

Telecommunications Regulatory Authority

Consultation on VSAT Licensing Framework

**SUMMARY OF COMMENTS AND
RESPONSE OF ictQATAR**

The Supreme Council of Information & Communication Technology “ictQATAR”

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I Introduction and Background

On 8 February 2009, ictQATAR published a VSAT Licensing Framework – A Consultation Document, (“VSAT Consultation Document”) that addressed enabling the provision of Very Small Aperture Terminal (“VSAT”) to Closed User Groups.

The VSAT Consultation Document set out ictQATAR’s understanding of the current VSAT market in Qatar and confirmed ictQATAR’s intentions for enabling competing VSAT service provision. The document outlined preliminary requirements and processes for the issuance of new individual VSAT Licenses to operators serving third parties in Closed User Groups. Such groups fall outside the provision of public telecommunications services. The VSAT Consultation Document outlined the key content of the draft VSAT License for indicative purposes.

In keeping with preceding mobile and fixed licensing preparation practices and other matters concerning the regulation of the sector, and in the interest of transparency, ictQATAR invited interested stakeholders to comment about the licensing of VSAT service provision. Additionally, interested parties were invited to express their interest in obtaining a VSAT License. The invitation was on a non-committal basis at that particular stage of the process.

The VSAT Consultation Document, as well as previous consultations and licenses issued or drafted, are available on ictQATAR’s website at www.ictqatar.qa.

The consultation period was extended by one week on receipt of multiple requests for additional time. The consultation period is now closed. This document captures the main responses submitted by interested parties and provides ictQATAR’s answers and views. The views, comments or opinions herein are not legally binding on any party.

Comments Submitted:

ictQATAR requested written comments about the VSAT Consultation Document from interested parties. ictQATAR considers ‘interested parties’ to be any individual, company or organization with an interest in the subject at hand and the development of Qatar’s telecommunications sector.

Comments were received from:

1. CapRock Communications
2. DigitalSkys Limited/Venture Gulf Group
3. Gulf Drilling International Ltd (Q.S.C)
4. Maersk Oil Qatar AS
5. Petro Qatar WLL

6. Qatar Telecom (Qtel) Q.S.C
7. QSAT Communications (QSAT)
8. RigNet Qatar WLL
9. Schlumberger Overseas S.A.
10. SES
11. Vodafone Qatar Q.S.C

ictQATAR wishes to thank all of the above parties for their comments. We view participation and all comments to be a valuable part of the consultation process.

ictQATAR allows contributors to seek confidentiality when submitting information, but publication shall be entirely at the discretion of ictQATAR. Non-confidential versions of submissions and those deemed by ictQATAR to be lacking commercially sensitive information will be made available on ictQATAR's website.

ictQATAR is publishing this summary of the major issues that were raised in response to the VSAT Consultation Document. Included in this is a précis of ictQATAR's views in relation to the comments.

2 Summary of Comments and ictQATAR's Responses

The summaries of comments and responses to the VSAT Consultation Document are set out below, followed by ictQATAR's preliminary views concerning the key policy issues raised. The questions are in the same order as they appeared in the VSAT Consultation Document.

QUESTION 1: ictQATAR invites comments on the proposed licensing approach for the VSAT services in Qatar.

Most respondents supported the approach of allowing more VSAT providers to be licensed, though in limited numbers. Two responses opposed further liberalization, while one response suggested licensing should be fully open to anyone who wished to provide VSAT services.

The timing of licensing was also raised with one response raising a concern about the separate processes of VSAT licensing and the Licensing Framework Consultation. Another response stated the VSAT licensing should occur after the 2010 sector review and that the review itself should be delayed.

ictQATAR Response

The availability of capacity was raised as a concern affecting Qatar-based businesses that needed access to efficient and effective telecommunications service solutions. ictQATAR undertook an in-depth study of the marketplace, examining how businesses dealt with situations in which suitable telecommunications capacity was not readily available. The VSAT Consultation Document provides an overview of some of the key findings based on the information available to ictQATAR. In all instances, parties interested in participating in the VSAT licensing process should conduct and base decisions on their own analysis.

ictQATAR would like to address issues raised by unmet demand in the telecommunications sector, and is encouraged by the responses to this consultation and the interest expressed in VSAT service provision before and after the consultation period.

