR's Regulatory Authority the Consumer and Government Affairs Department is currently consulting on: a draft Consumer Protection Policy and a draft Code on Advertising, Marketing and Branding.

It is ictQATAR's endeavor to separate the Retail Tariff Approval and Consumer Protection as much as possible and to address them in distinct elements. ictQATAR is however mindful, that these issues are necessarily linked.

Therefore, necessarily Retail Tariff Approvals will be informed by Consumer Protection considerations and ictQATAR will continue to include the Consumer and Government Affairs Department in the Retail Tariff Approval process.

This will help to ensure that a case, similar to "QTel Virgin Mobile" will not occur again.

Retail Tariff Approval Timelines

QTel points out that the Retail Tariff Approval puts a "drag" on its processes and expresses its general dissatisfaction with the process. One of the examples is that QTel pointed out is that its Fibre offer has been pending verification of a **minor**[3] element for over seven months. ictQATAR clarifies that this cost

[3] Emphasis added

element was accountable for more than 50% of cost and it took QTel more than 4 months to provide an independently audited account of this cost element.
In order to introduce some facts to the discussion, ictQATAR presents the pertinent figures and timelines:

2012 Tariff response Statistics	**Response time ictQATAR**	**Response time QTel**	**Total case time**
within 3 days	36	37	19
4 days to 1 week	13	8	12
8 days to 2 weeks	5	6	6
15 days to 28 days	0	2	7
Greater than 28 days	0	1	11

Undue Discrimination

All offers should be available to all customers and any offer targeted at a specific customer group should be financially justifiable. ictQATAR's view is that all marketing schemes should be filed with ictQATAR as a tariff as per the SPs individual license definitions of a tariff as being *"any statement of prices, rates, charges or other compensation of any form (including related service descriptions or terms and conditions such as **rebates**, waivers or discounts) offered by a service provider regarding any of its services."*

2.2 Question 2 Respondents are asked whether other relevant parts of the ARF should be taken into account.

2.2.1 QTel's response

In QTel's view, the objectives in Article 2 of the Telecommunications Law should form the basis of any policy on tariffs. QTel cites Article 2(6) of the Telecommunications Law

> "relying, where possible, on market forces to safeguard the interests of customer and the public."[4]

QTel points out, that ictQATAR should rely as much as possible on market forces. QTel also lists a number of cases, which were rejected without apparent justification.
QTel believes that Article 2(6) of the Telecommunications Law requires ictQATAR to bear the burden of demonstrating that there exists a specific harm to consumer welfare before intervening by rejecting a particular tariff offering.

2.2.2 Vodafone's response

Vodafone would like to see ictQATAR take account Article 2 of the Telecommunications Law

> (5) encouraging sustainable investment in the telecommunications sector; and
> (6) relying, where possible, on market forces to safeguard the interests of customers and the public.

Vodafone questions whether ictQATAR's application of the ARF has supported Vodafone's ability to compete effectively. Vodafone cites a plateauing of market share as evidence that ictQATAR has not applied the ARF to their full benefit.
Vodafone also refers to broader competition policy provisions of the ARF[5].

[4] QTel asserts that this is an inaccurate translation from the original Arabic text, "relying as much as possible on market forces".

2.2.3 QTel's comments on Vodafone's response

QTel rejects Vodafone's statement "An absence of effective retail regulation significantly impacts upon the ability of a non-DSP to grow revenue market share and margins sufficient to allow it to achieve critical mass and further invest in the market."
QTel points out that an efficient competitor operating in a competitive market should have no problem achieving sufficient margins to be successful.
QTel refers to "an extremely lucrative" environment in Qatar, and compares a blended Average Revenue Per User (ARPU) of US $40.90 in Qatar with a regional average ARPU of US$12.50.

2.2.4 Vodafone's comments on QTel's response

Vodafone notes that in order for market forces to be relied upon a functioning market must be established and refers to ictQATAR's 2011 MDDD, which demonstrates there are very few markets in which market forces might be sufficiently robust in order for this to protect consumers.

QTel cites a number of instances where they aver ictQATAR is not approving tariffs on the basis of what appears to be a consumer protection rationale. Vodafone agrees that the development of a Consumer Protection Policy would give a more robust basis against which these elements can be assessed during the tariff approval process.

2.2.5 ictQATAR's Analysis, Conclusions and Response

Relying, where possible, on market forces to safeguard the interests of customers and the public

Market forces may be relied upon to safeguard the interests of customers and the public where market forces are effectively in place. The recent MDDD 2011[6] clearly showed QTel and Vodafone's market positions QTel is dominant in all 14 Relevant Markets and as illustrated in**Error! Reference source not found.** page **Error! Bookmark not defined. Error! Reference source not found.**; Vodafone's combined market share in the Dynamic Markets has been stagnating.

ictQATAR's analysis indicates that the Qatari telecommunications market is not yet a competitive market, but characterized by a duopoly situation in only some of the Relevant Markets. Therefore market forces cannot be assured to protect the customers' interests. The transitory nature of a large proportion of Qatar's population also means that SPs do not face significant long term damage from a boycott by customers negatively affected by an offer.

ictQATAR cannot solely rely on market forces to protect consumers given the current state of market development. Indeed, the relevant mechanisms to determine the competiveness of the Qatari telecommunications market are already in place. This is the MDDD, and within the MDDD the Shortcut Process as per Annexure B of the MDDD Order and section 2.3 of the MDD Response Document[7], where QTel and Vodafone supply data quarterly to enable ictQATAR to assess market shares on an on-going basis.

[5] (a) Chapter Nine of the Telecommunications Law – in particular Article (43); (b) Chapter Eight of the Executive By-Law; and (c) Annexure I of the Public Fixed and Mobile Telecommunications Networks and Services Licenses – in particular Article 3.1.

[6] Market Definition and Dominance Designation 2010 a) Notice and Orders ICTRA 2011/10/31 of 31 Oct 2011 and b) Response Document of the MDDD 2010 ICTRA 2011/10/31a of 31 October 2011 (http://www.ictqatar.qa/sites/default/files/documents/MDD_Notice_English.pdf)
[7] ibid

As set out above in 2.1.3 it is ictQATAR's mandate to protect competition and consumers and not to skew the market in one way or another. ictQATAR does not see the provisions regarding retail tariff approval specifically as a means to enable a competitor to grow market share, but to ensure its ability to compete effectively.

Rejection of various approval requests

QTel refers to a number of cases which were rejected without apparent justification. Upon review these pertain mostly to consumer protection measures. ictQATAR refers to section 2.1.3 on page 8 above, where ictQATAR's conclusion regarding Consumer Protection measures and their relation to the Retail Tariff approval process are presented.

2.3 Question 3: We ask for comments on the introduction of a specific filing process for SPs with greater than 15% in a specified market.

2.3.1 QTel's response

QTel states that instead of increasing regulatory burdens on non-dominant service providers, ictQATAR should ensure fairness by reducing regulation on all service providers.
While ictQATAR's proposal to require service providers with 15% or greater market share to file tariffs 14 days in advance could be justified on fairness grounds, QTel urges ictQATAR not to promote regulatory equity by increasing regulation on QTel's competitor, but rather by reducing regulation for all service providers.

