Decision

Termination of Inbound International Traffic

Case Number: IT/D/22Apr06/02

Issue Date: 26 December 2007

P O Box 26662, Abu Dhabi, United Arab Emirates (UAE)
www.tra.ae

DECISION BY

THE GENERAL AUTHORITY FOR REGULATING THE TELECOMMUNICATION SECTOR (TRA) IN THE UAE

CONCERNING AN INTERCONNECTION DISPUTE

IN THE MATTER OF

Termination of Inbound International Traffic

Case Number IT/D/22Apr06/02

BETWEEN THE REFERRING PARTY:

Emirates Integrated Telecommunications Company PJSC (EITC) (du)
2nd floor, Building 14, Media City, Dubai Technology & Media Free Zone Authority,
P.O. Box: 73000, Dubai, United Arab Emirates

AND THE RESPONDENT:

Emirates Telecommunications Corporation (Etisalat)
P.O. Box: 3838, Abu Dhabi, United Arab Emirates

TABLE OF CONTENTS

1. THE PROCEEDINGS

1.1 On 22 April 2006, EITC submitted a Direct Filing to the TRA requesting the TRA to intervene to resolve an Interconnection Dispute regarding 'Termination of Inbound International Traffic' between EITC and Etisalat. The filing contained Requests 1, 2 and 3 and separately with regard to interim relief Requests 4 and 5.

1.2 On 1 May 2006, in accordance with the TRA's Interconnection Dispute Resolution (IDR) Procedures, the TRA accepted to consider EITC's Direct Filing, assigned case reference number IT/D/22April06/02 and requested EITC to modify its redacted version by 2 May 2006 to unredact the material deemed non commercially sensitive by the TRA.

1.3 On 1 May 2006, EITC resubmitted its redacted version of its Direct Filing to the TRA.

1.4 On 3 May 2006, the TRA submitted EITC's redacted Direct Filing to Etisalat and the TRA invited Etisalat to submit a written response to EITC's requests for interim relief by 8 May 2006, to address the specific conditions which must be demonstrated in order to justify the granting of interim relief in accordance with the IDR Procedures.

1.5 On 8 May 2006, Etisalat submitted its written response to EITC's requests for interim relief.

1.6 On 10 May 2006, the TRA notified EITC and Etisalat that it had accepted to consider EITC's requests for interim relief.

1.7 On 20 June 2006, the TRA issued an Interim Decision, based on Requests 4 and 5 of EITC's Direct Filing.

1.8 On 10 May 2006, the TRA invited Etisalat to submit a Rebuttal to EITC's Direct Filing in the main case by 17 May 2006.

1.9 On 17 May 2006, Etisalat submitted its Rebuttal to EITC's Direct Filing.

1.10 On 24 May 2006, the TRA submitted Etisalat's redacted Rebuttal to EITC and invited EITC to submit a Surrebuttal by 10 June 2006.

1.11 On 10 June 2006, EITC submitted its Surrebuttal to Etisalat's Rebuttal.

1.12 On 11 June 2006, the TRA submitted EITC's redacted Surrebuttal to Etisalat and invited Etisalat to submit its Surrebuttal by 1 July 2006.

1.13 On 28 June 2006, Etisalat submitted its Surrebuttal to EITC's Surrebuttal and on the same day, the TRA submitted Etisalat's Surrebuttal to EITC.

2. EITC REQUESTS

In its Direct Filing, EITC requested the TRA to issue orders whereby:

(1) *"The TRA confirms that the Telecommunications License held by du (Licence No. 2 of 2006) (the Licence) entitles and authorises du to carry international telecommunications traffic, both outbound from, and inbound to, the UAE.*

(2) *The TRA orders that Etisalat terminate, on its fixed and mobile Public Telecommunications Network and on an unrestricted volume basis, Telecommunication Services (including telephone calls and SMS and MMS traffic) that enter the United Arab Emirates through du's international gateway facility (the international termination service).*

(3) *The TRA orders that Etisalat provide the international termination service, and at the same price, and on the same terms and conditions, as it terminates on its fixed and mobile Public Telecommunications Network all other Telecommunication Services, including domestic fixed voice, domestic fixed data and domestic mobile traffic that originate on du's Public Telecommunications Network*."