Given the fact that Qatar is a small market, ictQATAR has chosen to limit the number of VSAT licenses to be made available at this time. The objective is to quickly address capacity demand. Limiting entry at this point in time is expected to encourage experienced providers to enter and establish a presence in Qatar, while introducing competition in the market. ictQATAR believes this is appropriate given the size of the market and its needs. Further licensing of additional operators may occur at a later date.

However, ictQATAR will monitor the pace of market entry of all new licensees closely. Slow progress in market-entry on the part of licensees will be discouraged. In the case of VSAT licensing, ictQATAR will also adopt a “use or lose” policy.

QUESTION 2: ictQATAR invites comments on the proposed number of new VSAT Licenses and the approach for granting them.

Responses about limiting the number of licenses varied with support for between 3 and 2 licenses. One response suggested offering 2 licenses now and another 2 following a review period, and that this should continue until demand is fully met. Another response requested temporary authorizations and waivers for oil & gas providers. Two responses favored preferences or exemptions for Qatar companies.

ictQATAR Response

ictQATAR is planning to initially offer 3 individual VSAT Licenses. This decision is based on ictQATAR’s own analysis and information provided to it. Insufficient data emerged from the consultation to support a higher or lower number of new licensees at this time.

ictQATAR recognizes there is demand for VSAT in the oil & gas industry, but has also identified other sectors that may benefit. Therefore, no sector should be given preferential treatment. While ictQATAR would expect new licensees to address demand from the major industries, any other requests from bona fide Closed User Groups would need to be supplied without exception.

ictQATAR will require all VSAT providers to be registered companies in Qatar at the time of receiving the VSAT license. In other words, this will apply at the time of the license being issued, but will not exclude non-Qatari companies from participating in the tender process for licenses. Criteria for obtaining a license will essentially be based on experience and not nationality, as Qatar’s requirements are for the best services available. Any exclusion of candidates based on nationality would also be in breach of international trade laws and regulatory best practice.

QUESTION 3: ictQATAR invites comments concerning points for clarification required for any of the proposed definitions.

Few responses included comments about the proposed definitions that will be included in the VSAT licence. One response suggested the term “Closed User Group” as being too

broad. Another response suggested VSAT was already included in the definition of public (fixed or mobile) telecommunications network in existing individual licences. The same response suggested it was premature at this point to develop detailed licenses, adding that definitions and a broader licensing framework needed to be developed first.

ictQATAR Response

In this instance, ictQATAR has defined VSAT to ensure its specific inclusion within the regulatory framework. “Closed User Group” is defined within a local context and taking into account what applies in practice in other countries. ictQATAR has, however, refined the definition which can also be found in the more recent Licensing Framework consultation document published on 10 May 2009. This amended definition is as follows:

***Closed User Group:** means legal persons or entities with common economic and non-economic links, that can be identified as being part of a corporate group that exists on the basis of an ongoing professional and business relationship between members of the group, or with another entity of the group, and whose internal communication needs result from the common interest underlying the relationship. Closed User Groups shall not include natural persons or private individuals.*

The definitions concerning VSAT were developed in parallel with the Licensing Framework. These, including any changes resulting from this consultation process, were adopted in the Licensing Framework.

QUESTION 4: ictQATAR solicits views about any definitions outstanding that should be included.

Most responses did not have any additional comments or suggestions for definitions. One response stated it was premature to develop detailed licenses and definitions, and that a broader licensing framework needed to be developed first. The same response stated there needed to be a clear definition about “International Gateway Services”, as well as additional definitions of “Special Events”, “Registered Company”, “Holding Company”, “Subsidiaries” and “VSAT HUB”

ictQATAR Response

ictQATAR may consider introducing a definition concerning “International Gateway Services”. Presently, in the narrow context of VSAT provision for Closed User Groups, the term is not used in the VSAT License and ictQATAR does not consider it necessary to do so. “Special Events” was a working title in ictQATAR’s review of VSAT licensing. However, ictQATAR believes it is more appropriate to continue to use the term “SNG License”. SNG Licenses will continue to be made available, but may be subject to updating after further

review.

In the course of using these terms within a legal context “Registered Company”, “Holding Company”, “Subsidiaries”, these have been replaced with “Affiliates”.

“VSAT HUB” is not a unique term, and was not used in the consultation document as a specific term that would apply in a legal context. Therefore, ictQATAR does not believe it is a necessary requirement to define this term at this time.

QUESTION 5: ictQATAR invites comments about the appropriateness of scope of the VSAT License given the fact no further public telecommunications networks or services will be licensed before 2010.