QTel proposes that ictQATAR develops consumer protection regulations. QTel state that ictQATAR could rely on ex-post enforcement measures to protect consumers and there would be no need for ictQATAR to subject non-dominant operators to tariff regulation.

2.3.2 Vodafone's response

Vodafone believes this would constitute a license change and adversely impact competition. Vodafone considers such a measure would be at odds with the function of the RRF to support non-DSPs and facilitate more effective and sustainable competition. Vodafone urges ictQATAR to undertake a cost/benefit analysis of this proposal to demonstrate that it will enhance rather than impede competition.

Vodafone are specifically concerned with the ability to match promotions from QTel. Vodafone believe there is the potential for considerable commercial impact on revenue if they are not able to match price offers quickly.

Vodafone believes that the proposed Consumer Protection Policy is the appropriate legal instrument to address consumer issues rather than advanced tariff filing.

Vodafone contend there is a lack of legal basis for this proposal in general and around the specifics of the 15% hurdle. Vodafone believes this proposal "raises significant concerns given the opportunity fee levied in respect to the Mobile License".
Vodafone proposed further discussions with ictQATAR on this specific issue.

2.3.3 QTel's comments on Vodafone's response

QTel generally supports relaxation of the tariff approval rules and a narrow focus on only identifiable competitive harm.

QTel takes issue, with Vodafone's characterization of the function of the tariff approval regime to "support non-DSPs and facilitate more effective and sustainable competition."

QTel supports, the sentiment expressed in the Vodafone Qatar Comments in favor of developing a clear and consistent consumer protection policy, ideally one that would be separate from the retail tariff approval process.

2.3.4 Vodafone's comments on QTel's response

Vodafone does not agree that ictQATAR should "ensure fairness" by reducing regulation on all service providers. Rather, fairness is improved by the transparent and consistent application of the requirements of the ARF. This includes a greater level of *ex-ante* regulation for DSPs as is the case in all markets where there is a concept of dominance and related *ex-ante* remedies.

2.3.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR notes the general reservations of both QTel and Vodafone. ictQATAR points out that any change in individual licenses is a matter for the Board of Directors of ictQATAR.
For statements relating to Consumer Protection Provisions ictQATAR refers to section 2.1.5 ictQATAR's Analysis, Conclusion and Response: Advertising and Marketing – Consumer Protection.
The role of the Retail Tariff approval framework in its relation to competing service providers has been discussed in section 2.1.5.

2.4 Question 4 ictQATAR asks for suggestions to improve the tariff filing process.

2.4.1 QTel's response

QTel states that their experience with tariff meetings has generally been positive.

Tariff meetings are not equivalent to a tariff filing

QTel does not support the proposal to treat a tariff meeting as equivalent to a filing of a proposed tariff offer. Rather, service providers should remain free to meet with ictQATAR staff to offer explanations and clarifications and/or submit additional information with regard to a tariff already filed without restarting the 28 day review period. To the extent a tariff meeting requires significant changes in a pending offer, service providers should be free to withdraw and re-file such offers in accord with ictQATAR input.

Interaction with product managers

QTel points out that an issue with regard to tariff meetings that is of concern to QTel is that they have become opportunities for ictQATAR staff to engage in unstructured negotiations with relevant QTel "Product Managers" to conform the QTel product design to ictQATAR wishes.

2.4.2 Vodafone's response

Re-investigation

Vodafone request under what circumstances a non-DSP tariff could be investigated and whether this provision should only apply to DSPs.

Customer Value Marketing (CVM)

Vodafone sets out that there is little transparency around CVM, especially in the business market.
Vodafone wishes to understand:

- How ictQATAR would look at CVM offers in relation to price floors.
- What the obligations would be on publishing all approved CVM offers online and the model for approval and notification of such tariffs.

Commercial arrangement between Qatari SPs and international carriers

Vodafone raises the issue that a non-licensed operator cannot purchase wholesale products in Qatar. Vodafone requests clarification on the treatment of the tariffs of international carriers who have partnerships with a licensed operator in QATAR.

2.4.3 QTel's comments on Vodafone's response

QTel are also willing to work with ictQATAR on the best way to regulate Customer Value Marketing campaigns.

2.4.4 Vodafone's comments on QTel's response

Vodafone supports the view that having to provide additional information should not necessarily require the restarting of a 28 day period.

Vodafone's main concern is that, even if approved by ictQATAR in fewer than 28 days, tariffs are not offered in the market before the end of the 28 day notification period.

Customer Value Marketing (CVM) Meeting comments

In the meeting to discuss the Tariff Instruction Vodafone reiterated its view that CVM is a critical part of the marketing offering in other Vodafone countries, offers value to customers, over time would be experienced by all customers and is appreciated by consumers.

Enterprise T&Cs Meeting comments

In the meeting to discuss the Tariff Instruction Vodafone stated a) filing T&Cs that were specific to customers would be burdensome b) Such customer specific T&Cs are confidential between the customer and Vodafone and therefore cannot be published.

2.4.5 ictQATAR's Analysis, Conclusion and Response

Tariff meetings

ictQATAR here clarifies the nature of Tariff meetings: Tariff Meetings, between the Service Providers and ictQATAR are an open, mutual platform to discuss issues. Tariff Meetings are often the most efficient way to discuss complex tariff filings and their underlying calculations. Such details are often hard to convey in written material in a concise and immediately understandable format.
As such a Tariff Meeting is a functional substitute to a written filing and typically minutes are distributed after each Tariff Meeting. If a SP wishes to emphasize the discussions in a Tariff Meeting, the SP can submit a formal filing after a tariff meeting on a subject that has been discussed in order to receive a considered written response on any proposal.

In Tariff Meetings new information may be introduced or pertinent clarifications may be provided it is therefore necessary to "restart the clock". This is a faster process than requesting such information be formally submitted or formally seeking such clarifications in writing. If a SP does not wish to "restart the clock" because of a Tariff Meeting the SP is free to request a written response, instead of having a topic discussed during a Tariff Meeting.

ictQATAR refutes QTel's point that ictQATAR uses Tariff meetings to influence QTel Product Managers. It is ictQATAR's experience that QTel's Product Managers are capable of sticking to their point. Further, representatives of QTel's regulatory team are present at all Tariff Meetings to ensure that QTel's Product Managers are not coerced to ictQATAR wishes in "unstructured negotiations".

Re-investigation

ictQATAR cannot predict all the scenarios which could cause a re-investigation. However, in general this provision is made so that if new information concerning a tariff becomes apparent to ictQATAR there is an option to revisit the decision. Such new information may include inter-alia:

- Reports on an offer requested in the original approval to demonstrate whether an offer is conforming to predicted projections.
- How an offer is being marketed (e.g. Virgin Mobile).
- How an offer is billed.

The ARF foresees provisions regarding retail tariffs for dominant and non-dominant SPs. As such ictQATAR will re-investigate tariffs of dominant and non-dominant SPs, if the need arises.

Customer Value Marketing (CVM)

CVM offers must be filed as any other retail tariff with ictQATAR. ictQATAR is open to developing (pre-approval) frameworks with the SPs. As part of this framework ictQATAR would be likely to request a report on a monthly basis that demonstrates the effect of these offers.
ictQATAR points out that the typical provisions regarding the cost-floor and publication will apply to CVM offers.