And make the following Interim Orders:

(4) *"The TRA orders that until it finally resolves this interconnection dispute or makes other interim orders, Etisalat must provide the international termination service.*

(5) *The TRA orders that until it finally resolves this interconnection dispute or makes other interim orders, Etisalat must provide the international termination service at the same price, and on the same terms and conditions, as it terminates on its fixed and mobile Public Telecommunications Network all other Telecommunications Services, including domestic fixed voice, domestic fixed data and domestic mobile traffic that originates on du's Public Telecommunications Network."*[1]

1 EITC Filing, 22 April 2006, Page 3

3. INTERIM DECISION

3.1 On 20 June 2006, in accordance with its IDR Procedures, the TRA issued an Interim Decision in Case IT/D/22Apr06/02.

3.2 In its analysis of the Parties' respective filings, the TRA found that, as per Article 6.2.1 of the TRA's Interconnection Dispute Resolution Procedures, there was sufficient urgency to necessitate the acceptance of the request for an Interim Decision.

3.3 In reaching this conclusion, the TRA noted that the standard of review for the acceptance of a request to issue an Interim Decision is as follows:

"*a) The issue is urgent, and*

b) the Referring Party is threatened with a disadvantage which would not be possible or feasible to redress if the situation or actions leading to this disadvantage were allowed to continue, and

c) the damage to the Referring Party is seen to be more serious in weight than the potential harm to the Respondent."[2]

3.4 Based on the aforementioned criteria, the TRA accepted the request for an Interim Decision in this Case and proceeded with its determinations on the merits.

3.5 In its examination of the appropriate resolution, the TRA noted that Article 6.2.4 of the IDR Procedures stipulates that, *"In deciding whether to issue an Interim Decision, the TRA may choose to consider any other relevant matters."*

3.6 Accordingly, the TRA offered the following justifications for its exigent intervention:

"*a) The public interest and more specifically the interest of customers is of paramount importance in that customers must be able to place and receive calls from one end to another efficiently and effectively. This interest is stipulated in the Licenses of both EITC and Etisalat in Article 10.2 which states that 'the Licensee undertakes to adhere to the guiding principle that its Customers must be able to place calls to or receive calls from any valid telephone number.'*

2 TRA Interim Decision on Termination Of Inbound International Traffic, issued 20th June 2006, Page 6

b) If Etisalat does not accept the handover of EITC traffic that originated outside the UAE, the calls to Etisalat's customers in the UAE will be dropped.

c) By virtue of the fact that EITC has been granted the right to operate an international gateway and offer international services, implies that EITC must be able to handle both inbound and outbound traffic, including traffic destined to terminate on Etisalat's network.

d) From Etisalat's submissions it has not refused to terminate inbound international traffic entering the UAE through EITC's international gateway; rather, Etisalat's objection is that, 'Etisalat will not terminate such traffic at the same price and on the same terms and conditions as it terminates call traffic originating from within the UAE.'

Accordingly, the TRA took the view that it is possible to draw a distinction between the two issues, namely (a) the obligation to terminate inbound international calls and (b) the rates applicable to such traffic, to the extent that the first issue be decided under the requested Interim Decision and the second issue be left for the Decision in the main case."[3]

3.7 Based on the foregoing rationale, the TRA's Interim Decision contained the following mandates:

"a) Etisalat is hereby instructed to terminate on its networks any and all traffic bound for its networks that is presented to Etisalat at a defined POI, whether that traffic originated inside the UAE or outside the UAE.

b) Without prejudice to the Decision in the main case, Etisalat shall terminate EITC traffic that originated outside the UAE at the same rates and on the same terms and conditions as is applicable to traffic originating from within the UAE.

c) In the event that the rates set by the TRA in a Decision in the main case are different from the rates mentioned in (b) above, the rates set in the Decision will apply retrospectively from the date of the initial interconnection billing between the parties.

d) Both Etisalat and EITC shall collect and retain any and all billing data which would be necessary in the event of retrospective re-invoicing." [4]

---

3 TRA Interim Decision on Termination Of inbound International Traffic, issued 20th June 2006, Page 8

4 TRA Interim Decision on Termination Of Inbound International Traffic, issued 20th June 2006, Page 8

3.8 To date, the TRA has no indication that the Parties have failed to comply with the performance obligations created by the TRA's Interim Decision.

