Regional Harmonization of Telecommunications Regulatory Frameworks outside the European Union: a Case of the Gulf Cooperation Council States

Tomas Lamanauskas,
Deputy General Director of the Telecommunications Regulatory Authority,
Kingdom of Bahrain

Tel. +973 17520000; fax. +973 17532125; e-mail: tlamanauskas@gmail.com (personal); tlamanauskas@tra.org.bh (office). Address: PO Box 10353, Manama, Kingdom of Bahrain

Key words: telecommunications, Gulf Cooperation Council (GCC), harmonization

Abstract

The paper aims to examine the achievements of cooperation and integration in the Gulf Cooperation Council (“GCC”) in the field of telecommunications as well as merits and means for further harmonization.

The paper demonstrates that the GCC countries present a case for further harmonization as markets move towards regional integration. However at the same time there is a rather long way to go in terms of integration of telecommunications policies.

The GCC framework has not so far been instrumental in fostering real harmonization in the field of telecommunications. On the contrary, the change of national (and potentially regional) telecommunications frameworks has been generally imposed by the extra-regional forces. Because of the above, the GCC countries risk that the shape and pace of harmonization of regional telecommunications policies will be dictated by external parties.

The paper argues that it is of the utmost importance for the GCC countries to start using existing instruments of regional harmonization in practice (and consider strengthening them) in order to gradually achieve regional harmonization of telecommunications policies that would benefit their market players and consumers and would then be the basis for international discussions.

Introduction

The Gulf Cooperation Council (“GCC”), uniting 6 Arabian Gulf states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (“UAE”)), was established on 25 May 1981. The GCC spans over the area of about 2.3 million square kilometres and

---

1 The views expressed in this paper are those of the author and are without prejudice to any position the Telecommunications Regulatory Authority of the Kingdom of Bahrain may take.
has around 40 million inhabitants (Wikipedia, 2008). The combined Gross Domestic Product (“GDP”) of the GCC is around 1 trillion USD (United States Dollars). Most of the countries within the GCC (except for Saudi Arabia) are rather small with Bahrain (TRA Bahrain, 2008) and Qatar (CIA, 2008c) having each around 1 million inhabitants; Kuwait (CIA, 2008b) has 2.6 million, Oman (CIA, 2008a) - 3.3 million, and the UAE (CIA, 2008e) - 4.6 million people. There are 28 million people living in Saudi Arabia (CIA, 2008d).

The GCC has provided for the framework of broad economic integration of its Members. These countries share many economic characteristics. Oil contributes about one-third to the total GDP and three-fourths to annual government revenues and exports. Together these countries account for about 45 percent of the World’s proven oil reserves and 25 percent of crude oil exports (Saudi Arabia being the largest World’s oil exporter), and possess at least 17 percent of the proven global natural gas reserves. The GCC countries are highly dependent on a large expatriate labour force, which in most GCC countries account for about three-fourths of the total workforce (Fasano and Zubair, 2003).

The GCC states share similar ethnicity, language, culture, religion, consciousness of a common history and heritage and a path of economic development. Therefore it seems logical for these countries to go down the route of further economical integration. One of the topics for the GCC cooperation is integration of telecommunications policies (GCC, 2001a). This paper looks into the harmonization already achieved in this field, merits and possibilities of its further expansion.

The most notable example of wide ranging regional integration is the European Union (“EU”). This integration has also included a rather substantial harmonization of telecommunications regulatory frameworks, including through the so called 1998 EU telecommunications regulatory framework and subsequently the 2002 EU electronic communications regulatory framework. Therefore processes of integration and harmonisation in the EU could provide the lessons for similar exercises in other regions – in this case the GCC.

The paper aims to examine the achievements of cooperation and integration in the GCC as well as merits for further harmonization in the field of telecommunications in this region, together with necessity and ways to improve the mechanisms of intra-regional harmonization in the GCC region based on the market, policy and regulatory environments of the GCC countries as well as the general experience of regional harmonization.

The research relies on content analysis and synthesis of publications, in particular academic papers on experience and merits of regional harmonization, in particular trends of harmonization in the GCC region; systematic and comparative analysis of official legal documents as well as sources describing telecommunications market structures and trends of development in the region. Resources analyzed include GCC agreements and other documents, telecommunications legislation of GCC members, their schedules of commitments submitted to the World Trade Organization (“WTO”) and other
international agreements as well as relevant market information, including public information on the specific companies (such as their annual reports).