Commercial arrangement between Qatari SPs and international carriers

ictQATAR's clarifies, that wholesale / international contracts are not within the scope of this Instruction. This Instruction focusses on the relationship between the SPs in Qatar and retail customers (residential and business).

28 Days Mandatory ex-ante filing

ictQATAR believes that the telecommunications market benefits from an efficient and fast regulatory process. ictQATAR will come to a decision as quickly as possible. A product-launch should not be delayed artificially. ictQATAR maintains that a quick response is pro-competitive and in the consumer's best interests.

Enterprise Terms and Conditions

The SPs individual Licenses state that Tariffs should be complete: "with full details of all charges, terms and conditions of the Tariff"[8]. The individual licensee is also required to "publish the Tariff and prominently display the details of the Tariff, including its effective date on its website"[9]. ictQATAR will now enforce this requirement and any non-compliance will be dealt with by the Regulatory Authority as a serious matter.

2.5 Question 5 ictQATAR is concerned about the flurry of promotions without accompanying changes in the rate card prices. Respondents are requested to give their general view on promotions.

2.5.1 QTel's response

QTel believes that Promotions offer clear benefits to consumers and help SPs to respond rapidly to the shifting demands of the market and to test customer response in a low-risk manner.
QTel believes that the steps ictQATAR has taken, such as restricting promotional offerings and imposing the strict price floor, inhibits competition.
QTel rebuts that "a hallmark of competition is the decline of prices and changes on the permanent rate cards. QTel disputes whether a competitive market tends toward more stable retail prices and fewer promotions. If this were the case QTel asserts the proper policy response should be to take steps that encourage real competition so that the market stabilizes.

[8] Annexure D 1.3 of SPs License
[9] Annexure D 1.6 of SPs License

QTel believes that the stagnation in IDD pricing is attributable to the price floor. QTel states that promotions allow total telecoms spend to grow. QTel's own market research demonstrates that "pricing and promotions" are important to consumers.

2.5.2 Vodafone's response

Vodafone points out, that since it entered the market, prices of telecommunications services have decreased significantly and this has led to significant consumer benefit. Vodafone believes that ictQATAR's focus should be on ensuring that QTel's requirements as a DSP are being strictly applied.

2.5.3 QTel's comments on Vodafone's response

QTel agree with Vodafone that "it does not see any pro-competitive benefit or consumer welfare benefit" arising from a limit to promotional activity for either SP.
QTel urge ictQATAR to reject Vodafone's request for more stringent promotional restrictions on DSPs and Vodafone's rationale for doing so.
QTel agree with Vodafone assertion that ictQATAR's proposals on promotion length and repetition are too restrictive and the reasoning that supports this rejection.

2.5.4 Vodafone's comments on QTel's response

Vodafone does not agree with QTel that the price floor on DSPs has inhibited competition.
Vodafone state that there is a trade-off between QTel's desire for a less restrictive approach to ictQATAR's promotional regulation and QTel's desire for clear guidance on the application of the price floor. Vodafone's view is that certainty on the price floor is more important than allowing overlapping promotions which may create challenges for price floor assessment.

2.5.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR notes that both SPs have described a variety of benefits attributable to running promotions, benefits such as:-
the ability to test offers before deciding whether or not to make them permanent; an ability to give targeted benefits to consumers and the ability to stimulate overall demand to increase revenue.

ictQATAR is mindful of the potential benefits of promotions, but also of promotions as a tool to maximize the SP's revenue and producer rent.
With the current market situation of limited competition in mobile and virtually no competition in the fixed market, ictQATAR remains concerned that promotions can be used to assuage consumer concerns about pricing without delivering real value. ictQATAR notes, with concern, that virtually no promotions are run in the fixed markets.
ictQATAR is also concerned that promotions may become the primary tool to compete for profitability and or price elastic consumers while the remaining customer base receives no benefit from a competitive process.

2.6 Question 6 ictQATAR is aware that the limitation on repetition of promotions and overall length of promotions days is imposing limits on the SPs. Respondents are requested to produce quantitative evidence of the pro-competitive effects of Promotional Offers.

2.6.1 QTel's response

QTel points out that its promotions during 2012 have generated substantial amounts of new traffic, with spikes in usage occurring due to various "flash" and other promotions. This increase in traffic enables QTel to negotiate lower termination rates with international partners thereby permitting lower retail rates and promotions in the future. The end result is that customers get more value for their money and their customer satisfaction rises.

QTel has also found that its customers place a high value on pricing and promotions. A recent survey of QTel customers indicates that "pricing and promotions" is the second most significant factor in contributing to general customer satisfaction.

2.6.2 Vodafone's response

Vodafone argue that the lack of movement in the average IDD rate is due to the price floor set for QTel and not due to a masking effect of promotions.

Vodafone considers promotions as an effective tool to provide value to customers in a sustainable manner and gives quantitative reasons for the usefulness of promotions.

Vodafone state that promotions enable it to optimize elasticity of demand against margin decreases. A limit to, one promotion per month and not repeatable for a year, would cause Vodafone to be significantly more cautious in their promotional offerings ad this would be to the detriment of consumers.

Vodafone proposes that because the re-running of a materially similar promotion is different for a DSP and a non-DSP perspective, that

- A non-DSP may re-run a materially similar promotion no sooner than three months from the end of the previous materially similar promotion.
- A DSP may re-run a materially similar promotion no sooner than nine months from the end of the previous materially similar promotion.

Vodafone argues this would assist Vodafone's ability to grow and invest sufficiently to become a robust full telecommunications service provider.

2.6.3 QTel's comments on Vodafone's response

QTel agrees with Vodafone's assertion that ictQATAR's proposals on promotion lengths and repetition are too restrictive and they agree on the reasoning that supports this rejection. QTel reject Vodafone's application for asynchronous rules concerning repetition of promotions as being designed to protect Vodafone and a "blatant appeal for ictQATAR to manipulate the Telecommunications Market"

2.6.4 Vodafone's comments on QTel's response

Vodafone agrees with QTel that promotions may increase usage and can be used to deliver value to customers in a sustainable manner.

Vodafone states that in the early phases of the development of competition promotions can be used by a DSP to target a new entrant and this has the effect of making it harder for the new entrant to gain a foothold in the market. Therefore Vodafone views ictQATAR's limitations on the repetition of promotions as desirable in the current phase of competition.

Vodafone rejects QTel's example of CRTC as being applicable to fixed broadband, a market in which QTel has 90%+ market share.

2.6.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR is cognizant that the conclusions and responses to the following questions are necessarily linked, hence referring SPs to ictQATAR's conclusions and responses is set out in section 2.9.5 on page 22:

- Question 6 ictQATAR is aware that the limitation on repetition of promotions and overall length of promotions days
- Question 7 Respondents are requested to submit alternative suggestions with regard to the quantity of Promotional Offers.
- Question 8 Respondents are requested to submit alternative suggestions with regard to managing complexity with regard to overlapping Promotional Offers on specific tariffs.
- Question 9 Respondents are requested to provide reasoned arguments for shortening or extending promotional periods

2.7 Question 7 Respondents are requested to submit alternative suggestions with regard to the quantity of Promotional Offers.

