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## **Bahrain Telecommunications Regulatory Authority Publishes BNet Reference Offer**

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## Analysis

*On 1 August 2019, Bahrain's Telecommunications Regulatory Authority (the TRA) published a Reference Offer Order on its website which will govern the terms on which BNet BSC (a newly formed legal entity) will offer wholesale communications products to other Licensed Operators in the Kingdom. The publication of the Reference Offer is the culmination of a ground breaking three year project which will transform the telecommunications landscape of Bahrain.*

In 2016, the Bahraini Government issued the Fourth National Telecommunications Plan (NTP4) which set out the legislative agenda designed to ensure Bahrain's liberalised communications market remained at the forefront of regional ICT innovation. Bahrain already boasts the most diverse and competitive communications environment in the region with market revenues in excess of \$ 1.1 billion a year.

Despite the historic strength of the Bahrain communications market, the NTP4 set out an ambitious vision in which the market would be further transformed through a series of connected projects which would aim to modernise the legal and regulatory structure to encourage fibre broadband roll-out and the adoption of 5G services for the benefit of Bahraini citizens and businesses.

The most ambitious element of the NTP4 initiative involved the separation of the Bahrain Telecommunications Company BSC (Batelco) into two legally distinct entities: an infrastructure company which would own, run and operate a new national broadband network (BNet BSC) and a separate retail company which would, in due course, compete with other downstream operators on an equivalence of inputs basis (and which would retain the Batelco brand). While this approach to communications market structure has been employed in a number of global jurisdictions around the world including the UK, New Zealand and a number of European jurisdictions this is the first time a GCC state had set out to structure a communications market in this way.

When doing this, the TRA and its advisors had to rely on international precedent coupled with experience of the Bahrain market and legislative objectives to create a bespoke regulatory framework in consultation with Batelco, the Transport and Telecommunications Ministry and the other operators and industry stakeholders. Each of the changes proposed was consulted on and those consultation responses considered and implemented by the Authority. In addition, over 70 meetings between the Authority and stakeholders were held to ensure the project was delivered in a time and manner best suited to the industry and wider legislative objectives, informed by the Bahrain Vision 2030 programme.

Charles Russell Speechlys LLP has supported the TRA by providing legal advice in relation to the functional separation of Batelco since 2016. This has included advising on the drafting of the newly created National Infrastructure Licence awarded to BNet, the changes to the telecommunications licences of all other licensed operators which were required to reflect the changes to the market place, the creation of a bespoke committee to monitor the compliance of BNet with the legislative objectives of NTP4, advising on the Reference Offers of BNet and Batelco and on the range of wholesale products which BNet would need to offer to the other licensed operators. In addition, the CRS team advised on changes to the Telecommunications Law of Bahrain and the passing of enabling regulatory instruments which allowed the separation project to proceed smoothly.

The CRS team drew on TMT regulatory and commercial experience from the Bahrain and London offices and was led by Gareth Mills and Paul Stone with assistance being provided by Megan Paul, Mark Bailey, David Hicks, Georgina Munnik, Haleema Wahid, Tanya Wilkie and Rebecca Brown.

“Leading the Charles Russell Speechlys team, Gareth Mills, Partner at the firm's Bahrain office, said “The separation of a former incumbent telecommunication provider (Batelco) into a national broadband company and a retail operator was a regional first and reflects the ambition of the Bahrain Government to create a global best in class ICT environment in the Kingdom. We are extremely proud to have assisted the TRA in delivering such an important and complex regulatory project to time and in accordance with objectives of the Fourth National Telecommunications Plan.”