3.9 In its retrospective examination of the overall Interim Decision, the TRA finds that the justifications which underpin the Interim Decision are still relevant.

3.10 The TRA does, however, recognize that the Decision in the main case shall appropriately be issued within the context of the totality of the attending circumstances and all relevant evidence and arguments submitted in accordance with the TRA's IDR Procedures.

4. EITC REQUEST (1)

In its Direct Filing, EITC requested the TRA to order that:

"The TRA confirms that the Telecommunications Licence held by du (Licence No. 2 of 2006) (the Licence) entitles and authorises du to carry international telecommunications traffic, both outbound from and inbound to, the UAE."[5]

4.1 In examining this request, the TRA turns to the TRA's Interconnection Dispute Resolution (IDR) Procedures which outline the requirements for filing a Dispute with the TRA.

4.2 As per Article 4.1.1 of the IDR Procedures, a prerequisite for filing a Dispute with the TRA is the requirement that, *"one of the Parties considers in good faith that it is unable to agree with another Party"*.[6]

4.3 Throughout its Filings in this Case, Etisalat neither disputed nor raised any question regarding EITC's entitlement or authorization to carry international telecommunication traffic, both outbound from and inbound to the UAE.

4.4 To the contrary, in its Surrebuttal, Etisalat indicated that, *"du claims that it has a license obligation to install at least one international gateway. Etisalat notes that du's license is not a public document and, as such, Etisalat is not able to verify this claim. Notwithstanding this inability to verify du's claim, Etisalat accepts in good faith du's claim that it has such a license obligation."*[7]

4.5 The TRA finds that there is no material disagreement between the Parties as to EITC's entitlement or authorization to carry inbound or outbound international telecommunication traffic. As such, the TRA abstains from issuing a Decision regarding this particular Request.

5 EITC Filing, 22 April 2006, Page 3

6 TRA Interconnection Dispute Resolution Procedures, Version 1.0, Page 3

7 Etisalat Filing, 28 June 2006, Page 6

5. EITC REQUESTS (2) and (3)

In its Direct Filing, EITC requested the TRA to order that:

"…Etisalat terminate, on its fixed and mobile Public Telecommunications Network and on an unrestricted volume basis, Telecommunication Services (including telephone calls and SMS and MMS traffic) that enter the United Arab Emirates through du's international gateway facility (the international termination service)."[8]

and

"…Etisalat provide the international termination service, and at the same price, and on the same terms and conditions, as it terminates on its fixed and mobile Public Telecommunications Network all other Telecommunication Services, including domestic fixed voice, domestic fixed data and domestic mobile traffic that originate on du's Public Telecommunications Network"[9]

5.1 Effective Refusal to Supply

5.1.1 In its Direct Filing, EITC asserted that, *"The subject matter of this dispute is du's request, and Etisalat's refusal, to terminate international traffic on its network where such international traffic enters the UAE through du's international gateway."*[10]

5.1.2 In its Rebuttal, however, Etisalat argued that it had not refused to terminate traffic destined for Etisalat's network which entered the UAE via EITC's international gateway, it had merely refused to, *"…terminate such call traffic at the same price and on the same terms and conditions as it terminates call traffic originating within the UAE."*[11]

5.1.3 Fundamentally, Etisalat argued that the terminating interconnection price paid by EITC to Etisalat *"…should be equal to that which Etisalat would otherwise have received from its own international correspondent* [settlement] *partners if the traffic was received from its own international gateway."*[12]