2.7.1 QTel's response

QTel believes that offers targeted at individual customer groups which feature individual tariff items mean that ictQATAR's approach of limiting the total number of promotions is overly restrictive and out of step with QTel's approach to how it wishes to target offers. QTel argue that should ictQATAR need to impose restrictions the example of the Canadian Radio and Television Committee (**CRTC**) should be followed in which, at an individual tariff item level there is a restriction on the length of promotion and when that item could be offered on promotion again. CRTC linked the time during which an item could not be promoted proportionally to the length of the original promotion.

2.7.2 Vodafone's response

For non-DSPs the number of promotional offers should be left to the SP's discretion.
Vodafone state that promotions enable it to optimize elasticity of demand against margin decreases. A limit to one promotion per month and not repeatable for a year would cause Vodafone to be significantly more cautious in their promotional offerings this would be to the detriment of consumers.

2.7.3 QTel's comments on Vodafone's response

QTel agrees with Vodafone's assertion that ictQATAR's proposals on promotion length and repetition are too restrictive and the reasoning that supports this rejection.
QTel urge ictQATAR to reject Vodafone's request that ictQATAR consider the "competitive impact of repeated promotion" and rather ictQATAR limits its efforts to "protecting competition and consumers in accordance with its objectives pursuant to the Telecommunications Law"

2.7.4 Vodafone's comments on QTel's response

Vodafone comment on the CRTC example and note that this refers to a decision on fixed broadband services. Vodafone note this is a market where QTel have 90%+ market share and therefore would not welcome a promotion and enrollment period of 12 months followed by a 6 month fallow period.

2.7.5 ictQATAR's Analysis, Conclusion and Response

Please refer to section 2.9.5 on page 22.

2.8 Question 8 Respondents are requested to submit alternative suggestions with regard to managing complexity with regard to overlapping Promotional Offers on specific tariffs.

2.8.1 QTel's response

QTel argue it is not in their best interests to confuse customers with overlapping promotions and that ictQATAR should forbear from regulation in favor of allowing the market to pass judgment on QTel.

2.8.2 Vodafone's response

Vodafone believes that overlapping promotions can be potentially anti-competitive when such promotions are provided by DSPs. This does not apply for non-DSPs, " … because there is no cost assessment involved.

2.8.3 QTel's comments on Vodafone's response

QTel reject Vodafone's assertion that overlapping promotions by DSPs can be below cost and predatory. QTel argues that true predation requires sustained pricing below average variable cost that forces a competitor from the market followed by recoupment of lost margin through higher prices. Promotions are not the vehicle for such behavior because of their temporary nature. QTel submits that market forces should be allowed to protect consumer interests as per Article 2(6) of the Telecommunications Law.

2.8.4 Vodafone's comments on QTel's response

Vodafone note that QTel have not addressed the impact that overlapping promotions can have on the evaluation of whether a price is above the price floor. Vodafone submits that DSPs should not be allowed to run overlapping promotions as ictQATAR cannot be assured that the price floor is not being maintained.

2.8.5 ictQATAR's Analysis, Conclusion and Response

Please refer to section 2.9.5 on page 22.

2.9 Question 9 Respondents are requested to provide reasoned arguments for shortening or extending promotional periods.

2.9.1 QTel's response

QTel states that limiting the promotional period to one month would be against the consumer's best interests and that for the purposes of testing promotions a period of four weeks is virtually useless. QTel argue that a three month promotional period is necessary in the postpaid market to evaluate the effectiveness of an offer.

2.9.2 Vodafone's response

Vodafone accepts an argument that limiting the period for promotions may be useful to provide clarity for consumers on what is a promotional rate and what is a permanent offer. Vodafone argue the cost of billing and IT development for promotions requires a period of three months.
A shorter promotional period does not allow customers sufficient time to take advantage of promotions.
Vodafone states that ictQATAR's proposed limit to four weeks marks a material change from the current rule.
Vodafone supports the status quo for the promotion period and submits that three months still represents a reasonable period for running a promotion as it allows sufficient time for SPs to increase awareness of the offer to customers and for customers to benefit from the offer.
Vodafone understands the view previously expressed by ictQATAR that promotions that run longer than three months could be reasonably mistaken by customers as permanent offers.

2.9.3 QTel's comments on Vodafone's response

QTel agree with Vodafone's assertion that ictQATAR's proposals on promotion length and repetition are too restrictive and the reasoning that supports this rejection.
QTel supports Vodafone's position that a three month promotional period is appropriate.

2.9.4 Vodafone's comments on QTel's response

Vodafone feels that promotions limited to four weeks would significantly disrupt an SPs ability to offer quality promotions to their subscribers. Vodafone believes promotions that run for longer than three months run the risk of being mistaken by customers as being permanent.
Therefore Vodafone re-iterates its support for three month promotional periods.

2.9.5 Analysis, Conclusion and Response

Questions 6,7,8 and 9 are necessarily linked. ictQATAR is mindful, that a balanced approach is warranted, which is set out in the remainder of this chapter.
ictQATAR points out that specific provisions apply to "Flash Promotions"

Duration of promotions (Question 9)

On consideration of the submissions from both SPs ictQATAR retains the existing maximum three month promotional period in order that offers can be efficiently tested in the market.

Repetition of promotions (Questions 6)

ictQATAR believes that in order for consumers to be clear on what is a promotional rate and what the standard rate is promotions should not be repeated for the same Tariff until 6 months after the promotional offer has ended. This applies to the underlying tariff item or items that are subject to the initial promotion (i.e. at destination level, mobile data or connection charge)

ictQATAR accepts that more significant restrictions on the quantity and frequency of promotions may not be to the benefit of the overall market. ictQATAR also notes, that the submission of the SP's have only been partially backed-up by evidence and cannot be conclusively applied as a general rule to all promotions.

Quantity of Promotional Offers (Question 7)

Having considered the arguments of both the SPs, regarding the duration of promotions, the repetition of promotions and the issue of double discounting, ictQATAR does not consider limitation on the quantity of promotional offers necessary at this stage.

Overlapping Promotional Offers (Question 8)

Overlapping promotions i.e., where a tariff item is reduced more than once due to the effect of a promotion can create issues. From a consumers point of view such double discounting can be confusing and potentially misleading. From a Retail Tariff approval point of view, recent experience shows, that such double discounting makes the approval process exceedingly complex.

As a result ictQATAR is not minded to approving overlapping promotional offers that result in a single Tariff item (i.e. at destination level, mobile data or connection charge receiving the benefit of more than one promotion at a time
Where there is doubt on whether double discounting is in effect ictQATAR will use apply this prohibition erring on the side of caution.

For example a discount on credit in the pre-pay market would preclude any other promotion (including flash promotions) being offered for as long as the discounted credit was in the market.

2.10 Question 10 Respondents are requested to submit their views on mobile device subsidies and extended contract periods. In case Respondents have an opposing view, they are requested to submit reasoned argument and evidence for their view.