One response considered the scope of the VSAT licence to be limited and a little confusing, as there would be limited demand for Closed User Groups to use VSAT services with no connectivity to PSTNs, while there would be high demand for VSAT services in remote areas (voice and data services).

Some responses requested clarity about international gateway services, as well as interconnection with PSTN. One response explicitly objected to VSAT Licensees having direct access to international gateways.

ictQATAR Response

VSAT licensees will be permitted to directly connect members of a Closed User Group in and outside of Qatar. The use of an International Gateway in the context of VSAT provision means that for in and outbound Closed User Group traffic, a VSAT operator would not be required to go through another operator in Qatar.

The legal provisions relating to VSAT are clearly set out under 4.3.2 of the VSAT Consultation Document. ictQATAR clearly states in the VSAT License that licensees are not permitted to provide telecommunications services to the public. Traffic exchanged within a Closed User Group for the purpose of that group, and not on a commercial basis or not to members of the public outside that group, is not considered to be public telecommunications services.

In terms of enabling Closed User Group connectivity to public telecommunications networks, this can be handled through a gateway. In the context of VSAT provisioning, a gateway is not considered by ictQATAR to be ‘interconnection’ and, therefore, is not subject to wholesale termination charges. In Qatar, ictQATAR expects the point of gateway connectivity will be between the public telecommunications licensee and the beneficiary of the VSAT provisioning – i.e. the Closed User Group – or the network manager operating on

behalf of the Closed User Group, which is most-likely to have a private network defined as follows:

Private Network: *a telecommunications network that is utilized for the internal communications needs of a Closed User Group, as distinct from providing telecommunications services to the public, and which can have a Gateway to the public telecommunications network. The term includes Virtual Private Networks.*

It should be noted that some Closed User Groups may be subject to a Private Network Class License. Those who fall into a particular licensing ‘class’ are referred to in the second Licensing Framework Consultation of May 10th 2009.

QUESTION 6: ictQATAR invites comments about the scope of compliance obligations for VSAT Licensees serving Closed User Groups.

Most responses did not include comments about compliance obligations. One response stated it is imperative that ictQATAR consults further on the detailed form and content of VSAT licenses.

Two responses opposed allowing international gateway provisioning.

ictQATAR Response

The VSAT Consultation Document provided the specifics of the VSAT License. A complete draft of the License will be available to applicants who qualify to participate in the tender process. Such applicants will have an opportunity to comment, but the key terms and conditions do not deviate significantly from those set out in the VSAT Consultation Document or from any modifications specified in these responses from ictQATAR.

VSAT Licensees will need to ensure they are familiar with the telecommunications laws and regulations of Qatar as these will affect such licensees. Any interested party should consult their legal advisors about Qatar’s telecommunications regulatory environment for an assessment and interpretation of any rules.

Regarding international gateway provisioning, this will be permitted as set out in the VSAT License terms in the VSAT Consultation Document and clarified in above under the ictQATAR’s response regarding Question 5. This practice is in line with most developed countries.

QUESTION 7: ictQATAR invites comments about whether a coverage obligation should be imposed on a VSAT Licensee, and if so, what is the rationale for this.

Most responses questioned the need for coverage obligations.

One response did not recommend coverage obligations, claiming it would restrict VSAT solutions. Another response stated there was no need or rationale for an obligation. Coverage is not entirely in the control of VSAT operators, as the majority purchase capacity from satellite operators. One response stated a coverage obligation was not relevant since satellite is ubiquitous.

One response recommended coverage obligations be imposed and this should include all of Qatar's land and water as well as all of the Middle East. Another supported coverage obligation for Qatar, including its territorial waters. One response suggested obligations should be to cover the oil & gas industry and their operating areas (i.e., drilling location).

One response suggested demand and feasibility should be the primary drivers, and not government mandates. However, the government should subsidize coverage where it is economically unfeasible and is in the general public interest.

ictQATAR Response

ictQATAR does not intend to impose coverage or roll-out obligations, other than a requirement to serve any Closed User Group in Qatar that requests VSAT provisioning, providing it is technically and economically feasible. ictQATAR emphasizes the requesting party must be a Closed User Group and the provisioning is consistent with the license rights and restrictions of the VSAT Licensee. In the event that a Licensee does not provide service within a reasonable period of time, which will be defined in the License, ictQATAR may revoke the license of that party.

QUESTION 8: ictQATAR invites comments about the proposed fees.