8 EITC Filing, 22 April 2006, Page 3

9 EITC Filing, 22 April 2006, Page 3

10 EITC Filing, 22 April 2006, Page 8

11 Etisalat Filing, 17 May 2006, Page 15

12 Etisalat Filing, 17 May 2006, Page 18

5.1.4 Etisalat further argued that the fact that it never refused to terminate traffic destined for its network which entered the UAE via EITC's international gateway represented a substantive flaw in EITC's arguments as well as a procedural defect in EITC's filings. As such, Etisalat argued that, *"…the Direct Filing by du has no basis in fact or law, as the Respondent has not refused to provide an inbound international call termination service."*[13]

5.1.5 In its Response to Etisalat's Rebuttal, EITC asserted that the terminating interconnection pricing proposals which had been submitted by Etisalat in the negotiations which preceded the filings were neither benchmarked, cost based nor commercially competitive. As such, EITC argued that, *"…the alternative proposals amount to an effective refusal to supply, and du has raised the dispute accordingly.*"[14]

5.1.6 Despite the practical deviation in the Parties' respective interpretation of the term "refusal," the TRA is satisfied that there is sufficient disagreement between the Parties to warrant consideration of the associated substantive arguments presented by EITC and Etisalat, respectively, and proceed with an examination of the Case.

5.2 Terminating Interconnection Price Positions

5.2.1 In its review of the Parties' respective filings, the TRA took note of the Parties' pricing proposals for the terminating interconnection service at issue in this case.

5.2.2 In its Direct Filing, EITC requested the TRA to order that *:"…Etisalat provide the international termination service, and at the same price, and on the same terms and conditions, as it terminates on its fixed and mobile Public Telecommunications Network all other Telecommunication Services, including domestic fixed voice, domestic fixed data and domestic mobile traffic that originate on du's Public Telecommunications Network."*[15]

13 Etisalat Filing, 17 May 2006, Page 15

14 EITC Filing, 10 June 2006, Page 4

15 EITC Filing, 22 April 2006, Page 3

5.2.3 Conversely, Etisalat argued that, *"…the rate should be equal to that which Etisalat would otherwise have received from its own international correspondent partners if the traffic was received from its own international gateway."*[16]

5.2.4 Alternatively, Etisalat referenced a pricing scheme whereby, *"…Etisalat proposed that it would charge du a lower price for termination of inbound international call traffic, than Etisalat would otherwise charge foreign international operators delivering call traffic into the UAE, subject to a volume cap."*[17]

5.2.5 As a third option, Etisalat described *"…an 'average' inbound settlement that du would pay to Etisalat for international inbound traffic received from du's international gateway and terminated on Etisalat's network…This rate would be expressed as a discount to the weighted average settlement rate that Etisalat currently receives from its correspondent partners."*[18]

5.3 Regulatory Framework

5.3.1 In its filings EITC argued that the Regulatory Framework in the UAE requires that Etisalat terminate traffic destined for its network which enters the UAE via EITC's international gateway at the same interconnection price, and on the same terms and conditions as Etisalat terminates traffic destined for Etisalat's network that originates on EITC's network in the UAE.

5.3.2 EITC argued that Article 3.3.1 of the TRA's Interconnection Instructions specifically addresses and accounts for the interconnection traffic which is at issue in this Dispute. Citing the Interconnection Instructions, EITC asserted that, *"International traffic that enters the UAE through du's international gateway that requires termination on Etisalat's <u>fixed network</u> will either constitute 'Single Transit' or 'Double Transit' under the Interconnection Instructions. Similarly, international traffic that enters the UAE through du's international gateway that requires termination on Etisalat's <u>mobile network</u> will constitute either 'Mobile Voice Termination' or 'Mobile Data Termination."*[19]

16 Etisalat Filing, 17 May 2006, Page 18

17 Etisalat Filing, 17 May 2006, Page 18

18 Etisalat Filing, 17 May 2006, Page 18

19 EITC Filing, 22 April 2006, Page 18

5.3.3 Referring to the definitions section of the TRA's Interconnection Instructions, EITC further argued that the, *"…definition of 'Call' does not distinguish calls that require termination on the basis of origin. Similarly, the definitions of 'Telecommunication Network' and 'Telecommunication Service' do not distinguish between networks and telecommunications services on the basis of origin."*[20]

5.3.4 In this instance, EITC rested on the premise that there is no justification within the TRA's Regulatory Framework for Etisalat's distinction in a terminating interconnection price based on the point of origin of the call delivered to the POI by EITC. Accordingly, EITC argued that, *"The service is in all material respects identical to the termination service that du requires and Etisalat has agreed to provide with respect to traffic originating on du's domestic telecommunications network."*[21]

5.3.5 Etisalat did not rebut the above referenced argument or oppose EITC's interpretation of the TRA's Regulatory Framework.