2.10.1 QTel's response:

QTel does not have at this time an interest in offering handset subsidies. QTel believes that ictQATAR has offered little rationale for prohibiting handset subsidies, and believes that handset and other device subsidies offer significant benefits for consumers. QTel does not support ictQATAR's prohibition. QTel states that post–paid mobile customers stay in excess of three years and mobile broadband 19 months and that therefore a twelve month contract would not represent a "lock in".

2.10.2 Vodafone's response:

Vodafone view the issue should be split between Consumer and Enterprise customers.

Consumer

Vodafone accepts that handset subsidies are unnecessary for the consumer handset market.
Vodafone argues that the market for mobile data dongles is less mature and that Vodafone has achieved significant market growth by being able to offer subsidized dongles and "MIFI" devices. Therefore mobile broadband device subsidies should be allowed on the basis that:

- The device cost is included in cost floor calculations for DSPs
- The subsidy can only be applied from the associated tariff
- The 12 month period is not a lock in as the customer would be able to break the contract at any time with only a penalty to repay the remaining cost of the device.

Enterprise

Vodafone believes that non-DSPs only should be allowed to subsidize devices specifically for Enterprise customers. Vodafone cites Enterprise customers who buy low end handsets for blue collar workers and devices being used as a part of a "Managed Devices" offering as two segments in which Vodafone need to be able to subsidize handsets in order to be competitive.

2.10.3 QTel's comments on Vodafone's response

QTel notes Vodafone's request for a differing treatment for Consumer and Enterprise handset subsidies. QTel finds that Vodafone offers no supporting evidence for a prohibition of handset subsidies in the consumer market. QTel does not find Vodafone's proposal that mobile broadband devices should be allowed to be subsidized to be justified in comparison with handset subsidies.
QTel rejects Vodafone's proposal that Vodafone should be allowed to subsidize Enterprise handsets but QTel as the DSP should not. QTel re-iterates the view that Vodafone have misunderstood the purpose of the regulatory regime which is to protect competition and consumers and not Vodafone from legitimate competition. QTel also rejects the notion that QTel would be able to subsidize devices to a greater extent than Vodafone; highlighting the deep pockets of Vodafone's shareholders.

2.10.4 Vodafone's comments on QTel's response

Vodafone states that QTel's statement of the duration that typical customers remain on post-paid plans does not take into account the recent launch of Vodafone's post-paid offerings or the introduction of Mobile Number Portability (MNP).

Vodafone refutes QTel's statement that extended contracts would not be anti-competitive. In contrast if QTel were allowed to sign customers to 12 or 24 month contracts this would affect Vodafone's ability to grow market share.
Vodafone disputes QTel's view on whether cross subsidies involving handsets would be anti-competitive. Vodafone believe that such cross subsidies could be drawn from an uncompetitive market to render another market less competitive.
Vodafone notes the difference between a mobile device subsidy and purchases of devices in installments. In such circumstances customers may be able to break a contract early with full repayment of the remaining installments.

2.10.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR maintains that Question 10, 11 and 12 are necessarily linked and is mindful, that a balanced approach is warranted. -

- Question 10 Respondents are requested to submit their views on mobile device subsidies and extended contract periods. In case Respondents have an opposing view, they are requested to submit reasoned argument and evidence for their view.
- Question 11 Respondents are requested to submit their views on fixed device (cross) subsidies. In case Respondents have an opposing view, they are requested to submit reasoned argument and evidence for their view.
- Question 12 ictQATAR is aware that some CPE is "network specific", in the sense that it has to be obtained from the SP and cannot be bought on the general market. Respondents are requested to supply well founded arguments why the cost of such CPEs should be given "for free" to the customer.

The analysis and conclusion is set out in section 2.12.5 on page 25.

2.11 Question 11 Respondents are requested to submit their views on fixed device (cross) subsidies. In case Respondents have an opposing view, they are requested to submit reasoned argument and evidence for their view.

2.11.1 QTel's response:

QTel is against such a prohibition. QTel believes this this would constitute an unnecessary intervention that goes against customer preference. Article 2(6) requires ictQATAR to rely on market-based solutions, and the bundled sale of devices and subscriptions poses no harm to competition.

2.11.2 Vodafone's response:

Vodafone believes that in order to compete in a market where QTel have delivered fixed services with free devices they must also be able to offer free devices.
Vodafone do not believe that a DSP that has been through the acquisition phase needs to continue to subsidize fixed devices.

2.11.3 QTel's comments on Vodafone's response

QTel does not find in Vodafone's response any regulatory argument for a prohibition on fixed device subsidies for QTel.

2.11.4 Vodafone's comments on QTel's response

Vodafone re-iterate the view that a prohibition on fixed device subsidies at this point would be effectively discriminatory because QTel had been allowed to offer such subsidies as it acquired customers.

2.11.5 ictQATAR's Analysis, Conclusion and Response

Please see section 2.12.5 on page 25.

2.12 Question 12 ictQATAR is aware that some CPE is "network specific", in the sense that it has to be obtained from the SP and cannot be bought on the general market. Respondents are requested to supply well founded arguments why the cost of such CPEs should be given "for free" to the customer.

2.12.1 QTel's response:

QTel argue that charging for bundled CPE would act as a barrier for acquisition and that customers like getting this for free.

2.12.2 Vodafone's response:

FTTH equipment is network specific to a greater degree than DSL equipment and needs to be managed by Vodafone to give consumers reliable service. Vodafone being unable to subsidize this equipment will be a barrier to churn and harm Vodafone's entry into this market.

2.12.3 QTel's comments on Vodafone's response

QTel notes Vodafone's agreement with its view.

2.12.4 Vodafone's comments on QTel's response

Vodafone had no further comments.

2.12.5 ictQATAR's Analysis, Conclusion and Response

Mobile devices and subsidies

Qatar's market has one of the highest mobile penetrations in the world with 75%[10] smartphone penetration[11]. This has developed in a market with a huge income disparity and in the absence of handset subsidies.
QTel argues that due to average (historic) contract lengths of 19 months no "lock in" would occur. Taking this argument, ictQATAR indeed sees no commercial need for an extended MSP in order to finance any type of device.

ictQATAR notes that QTel did not respond to the existence of the 0% loan offers for 6 months targeted at consumer electronics such as handsets. ictQATAR views such offers as market led and offering consumers an unambiguous view of the price of their handset and of their Telecoms services. In contrast handset bundles and contracted services are designed to obscure the value of the constituent parts of the bundle.

Given the dominance of QTel in QATAR such device subsidies raise a couple of concerns that cross-subsidies would be damaging to independent mobile phone sales outlets and potentially lead to QTel foreclosing this market to further embed their market dominance.

[10] Nielsen on Qatar q4 2011
[11] Even though QTel comments that these include models without touch screen.

ictQATAR does not believe that the split between mobile broadband devices and handsets warrants different regulation.

ictQATAR finds Vodafone's arguments regarding "Managed Devices" unconvincing. The purchase and maintenance of a "Managed Device" does not require a bundling with the associated service (e.g. Blackberry). Managed Devices can be separately billed line items. Devices are not subject to regulation by ictQATAR and therefore if they are not sold in a bundle with Telecom services can be sold over contracts of any length. ictQATAR believes this approach is generally pro-competitive as it will ensure that all elements within an offer are priced competitively.