Many responses challenged the fees; particularly the 12.5% industry fee. Some argued that it risked undermining investment. One response noted that VSAT market and size differ than those providing services on a more commercial basis and with a wider remit. One response stated it was reasonable to impose fees that were equivalent to individual licensees. One response suggested there should be a grace period before imposing the industry fee. One response stated the fee was reasonable on the basis of a minimal initial cost for license acquisition.

ictQATAR Response

ictQATAR believes that an industry fee should apply to all holders of Individual Licenses who provide a commercial service in Qatar, but recognizes there are difference in the scope of service provision rights between providers. ictQATAR recognizes there are strong arguments for a variance in applying fees between different types of licensees – but the same fee must apply for those holding the same type or form of license. The fees to be paid by the VSAT licensees will be decided by the Board of ictQATAR in accordance with the Telecommunications Law. This decision will be reflected in the VSAT licensing documents that will be published when the VSAT licensing process is launched.

QUESTION 9: ictQATAR solicits views about whether the License period is reasonable. If not, ictQATAR welcomes views and supporting rationale about what the period should be for a VSAT License.

Most responses considered the proposed license period of 15 years to be reasonable. One response proposed 17 years. One response proposed 3-4 years.

ictQATAR Response

ictQATAR considered the responses and reconsidered the period with respect to other individual operator licenses. It is now intended that the proposed 15 years license term should be increased to 20 years. This brings the time in line with other individual licenses in Qatar (e.g. mobile).

QUESTION 10: ictQATAR solicits comments about whether or not there should be a Performance Bond, and why.

Opinion from responses was divided about the use of Performance Bonds.

One response suggested Performance Bonds should be used to ensure commitment to the market but should be separate from QoS penalties. Another suggested a Performance Bond was necessary to determine the financial ability and seriousness of the VSAT applicants, and the amount should be equal to one year's net revenue. One response recommended Performance Bonds be applied only to foreign companies to ensure Licensee provides service to customers. The response also recommended companies owned by Qatar nationals should be exempt or have a lesser requirement than foreign companies.

One response stated there should not be a Performance Bond. A response suggested there

should be no Performance Bond in a competitive market, while another informed that Performance Bonds was not supported in the VSAT market and would add complexities. One response recommended there should be no Performance Bond as many external factors could affect the QoS of a VSAT provider.

One response set out that there is no need for a Performance Bond, but added that given the risk of “illegal bypass” of international calls “often associated with VSAT operations, VSAT licenses should specify severe penalties for the breach of specific terms.

ictQATAR Response

During ictQATAR’s analysis of the VSAT market in Qatar, the problem about Quality of Service was frequently raised and is concerning. ictQATAR agrees market competition should address service quality. However, given the managed liberalization approach taken to support market development and encourage investment, ictQATAR believes Quality of Service needs to be monitored closely. Performance depends on the commitment of the provider, encouraged by competition and where necessary other incentives. A competitive market is a stronger guarantee for performance over many other criteria including a premise of nationality.

ictQATAR has decided not to adopt a Performance Bond requirement for the licensees, but it will monitor QoS closely, reserving the right to take the necessary steps as well as introduce other licensees to stimulate further competition at any time. It should also be noted that any licensee that does not make use of its opportunity to participate in the market and use the frequencies assigned to it will risk losing its license privileges under the “use or lose” approach that ictQATAR will apply.

QUESTION 11: ictQATAR invites comments about whether VSAT Licensees should be prescribed QoS parameters and obligations by ictQATAR or should this be left to the Licensees themselves, and why.

Opinion was divided about applying Quality of Service parameters. One response suggested QoS parameters were beneficial but imposing penalties was counterproductive. Most responses suggested that competition should bring incentives to perform. QoS should be left to the licensees as different customers have different expectations. One response added that only if persistent problems QoS can be demonstrated based on information from the licensee, should QoS regulations be imposed.

ictQATAR Response

ictQATAR prefers the market to regulate service quality. However, given the level of

concern and problems identified in reviewing the market, ictQATAR will monitor QoS closely. Licensee may be required to file their QoS commitments to their customers with ictQATAR. ictQATAR will take the necessary steps to support consumers and the market if QoS is not addressed with the introduction of additional providers.

QUESTION 12: ictQATAR invites comments about the indicative QoS requirements and if they are reasonable. If not, ictQATAR requests supporting rationale for the alternative suggestions.