5.3.6 EITC further argued that the traffic destined for Etisalat's network which entered the UAE via EITC's international gateway, *"…would be handed over at the same POI's and using the same facilities as are used for domestic traffic. The cost of providing the termination service for international traffic is the same as the cost for providing the service with respect to domestic traffic..."*[22]

5.3.7 Ultimately, EITC took the position that, *"The price of an interconnection service should reflect the underlying costs of providing such service, in accordance with standard economic theory. For an inbound international call that is carried via du's international landing station it is du who would be bearing the cost of the international segment."*[23]

5.3.8 Throughout its filings, Etisalat did not offer any evidence or argument that there was in fact any material distinction in the terminating interconnection service based on the point of origin of the call.

20 EITC Filing, 22 April 2006, Page 18

21 EITC Filing, 22 April 2006, Page 8

22 EITC Filing, 22 April 2006, Page 11

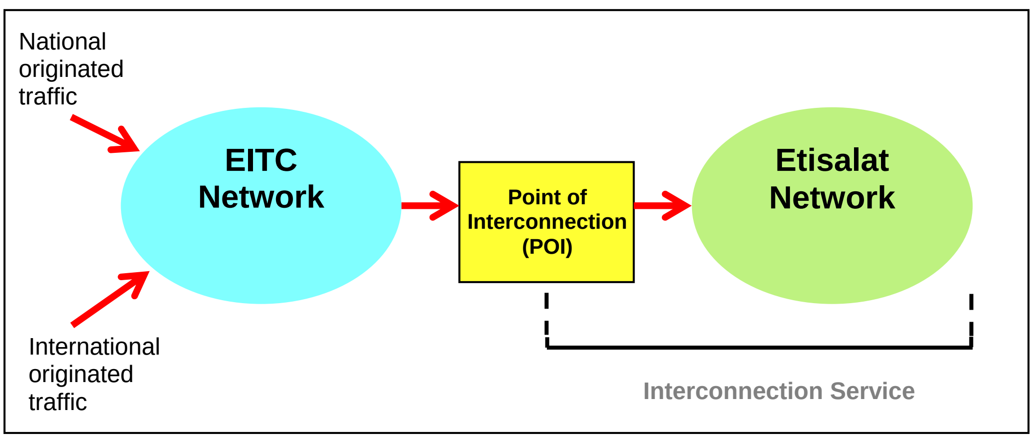
23 EITC Filing, 10 June 2006, Page 8

5.3.9 Additionally, Etisalat did not offer any evidence or argument that there was in fact any material distinction in the cost of the provision of the terminating interconnection service based on the point of origin of the call.

5.3.10 Furthermore, Etisalat did not offer any evidence or argument to counter EITC's proposition that the literal definitions or the intended purpose of the TRA's Interconnection Instructions excluded the possibility of a categorical distinction of a terminating interconnection service based on the point of origin of the call.

5.4 TRA Analysis of the Regulatory Framework

5.4.1 To aid in the TRA's examination of the Regulatory Framework, the TRA refers to the diagram below.



5.4.2 As illustrated by the diagram, Etisalat provides an interconnection service to EITC to enable EITC's traffic to terminate on Etisalat's network.

5.4.3 With respect to the TRA's Regulatory Framework, and in particular, Article 3.3 of the TRA's Interconnection Instructions, Version 1.2, *"Terminating Call Conveyance services are* [interconnection] *services* *when terminating calls are received by a Licensed Operator at a POI to terminate within its own network".*

5.4.4 In the view of the TRA in the literal sense, insofar as the interconnection traffic in this Case is concerned, it can be characterized as follows:

when terminating calls are received by Etisalat at a POI to terminate within Etisalat's network.