Conclusion

ictQATAR notes the arguments presented by both SPs for varying levels of handset subsidy but remains unconvinced that consumers would benefit significantly from a relaxation of the current rules. ictQATAR believes that this is an area where symmetric regulation is appropriate given the current state of competition in Qatar.

Network specific CPE

Equipment necessary to the provision of services and not available on the open market should be provided with the service. This would typically include devices such as an Optical Network Terminal (**ONT**) for fibre broadband. DSPs should justify its inclusion as part of the cost of service.

Fixed devices and cross-subsidies (Question 11)

QTel points out that the average customer duration is far in excess of one year. Therefore ictQATAR does not see any need to introduce a minimum service period of longer than three months.

Vodafone makes a distinction between consumer and enterprise fixed services and points to second mover disadvantage. QTel stipulates no harm to competition without offering evidence or rationale and points out that prohibition of all cross subsidies is overly restrictive.

ictQATAR is cognizant of recent market developments, but also aware that competition in the fixed market is virtually non-existent.
ictQATAR also recognizes that fixed equipment has different characteristics e.g. a cell-phone or a USB dongle, insofar as it is not personal, but linked with a location and a specific service and to an extent expected by the customer to enable the purchased service to work as expected. ictQATAR needs to balance this consumer requirements while ensuring that the value of equipment is understood by the customer and network equipment does not become a point of differentiation between SPs via unchecked cross-subsidies. Therefore all bundled CPE must have a cost to the SP of no more than the connection revenue plus the first month's revenue of the bundled service.
All CPE exceeding this value needs to be purchased separately. This applies for Business and Consumer services.
ictQATAR would ideally support unbundled services and believes that consumers should be free to choose their CPE to the greatest extent possible but believes this limit as applied will not leave any SP unfairly disadvantaged.

2.13 Question 13 Respondents are requested to submit their views on the Minimum Service Period (MSP) and Commitment Period with supporting evidence.

2.13.1 QTel's response:

QTel states that two year contracts are common in the Rest of the World. QTel suggests cancellation with pro-ration of discount as being fairer in addition to offering short contracts.
QTel also believe that business' value longer contracts and installation costs including CPE need to be recovered over longer periods.

2.13.2 Vodafone's response:

Consumer Mobile

Vodafone supports a minimum subscription period of three months for consumers. However if a consumer buys a non-subsidized handset then this should be allowed over a twelve month period with a right to cancel and pay no more than the remaining installments at any time.

Enterprise Mobile

Vodafone states that acquisition costs are higher for Enterprise customers and that Enterprise customers typically do not acquire services for three month periods. Enterprises desire longer contract periods in return for discounts.

Consumer and Enterprise Fixed

Vodafone state the cost of acquisition and implementation for fixed line customers is higher than for mobile and that the wholesale minimum service product behind their fixed line product is likely to be twelve months.
A twelve month commitment period would also be necessary for Vodafone to recover the device subsidy discussed previously.
There should be no maximum commitment period over twelve months which balances the acquisition costs with any anti-competitive effects of long commitment periods.

2.13.3 QTel's comments on Vodafone's response

QTel disagree with Vodafone's view that contracts of longer twelve months are potentially anti-competitive.

2.13.4 Vodafone's comments on QTel's response

Vodafone re-iterates its view that three month contract periods are sufficient for mobile consumers and enterprise customers but maintain that contracts of 12 months are required for fixed services.

2.13.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR does not believe that the current state of competition in Qatar with a DSP who is dominant in all competitive markets is comparable to international markets, which typically have three or more SPs.

ictQATAR is also mindful that a high proportion of the population of Qatar is temporary and therefore contracts of extended periods have the potential to have a far greater lock-in effect than in countries with longer "typical" periods of residency.

ictQATAR understands that the motivation for twelve and twenty four month MSPs are due to CPE financing schemes, which do not exist in QATAR.

ictQATAR has maintained a MSP of up to three months as a general rule and has not received any evidence that this not pro-competitive.

ictQATAR is aware that the implementation cost for fixed is higher than for mobile, but is also cognizant that the average lifetime of the customer on fixed is well in excess of two years.

Therefore ictQATAR does not see a reason to extend the MSP, as a standard case, beyond three months.
SP's are free to offer separate financing schemes for CPE.

2.14 Question 14 Respondents are requested to submit their views on the Minimum Validity of Credit and offer supporting evidence on why the proposed limits should be changed.

2.14.1 QTel's response:

QTel does not feel ictQATAR should regulate the minimum validity of credit rather ictQATAR should regulate the rules concerning disclosure to consumers of credit validity. If the concern is making sure that customers are not misled or confused, a much more straightforward way of dealing with the problem is to mandate a certain level of disclosure or other type of customer communication.

2.14.2 Vodafone's response:

Vodafone has 180 day validity for top-ups of greater value than QAR 20 and do not believe that there is any requirement for further regulation. Vodafone also request clarification on precise definition of pre-paid credit.

2.14.3 QTel's comments on Vodafone's response

QTel concur with Vodafone's view that there is no need for regulation of minimum validity of credit. However QTel states that any regulation on the minimum validity of credit should be synchronous and not only applicable to QTel.

2.14.4 Vodafone's comments on QTel's response

Vodafone agrees with QTel that clear communication of minimum credit validity is the sufficient for regulatory interference in this area.

2.14.5 Analysis, Conclusion and Response

ictQATAR is specifically referring to pre-paid credit that is available on pre-paid accounts as value to be spent in a given time. A typical example is pre-paid credit to be spent on e.g. IDD and local calls as per the standard usage rates.
This does not refer to specific telecoms services bought with a defined expiry date. If e.g. a customer buys a "weekly mobile internet" package from the aforementioned credit, it is clear that this package expires after 7 days.

ictQATAR notes the lack of evidence used to support any change in its stated policy and therefore retains its proposal as per the original consultation document:

Credit limit	Duration
Standard credit validity	(6) months or longer
<= QAR 10	30 days or longer

2.15 Question 15 Respondents are asked about their view on Geographic Differentiation. Respondents are requested to quantify the consumer benefit of geographically differentiated charging.

2.15.1 QTel's response:

QTel has no plans at this time to impose geographically differentiated charging.

QTel find such offers necessary to reflect significant differences in the cost of providing services where providing the service at prevailing rates may be uneconomic.

QTel states, that there appears to be no need to adopt blanket prohibitions on such pricing practice at this time.

2.15.2 Vodafone's response:

For mobile Vodafone state that geographic pricing may be necessary in the future to maximize asset utilization in the mobile network but state this would be in context of cheaper prices. Vodafone does not wish to see these types of offers automatically precluded.

Vodafone does not believe that geographic differentiation is appropriate for the fixed market. Services that require customer specific network should be excluded from this discussion.

2.15.3 QTel's comments on Vodafone's response

QTel agrees with Vodafone that there is no legitimate regulatory basis to prohibit geographically differentiated pricing.

2.15.4 Vodafone's comments on QTel's response

Vodafone agrees with QTel that they see no need with a prohibition on geographic differentiation.