One response made some QoS criteria recommendations, including the removal of installation time, as VSAT services can be time consuming on complex redundant system. Also, the installation time needs to take into consideration driving in remote locations and for offshore location risks such as travel time and weather. The response also noted that installation time is highly contingent upon current ictQATAR and Qatar customs processes, claiming it can take up to 2 weeks or longer. Type approval processes for new technology can also add to delays. The response added that a 99.5% uptime must be clearly defined and exclude conditions outside of the service providers sphere of control; i.e. helicopter and sea transport, customs clearance, weather, space segment and other external activities that can not be controlled or influenced directly.

More than one response recommended leaving QoS parameters to the licensees and the market, as requirements may change on a customer-by-customer basis. It was also suggested that ictQATAR may require the Licensee to offer the indicated QoS parameter as an option to every customer to accept or propose their own.

One response suggested Binding QoS regulation is unnecessary and should not be imposed. If regulation is decided, fault repair times should be left to licensees to freely decide the fault repair times within a Service Level Agreement; enables operators to compete on service quality. The response claimed 99% was too high for Committed Information Rate (CIR) level due to weather impacts, technical faults and “other impediments”. It was also suggested that installation time parameter is too low given the likely remote locations, equipment availability issues and availability of critical staff, and recommended that more realistic timeframe is 7 days.

ictQATAR Response

ictQATAR prefers that the market should regulate service quality. Given the level of concern and problems identified in reviewing the market, ictQATAR will monitor QoS closely. Licensee may be required to file their QoS commitments to their customers with ictQATAR, which will take the necessary steps to support consumers and the market if QoS

is not addressed, which may include imposing QoS requirements. The parameters set out in the consultation have been reviewed and some adjustments have been made.

ictQATAR is aware of some challenges the market has faced in terms of Type Approval and has recently developed new practices. These have been published as a separate consultation. ictQATAR is aware some processes involve other government authorities and is working to help alleviate some obstacles where possible. However, the responsibility of delivering good QoS remains with licensees.

QUESTION 13: ictQATAR solicits comments about the scope, process, rights and conditions of the “Special-Event VSAT Permits”.

One response suggested measures must be taken to ensure the use is truly for special events purposes; i.e. newscast events. The response added the concern that with the advent of smaller and mobile VSAT technology, measures must be taken to ensure its intended use, locations, and durations.

Another response requested the need for a clear definition of “Special Events” license and the category of companies who are eligible as well as the maximum validity period (e.g. if a foreign company won a short term project – 6 months – could they apply for a special events license?).

One response believed it was not clear why special event requirements are not provided through existing VSAT Licensee Operators.

One response supported “special events” permits provided proposed conditions are met. These included that the time limitation on short duration, a prohibition of public telecommunications services within or outside Qatar. Also, the response stated that clarity and consistency should be developed for proposed licenses by creating specific definitions and / or specifications regarding Special events (types and maximum duration); types of services. These should be limited to video and audio transmission. It was also recommended to specify whether VSAT services are for the relay of TV broadcast to a specific point in Qatar or for further broadcast to other destinations. The responses suggested that authorized parties legitimate news organizations having bona fide need to transmit real time video and audio from a remote location “that cannot be served by a licensed telecommunications service provider”. Licensees should be required to use of capacity purchased from a VSAT operator licensed in Qatar, and that the destination of special event transmission should be specifically approved as part of the license issuance and approved by the relevant authorities.

One response stated Special Events permits should not be allowed to undertake international gateway for non-Closed User Groups or for any 3rd party entity offering any form of public telecommunications services as is the case for VSAT Licensees

Otherwise agrees with the scope and terms & conditions

A response suggested ictQATAR should pre-define the possibilities for VSAT service providers to offer services to permanent broadcasting businesses (e.g., corporate TVs, radios etc. such as corporate training, Closed User Group training/education).

ictQATAR Response

As part of ictQATAR’s review of VSAT market needs, it considered a “Special Events” permit as an important compliment in the market to the individual VSAT Licenses. Having reviewed the “special events” concept and the current SNG License practice, ictQATAR plans to retain, but update the current SNG Licenses.

It should be noted that SNG Licenses will not extend into longer term activities or occurrences in the ordinary course of an entity’s activity outside of what might be characterized as “special events”. Temporary VSAT needs outside of the parameters of the SNG License – e.g. short term contracts, visiting ships etc. - should be taken up on a commercial basis with operators licensed to provide VSAT.