5.4.5 Additionally, Article 3.3 of the TRA's Interconnection Instructions stipulates that *"Terminating Call Conveyance Services* [terminating interconnection service] *are relevant for all Telecommunication Services which terminate on numbers …* [in] *the UAE.*"

5.4.6 The TRA notes that in both the above mentioned citations, reference to the termination of a call is made but that any reference to the origin of a call is notably absent.

5.4.7 Therefore, it is the conclusion of the TRA that with respect to the traffic at issue in this Case, the interconnection service begins at the POI and ends on Etisalat's network; therefore the interconnection service is merely a terminating interconnection service.

5.4.8 Based on the foregoing, the TRA concludes that the terminating interconnection service provided by Etisalat to EITC for the termination of international incoming traffic handed over by EITC to Etisalat at the POI is not distinguishable from the terminating interconnection service provided by Etisalat to EITC for the termination of traffic originating in the UAE.

5.5 Cost Differential and TRA Analysis

5.5.1 Additionally, EITC argued that, "*The cost of providing the termination service for international traffic is the same as the cost for providing the service with respect to domestic traffic..."*[24]

24 EITC Filing, 22 April 2006, Page 11

5.5.2 In its review of Etisalat's Filings, the TRA finds that Etisalat did not deny or refute EITC's arguments regarding the similarity in cost irrespective of the origination of the call.

5.5.3 Furthermore, the TRA finds that throughout Etisalat's Filings, there is no mention, or even suggestion, of any additional costs which Etisalat incurs in relation to the termination of traffic which originates abroad compared with traffic which originates domestically.

5.5.4 The TRA also notes that, in the context of international best practice, countries that use cost based interconnection typically do not make a distinction between calls originating either domestically or internationally.

5.5.5 Based on the facts at hand, the TRA finds that the cost of providing terminating interconnection service for calls terminating in the UAE and originating either in the UAE or internationally is fundamentally indistinguishable.

5.6 Economic Issues

5.6.1 Throughout its Filings Etisalat argued that terminating traffic destined for Etisalat's network which entered the UAE via EITC's international gateway at the same interconnection price and on the same terms and conditions as Etisalat terminates traffic destined for Etisalat's network that originates in the UAE is contrary to the intentions of the UAE Government and ruinous to the telecommunication sector in the UAE.

5.6.2 In relation to the impact on the telecommunication sector, Etisalat argued that the maintenance of its revenue is necessary to ensure that there are sufficient funds available to Etisalat to further develop its infrastructure and to promote the overall development of the UAE telecommunication industry. Etisalat argued that, *"… the main issue at stake is to find a mechanism to preserve the revenues of the UAE telecom market for the benefit of both operators and the UAE government."*[25]

25 Etisalat Filing, 17 May 2006, Page 18

5.6.3 Etisalat asserted that a competing international gateway operated by EITC would only serve to:

" a) benefit overseas telecoms operators who make more revenue per international call to the UAE; or,

b) benefit foreign subscribers through cheaper calls to the UAE."[26]

5.6.4 Etisalat also argued that allowing EITC to terminate the traffic in question on Etisalat's network at the same interconnection price as Etisalat terminates traffic which originated in the UAE would inevitably lead to a price war for international settlement rates that would erode the revenues of the sector.

5.6.5 Etisalat contended that if traffic destined for Etisalat's network which entered the UAE via EITC's international gateway was terminated on Etisalat's network at the same interconnection price as Etisalat terminates traffic which originated in the UAE, then EITC *"…will be at liberty to undercut Etisalat's current inbound termination rates, as the termination service of EITC and Etisalat will be functionally equivalent."*[27]

5.6.6 In order to be competitive for traffic originated abroad and destined for the UAE, Etisalat argued that both Etisalat and EITC would engage in a price war whereby both operators respectively adjusted the settlement rates charged to their international partners in such an aggressively downward manner that, *"…the international inbound settlement rates charged to foreign operators will quickly converge with local* [interconnection] *termination rates."*[28]