2.15.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR remains concerned about a (geographic) micro-segmentation and fragmentation of the telecommunications markets in Qatar.

For the mobile offerings ictQATAR notes suggestions for cell-site based differentiated pricing. This will potentially raise consumer concerns.

Especially for fixed services ictQATAR notes that the SPs' individual licenses contain rollout obligations to provide service across Qatar. ictQATAR cannot see, how "uneconomic areas" would feature in such a consideration. ictQATAR notes that installation fees for bespoke connections are not necessarily part of the standard tariff.

ictQATAR maintains that no geographic differentiations should apply, unless explicitly approved by ictQATAR.

2.16 Question 16 ictQATAR is aware that the formula as presented above is a proxy formula. In absence of a more valid approach ictQATAR suggests using this formula until the DSP's current Regulatory Accounting System (RAS) has been approved by ictQATAR. Respondents are invited to produce reasoned suggestions whether a different approach should be pursued and how it can be implemented.

2.16.1 QTel's response:

QTel believe that an LRIC based costing formula should be developed as part of the 2012 RAS.

2.16.2 Vodafone's response:

Vodafone supports the existing price floor formula but makes the following recommendations in order to make it more pro-competitive:

- The cost formula should apply to the price as received by a customer i.e. to ignore the penetration of an offer via a weighted average of participating and non-participating customers.
- The time period considered should be the period during which 80% of the benefit is delivered and not a month as currently.
- ictQATAR should calculate a worst case scenario in margin calculations i.e. a Double top Up customer spending all credit on IDD.

For mobile data Vodafone requests that ictQATAR develop a similarly objective cost proxy formula as ictQATAR has done for SMS and mobile calls.

2.16.3 QTel's comments on Vodafone's response

QTel reiterates their view of the cost proxy being arbitrary and with little relationship to any real competitive harm. Likewise QTel do not view any future RAS will accurately reflect the incremental cost of providing a service. QTel rejects Vodafone's proposals for a more restrictive approach to the cost proxy as QTel believe such actions will do little to deter anti-competitive pricing and would shelter Vodafone from legitimate competition.
QTel argues that Vodafone's proposal that the cost proxy should not take into account utilization or weighted averages is not designed to protect consumers from anti-competitive behavior but rather to give Vodafone an advantage. QTel urges ictQATAR's application of cost proxies that should be "an honest attempt to gauge whether there is an actual potential for harm to competition." QTel argue that such an approach would look at the whole of a contestable market and not an individual service. With such a methodology QTel argue that "As a result, an efficient operator should remain profitable irrespective of the new offer. Indeed, the lucrative nature of the current market in Qatar and the high ARPUs described above mean that it is exceedingly unlikely that QTel's prices, when viewed in the context of the entire mobile market, could ever be considered below cost."

2.16.4 Vodafone's comments on QTel's response

One key issue for Vodafone is the alignment between the wholesale regulatory regime and the retail regulatory regime. Vodafone points out that QTel stated in its cross submission on the RAS consultation document that LRIC may not produce lower costs as it involves current cost accounting.
In Vodafone's view QTel's request for a consultation on developing a LRIC based costing approach is premature.

2.16.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR notes both SPs arguments and believes that the ongoing RAS process will offer an opportunity to re-examine the appropriate cost proxies for the DSP.

The purpose of the cost proxy formula is to enable ictQATAR to judge whether an offering from a DSP is above the cost of its provision.

At the current point in time it's too early to draw a firm conclusion of how the results of the RAS can be used for setting retail tariffs.

In absence of a more viable alternative, ictQATAR will continue to use the cost proxy formula.

2.17 Question 17 The Compound Risk Factor (CRF) was introduced recently as

an additional safeguard to ensure the validity of the calculated price floor. Being a prudent regulator ictQATAR intends to continue to use the CRF until the DSP's current RAS has been approved by ictQATAR, which will deliver some better understanding of the DSP's costs. In case Respondents are not in agreement to this approach, ictQATAR invites SPs to suggest a reasoned counter approach, which is workable and ensures that the calculated price floor is above cost

2.17.1 QTel's response:

QTel finds the CRF to be arbitrary and instigated in response to pressure from QTel's competitors. QTel find no basis for the level of the CRF. QTel believe that ictQATAR should acknowledge that short term pricing below cost in unlikely to harm competition and that ictQATAR should adopt an ex post approach to detecting predation. If ex ante price floors are required ictQATAR should adopt "a methodological, transparent and predictable approach that SPs can apply in advance of filing that offers a high degree of regulatory certainty."

2.17.2 Vodafone's response:

Vodafone supports the CRF as a way of ensuring that errors are not made in cost justifications by the DSP that would lead to inadvertent anti-competitive behavior.

2.17.3 QTel's comments on Vodafone's response

QTel rejects Vodafone's comments as per their original response.

2.17.4 Vodafone's comments on QTel's response

Vodafone rejects QTel's assertion that short term pricing below cost would not harm competition.
Vodafone argue that QTel's proposal for ex-post regulation of below cost pricing could lead to the exit from the market of an efficient market operator. Such regulation would also be contrary to the existing ARF, and could potentially lead to un-realistic consumer expectations and potentially lead to a permanent distortion of market pricing.

2.17.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR does not find QTel's response reasoned or workable. QTel is aware that the individual licenses require a DSP to have its Tariff pre-approved. Article (29) of the Telecommunications Law clearly obliges DSP not to price below cost.
Due to lack of an approved current RAS ictQATAR has little knowledge about QTel's detailed cost. As the cost base is uncertain, it is difficult to judge whether an individual offer is above or below cost. This situation can be substantially improved with an approved RAS, which is entirely up to QTel. Until ictQATAR has a better view of QTel's cost, ictQATAR finds the CRF warranted. The improvement of this situation is entirely up to QTel

2.18 Question 18 The experience with the pre-approval frameworks has so far been largely positive. ictQATAR requests Respondents to bring forward suggestions of improvement.

2.18.1 QTel's response:

QTel does not agree with the proposed limitation on Flash promotions of one per month. If such a limit is put in place QTel will not be able to plan for flash promotions and must budget for them resulting in only the most valuable sectors of QTel's customers will be eligible for the promotion.
QTel does not see the necessity to limit third party promotions to data only.

2.18.2 Vodafone's response:

Vodafone views pre-approval frameworks to be a relaxation of the License obligation Article 3 Annexure D "if a DSP proposes to introduce or modify a tariff, the proposed tariff shall be filed with ictQATAR twenty eight days in advance of the proposed effective date of the tariff" Vodafone request clarification from ictQATAR on whether all tariff submissions from a DSP must be filed 28 days in advance of launch.

2.18.3 QTel's comments on Vodafone's response

QTel view Vodafone's reiteration that all tariffs of a DSP should be filed at least 28 days before launch without exception as being designed to obstruct QTel and with no pro-competitive merit.

2.18.4 Vodafone's comments on QTel's response

Vodafone re-iterates that DSP tariffs should be filed at least 28 days in advance. Vodafone is also concerned that pre-approval frameworks must take into account current costs and any other offers in the market at the time.

2.18.5 Analysis, Conclusion and Response

ictQATAR is cognizant that conclusion and response to question 18 and 19 are linked and will therefore address both questions in Section 2.20.5 on page 33.

