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**Published on the website on May 2024**

**Legislative Decree No. (38) of 2017 amending certain Provisions of the Telecommunications Law Promulgated by Legislative Decree No. (48) of 2002**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain.

Having reviewed the Constitution, in particular Article (38) thereof;

And Telecommunications Law promulgated by Legislative Decree No. (48) of 2002;

And upon the submission of the Prime Minister,

And after the approval of the Council of Ministers;

**Hereby Decree the following Law:**

**Article One**

Texts of Articles (40 clause 6) and (57 paragraph e) of the Telecommunications Law Promulgated by Legislative Decree No. (48) of 2002 shall be replaced with the following texts:

**Article (40 clause 6):**

“6- Access to the telecommunications facilities (including participation in the location of the subscriber's digital line "DSL Co-Location" and partially used or unused pipes for wires and cables in locations determined by the Authority), effective from 1/7/2004”.

**Article (57 paragraph e):**

"H- The public communications operator with a dominant position shall, upon request, offer to any other public communications operator access to its network on fair and reasonable terms. This operator shall not be obliged to offer access to its pipes unless the Authority deems it essential.

The Authority may issue regulations regarding access, including the system for the reference offer for access similar to the reference offer for interconnection.

If the Authority determines that the tariffs and conditions offered regarding the access by a dominant operator are unreasonable, the authority may decide the appropriate tariffs and conditions. The provisions of paragraph (b) of this Article shall apply to this matter”.

**Article Two**

"Two new definitions shall be added to Article (1) of the Telecommunications Law promulgated by Legislative Decree No. (48) of 2002 which reads as follows:

“Fixed Telecommunications Infrastructure Network: A telecommunications network owned and operated by the holder of a fixed telecommunications infrastructure network license, excluding fixed communications towers.

Fixed Telecommunications Infrastructure Network License: A premium license provided by the Authority under Articles (29) and (40 bis (a)) of this Law, enabling the holder to establish, operate and maintain a fixed telecommunications infrastructure network and to provide wholesale products and services only to other operators licensed in the Kingdom through this network, on the basis of equal inputs”.

**Article Three**

A new paragraph numbered (g) shall be added to Article (3) of the Telecommunications Law promulgated by Legislative Decree No. (48) of 2002 and a new clause numbered (4) shall be added to Article (31), a new Article numbered (40 bis) and a new paragraph (f) shall be added to Article (44). The remaining paragraphs of the article shall be renumbered as follows:

**Article (3 paragraph g):**

“g- The Authority may require the licensed operator to separate its entity into two or more entities if the Authority determines that such separation is necessary to enhance sustainable competition or to establish the fixed telecommunications infrastructure network. Additionally, upon request from the licensed operator, the separation of its entity into two or more entities may be allowed if it is for the purpose of establishing the fixed telecommunications infrastructure network”.

**Article (31 clause 4):**

"4- The amendment or cancellation shall be in application to the provisions of this Law".

**Article (40 bis)**

“Fixed Telecommunications Infrastructure Network License:

a- The Authority shall provide a fixed telecommunications infrastructure network license. Non-license holders are not allowed to establish or maintain a fixed telecommunications infrastructure network in the Kingdom, including the establishment and ownership of pipes and optical fibres, except in cases where the Authority determines otherwise.

b- Without prejudice to the provisions of Article (57) of this Law, and until the issuance of a license by the Authority for a fixed telecommunications infrastructure network in accordance with paragraph (a) of this Article, the Authority may take necessary transitional measures to ensure the following:

1- Limiting the impact on the operational processes of the current licensed operators.

2- Gradually adopting and implementing functional separation.

3- Ensuring equality between the licensed operators. These measures may include requesting the licensed operator to provide access service on fair, reasonable and non-discriminatory terms, including all aspects related to tariffs. The Authority may determine the tariffs and conditions it deems appropriate to ensure equality.

**Article (44 paragraph f):**

f- Without prejudice to any of the foregoing, the Authority may - with the approval of the Council of Ministers - conduct an auction to grant frequency licenses in accordance with the rules and procedures issued by the Authority. This auction shall be notified in the manner deemed appropriate by the Authority at least thirty days before the date of conducting this auction.

**Article Four**

Clause (5) of Article (40) of the Telecommunications Law promulgated by Legislative Decree No. (48) of 2002 shall be repealed and the remaining clauses of the Article shall be renumbered.

**Article Five**

The Prime Minister and the ministers -each within his jurisdiction- shall implement this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

**Prime Minister**

**Khalifa bin Salman Al Khalifa**

Issued at Riffa Palace:

On: 7 Muharram 1439 A.H.

Corresponding to: 27 September 2017