5.6.7 In Etisalat's Rebuttal Filing, Etisalat presented its estimated anticipated revenue losses if international settlement rates and terminating interconnection prices converge in the UAE. Etisalat speculated that, *"Once international inbound termination rates are compromised, industry revenues from international inbound termination business will decrease by up to 680 million AED/year in 2009 (and 500 million AED lost in revenue immediately in the*

26 Etisalat Filing, 28 June 2006, Page 6

27 Etisalat Filing, 17 May 2006, Page 16

28 Etisalat Filing, 17 May 2006, Page 16

next twelve months)…"[29]

5.6.8 In addition to the revenue lost from lower international settlement rates, Etisalat predicted that a resultant change in traffic patterns would further diminish the overall profitability of the sector. Specifically, Etisalat argued, *"Much of the outbound international traffic from the UAE originates from expatriate workers telephoning their families in other countries such as India, Pakistan and Bangladesh. As the international operators in these countries take advantage of the fall in the inbound UAE termination rates to cut the international rates that they charge their own customers for making calls to the UAE, there will be a shift in the traffic balance from outgoing calls to incoming calls.*"[30]

5.6.9 Furthermore, Etisalat argued that in addition to jeopardizing the profitability of the telecommunication sector, the lost revenues would have the broader effect of depriving the UAE Government of funds to invest in the development of other segments of the UAE economy. Accordingly, *"Etisalat believes this source of revenue should be preserved as long as possible for reinvestment into the UAE industry."*[31]

5.6.10 Ultimately, Etisalat premised its revenue protection perspective on the avoidance, or at least delay, of the massive financial losses which Etisalat speculated that EITC's Request would impose on the entire telecommunication sector. As such, Etisalat contended that, *"…By allowing the gradual reduction in inbound international revenue to continue, the UAE telecommunications sector will have the opportunity to adjust and adapt in order to manage this loss of revenue…*"[32]

5.7 TRA Analysis of Economic Issues

5.7.1 Throughout its filings Etisalat relied on the premise that allowing EITC to terminate traffic destined for Etisalat's network which entered the UAE via EITC's international gateway at the same interconnection price as traffic destined for Etisalat's network which originated in the UAE will necessarily result in a price war for settlement rates which will erode the profitability of the

29 Etisalat Filing, 17 May 2006, Page 17

30 Etisalat Filing, 17 May 2006, Page 17

31 Etisalat Filing, 28 June 2006, Page 11

32 Etisalat Filing, 28 June 2006, Page 11

telecommunication sector and deprive the UAE economy of developmental revenues.

5.7.2 Etisalat proposed to charge EITC an interconnection price equal to the settlement rate (or some portion thereof), which Etisalat would have received from its respective international partners for receiving the same international traffic at Etisalat's international gateway, despite the fact that Etisalat's facilities would not be used.

5.7.3 In this instance, the TRA has examined Etisalat's submissions to determine whether sustaining the TRA's Interim Decision will necessarily lead to a massive and precipitous decline in international settlement revenue.

5.7.4 To demonstrate the dangers which Etisalat attributed to EITC's Request, in its Rebuttal, Etisalat presented a graphical analysis which illustrated the ratio between international inbound settlement rates and terminating interconnection prices in several European Union countries.

5.7.5 The TRA takes note that this graphical analysis compares terminating interconnection prices charged by national telecom operators to international settlement rates charged by wholesale international resellers.

5.7.6 The table is offered by Etisalat to demonstrate that in the selected European markets, settlement rates converged to interconnection prices.

5.7.7 While the table may be relevant for the European environment, in the view of the TRA it is not germane to the UAE due to the fact that presently in the UAE, Etisalat and EITC are the only entities licensed to operate and manage a Public Telecommunication Network and provide Telecommunication Services; however, neither Etisalat nor EITC are wholesale international resellers.

5.7.8 As such, the TRA finds that Etisalat's table would more precisely reflect the UAE environment if it compared terminating interconnection prices charged by non resellers to settlement rates charged by competing non resellers.