2.19 Question 19 Do Respondents see the need for other Pre-Approval Frameworks? In this case Respondents are requested to bring reasoned suggestions and a draft text.

2.19.1 QTel's response:

QTel propose

1. an extension of the pre-approval frameworks to include any promotional mechanic that has been previously approved.
2. that short term promotions of two weeks should not be subject to price approval as they have little danger to competition in the presence of a successful policy of anti-predation.
3. a third option that allows service providers some limited duration promotions of up to two weeks with a maximum discount of up to 20% off permanent tariffed rates.

2.19.2 Vodafone's response:

Vodafone do not believe that non-DSPs should require pre-approval frameworks and the provisions of the License should be applied as currently.
Vodafone has no objections with the flash promotion, de-minimis guidance and disaster frameworks. Vodafone wishes to understand the object of the third party framework.

2.19.3 QTel's comments on Vodafone's response

QTel have no further comments.

2.19.4 Vodafone's comments on QTel's response

Vodafone does not support the expansion of pre-approval frameworks.

2.19.5 ictQATAR's Analysis, Conclusion and Response

ictQATAR finds, that promotional mechanics, which have been previously approved, are in many instances not applied identically. Examples included "promotions on promotions" and inclusion of additional tariff elements (e.g. adding data to "15/15").
If a new promotion, based on a previously approved mechanic, is indeed identical, ictQATAR will approve such a case swiftly.

Allowing short term promotions of two weeks that would not be subject to any price control could indeed be anti-competitive. An (extreme) example would be "free calls to India" for two weeks. This arguably could harm an efficient competitor. QTel has not produced a reason of why such a proposal is not anti-competitive. ictQATAR clarifies that predation is one extreme form for anti-competitive behavior, whereas other form of anticompetitive behavior exist, without the intention to drive the competitor out of the market.

Considering the submissions the number of Flash promotions ictQATAR will accept is one per month per destination on average over the calendar year. This should allow the SP to have a number of promotions in a single month where required with a concomitant fallow period at other times.

2.20 Question 20 Respondents are requested to forward their reasoned view on on-net/off-net differentiation for DSPs and non-DSPs.

2.20.1 QTel's response:

QTel believe limited on-net/off net differentiation in terms of limited bundles of minutes for prepaid customers.

2.20.2 Vodafone's response:

Vodafone do not believe that a DSP can objectively justify on-net/off-net differentiation

2.20.3 QTel's comments on Vodafone's response

QTel have no further comments.

2.20.4 Vodafone's comments on QTel's response

"Vodafone does not support QTel's proposal for a limited exception on the on-net off-net differentiation prohibition for DSP's. Vodafone believes that there cannot be any objective justification to allow on-net/off-net differentials for DSP and the blanket prohibition should be upheld."

2.20.5 ictQATAR's Analysis, Conclusion and Response

QTel offered no reasoned argument behind any relaxation of the current on-net/off-net prohibition.

This is not an area that ictQATAR is minded to review at this point in time. Therefore ictQATAR's treatment of on-net/off-net differentiation will remain unchanged for now.

2.21 Question 21 It is ictQATAR's endeavour to keep the Tariff Approval Process as simple as possible. After deliberation ictQATAR choose consciously not to introduce an elaborate test with criteria of what might constitute "anti-competitive cross subsidies" and what might be permissible. ictQATAR finds that the ARF is clear in this regard and that the Compound Risk Factor (CRF) above provides currently an effective safeguard. Nevertheless, ictQATAR invites submissions of a workable framework with relevant criteria and justification of what might constitute "anti-competitive cross subsidies" and which cross subsidies might be permissible. QTel's response:

2.21.1 QTel's Response.

QTel finds ictQATAR's approach overly cautious. QTel state that only those "cross-subsidies that are anticompetitive and should be prohibited are those scenarios where revenues from a non-competitive market are used to cross subsidize and thereby artificially lower prices in a competitive market to the point where such prices cannot be duplicated by an efficient competitor". QTel states that ictQATAR should focus on whether a cross-subsidy flows from a non-competitive market. QTel gives as an example "providing free devices for all of its customers" and that this would not damage the global handset market.

2.21.2 Vodafone's response:

Vodafone believes that any cross-subsidization from the markets specified in the MDDD process would constitute anti-competitive behavior on behalf of the DSP. And they are of the view that ictQATAR should not allow cross-subsidize services from different markets as defined in the Market Definition and Dominance Designation Orders

2.21.3 QTel's comments on Vodafone's response

QTel rejects Vodafone's views on cross-subsidies. QTel urges ictQATAR to reject the overly restrictive approach to cross-subsidies advocated by Vodafone Qatar and to allow cross subsidies between different defined markets (e.g. public international services at a fixed location and via a mobile device (M3), and public national telecommunication services via a mobile device (M6)), as long as both markets are subject to competition.

2.21.4 Vodafone's comments on QTel's response

"Vodafone reiterates its argument that any cross-subsidization by a DSP at this stage of competition will impact competition negatively. QTel has high margins in a number of markets where it does not yet face competition and can therefore use these margins to subsidize services in markets where it faces competition."

2.21.5 ictQATAR's Analysis & Conclusions

ictQATAR notes that under the most recent MDDD process none of the identified telecommunications markets were identified as being competitive. ictQATAR does not find in either submission a "workable

framework" containing relevant criteria and justification of what might constitute "anti-competitive cross subsidies".
ictQATAR will continue not approving cross-subsidies between relevant market as defined in the MDDD.

2.22 Question 22 With currently prevailing high-market shares and the presence of clear dominant positions ictQATAR does not find that "competitive market forces are solely capable of protecting the interests of customers". ictQATAR believes that the process set out in the MDDD is appropriate to deal with this issue. Should a Respondent have an alternative methodology for measuring whether "competitive market forces are solely capable of eliminating the harmful threat to competition" the Respondent is requested to come forward with an argument supported by objective evidence.

2.22.1 QTel's response:

QTel do not view the MDDD process as appropriate for determining when it is time to relax tariff regulation. QTel would rather have ictQATAR develop a process based on "relative market shares, movement of prices and other elements" that would enable all tariff regulation to be removed.

2.22.2 Vodafone's response:

Vodafone agrees with ictQATAR's position.

2.22.3 QTel's comments on Vodafone's response

QTel have no further comments.

2.22.4 Vodafone's comments on QTel's response

Vodafone re-iterates its support of the MDDD process as being appropriate.

2.22.5 Analysis, Conclusion and Response

ictQATAR finds that QTel's response (which criticizes the MDDD process but offers as an alternative a broadly similar methodology) as not moving the debate forward in any constructive fashion. ictQATAR notes that QTel have repeatedly requested that ictQATAR allow market forces to protect the interests of customers and the public as per Article 2(6). This question clearly outlines that ictQATAR does not find that "competitive market forces are alone capable of protecting the interests of customers". ictQATAR would have expected this to be where QTel argued why Article 2(6) should take the place of ictQATAR's view.
Without meaningful proposals on a better process than the MDDD ictQATAR will continue to view the MDDD process as the best way in order to define dominance in the relevant markets.