5.7.9 Accordingly, the TRA has determined that the comparison offered by Etisalat is not an accurate analogy to the UAE; therefore the TRA concludes that Etisalat provided no reliable indication that a price war over international settlement rates will occur in the UAE.

5.7.10 In conjunction with this table, Etisalat also presented a separate analysis for Etisalat's approximation of the revenues that would be lost as a result of an alleged price war.

5.7.11 Based on this analysis, Etisalat concluded that by year 2009, AED 680 million in revenue per year will be lost if EITC's Request is granted.

5.7.12 Ultimately, however, as Etisalat has failed to submit compelling, or even relevant evidence that a ruinous price war will in fact occur if EITC's Request is granted, the TRA abstains from presenting an extensive scrutinization of Etisalat's attending speculative assessment of its potential revenue losses as the TRA finds that Etisalat was reliant on the occurrence of eventualities which Etisalat has failed to adequately substantiate.

5.7.13 Furthermore, the TRA also rejects Etisalat's contention that should competition over settlement rates occur, the only beneficiaries of lower settlement rates are overseas telecoms operators and/or foreign subscribers. In addition to the generic benefits of competition such as increased consumer choice and increased innovation, the TRA would expect settlement rates to exert downward pressure on the retail prices of outbound international call services from the UAE, thus benefiting UAE consumers and businesses.

5.7.14 The TRA also takes note of the fact that both Etisalat and EITC acknowledge the UAE Government's goal of establishing the UAE as the regional ICT hub.

5.7.15 However, the TRA notes that while EITC takes the position that competition in the sector supports *"…route diversity, redundancy and disaster recovery…"*[33], Etisalat has taken the position that the revenues *"…should be preserved as long as possible for reinvestment into the UAE industry."*[34]

5.7.16 While the TRA notes that the historic monopoly in the UAE telecommunication sector does not appear to have prevented multi national corporations from establishing operational bases in

33 EITC Filing, 10 June 2006, Page 8

34 Etisalat Filing, 28 June 2006, Page 11

the UAE, the TRA is concerned that the preservation of revenues in the manner promoted by Etisalat may result in the maintenance of artificially high settlement rates for international incoming traffic destined for termination in the UAE; thus this dynamic may actually contravene the goal of establishing a Regional ICT hub, especially if high settlement rates make it prohibitively expensive to call in to the UAE.

5.7.17 Ultimately, Etisalat's arguments failed to persuade the TRA of the inevitability, or even significant likelihood, of any of the negative consequences which Etisalat has speculatively affixed to EITC's requested relief in this Case.

5.7.18 Moreover, the TRA is of the opinion that if a higher price is demanded by Etisalat to terminate traffic originating internationally versus domestically, then the maximum economic benefits expected to be derived from a competitive telecommunication sector would be jeopardized.

6. TRA DECISIONS

6.1 EITC REQUEST (1)

The TRA finds that there is no material disagreement between the Parties regarding EITC's entitlement or authorization to carry international telecommunication traffic, both outbound from, and inbound to, the UAE and therefore denies EITC's Request (1) for Regulatory confirmation.

6.2 EITC REQUESTS (2) and (3)

The TRA orders that Etisalat terminate on its fixed and mobile public telecommunication network, telecommunication services (including telephone calls and SMS and MMS traffic) that enter the United Arab Emirates through EITC's international gateway facility, at the same price, and on the same terms and conditions as it terminates on its fixed and mobile public telecommunication network all other telecommunication services, including domestic fixed voice, domestic fixed data and domestic mobile traffic that originate on EITC's public telecommunication network.

6.3 EITC REQUESTS (4) and (5)

Due to the provisional nature of these Interim Requests, the respective Interim Orders which were issued via the TRA's Interim Decision dated 20 June 2006, are substantively superseded by the TRA's Decision in Article 6.2 above, and are procedurally discharged upon issuance of the instant Decision relating to the main Case.

7. EFFECTIVE DATE

This Decision shall take effect on the day it is communicated in writing to the Parties.

26 December 2007

____

Mohamed Nasser Al Ghanim
Director General and Board Member
General Authority for Regulating the Telecommunications Sector