In order to achieve the aim of the paper it (1) describes the developments of the GCC regional telecommunications market relevant for the case of further regional integration; (2) analyses existing objectives of the GCC relevant to the integration and harmonization of the telecommunications frameworks as well as the institutional structures for implementation of these objectives; (3) evaluates the appropriateness of the existing legal and institutional framework of the GCC for the further integration of the regional telecommunications policies and regulatory frameworks; (4) describes extra-regional forces that influence setting of the telecommunications policies and regulatory frameworks in the GCC states and their impact on the regional harmonization; (5) provides insights on whether the GCC states need pursue further integration and what, if anything, could be improved to strengthen it.

1. **Telecommunications sector of the GCC**

Generally the GCC telecommunications markets stand out of the wider context of Arab markets as more developed ones exhibiting the highest level of development of information and communication technologies (“ICT”) (Dutta et al., 2007). According to the Arab Advisors Group’s (2008) Total Country Connectivity Measure (“TCCM”)
\(^2\) ranking the 6 GCC countries are among the 7 top achievers in the Arab region. Such a development was, most likely, brought about the oil wealth prevailing in all the GCC countries, which enabled better development of all the sectors of the economy, including the telecommunications. The level of development is also specifically evidenced by higher mobile as well as Internet (including broadband) and personal computers (“PC”)
\(^3\) penetration rates than elsewhere in the Arab region (Dutta et al., 2007; Habayeb and Sabbagh, 2008; Hajj et al., 2008). Interestingly, the GCC Member States together have more than 40 percent of all Internet users in the Arab world, at the same time having only 11 percent of the total Arab population (Dutta et al., 2007).

Prices of telecommunications services are also generally lower in the GCC than in other Arab countries. The benchmark done by the Arab Regulators’ Network and Teligen (Sannæs, 2008) shows that prices for fixed services, international calls and broadband in the GCC countries are generally below the Arab average. In terms of the fixed and mobile service baskets – 4 out of 5 cheapest countries in the Arab region are from the GCC.

The general research on harmonization emphasize that the most important element for establishing the case for harmonization is existence of cross-border interaction between the relevant jurisdictions (Nicolaides, 2006; Ofcom, 2006). Therefore analysis of the level of cross-border interaction in the GCC would to some extent give an answer to the

---

\(^2\) TCCM is calculated by adding the household mainlines penetration, cellular penetration, and Internet users penetration rates in each country.

\(^3\) Oman is a little bit behind in terms of penetration of the Internet and personal computers.
question whether further regional harmonization is needed. Such an analysis should take into account the basic features of the GCC countries – i.e., the fact that they share the common traditions, customs, religion, history, language and the path of economic development.

Operators clearly prefer to enter the markets that offer them a high level integration with their existing footprint (De Gaetano, 2007). One of the factors this depends on is a high level of traffic between countries. In case of the GCC, it seems that the intra-regional telecommunications traffic is an important part of the international telecommunications for the GCC Members States – e.g., Bahrain’s Consumer and Business Survey (conducted in 2007) has demonstrated that 4 out of 5 top destinations for international traffic are within the GCC (TRA Bahrain, 2007). Therefore this supports the case for harmonization.

Furthermore, the industry consultants make a clear case that regional expansion is a natural expansion strategy for Arab operators. It is clear that synergy potential, achieved from expansion into other geographical markets, depends on the level of cultural and economic integration between the countries, which speaks for the regional expansion. Establishing a series of operations in the region ensures focus and helps operators to draw on regional synergies. At the same time global expansion is more complex to manage and provides little or no room for synergies (De Gaetano, 2007).

The strategic activities of operators in other geographically, economically or historically defined regions confirm that most successful operators follow a regional approach rather than a global, dispersed approach and they consider the regional expansion to be one of the most appropriate growth strategies (De Gaetano, 2007; Lamanauškaite, 2007). By way of example, this could be evidenced by Digicel’s expansion in the Caribbean (existing or planned operations in 23 countries (Digicel Group, 2007)) and South Pacific (existing or planned operations in 5 countries (Digicel Pacific, 2008)); TeliaSonera’s and Tele2’s competition in the European Baltic-Nordic Region, where TeliaSonera (TeliaSonera, 2008) has 7 operations (in total – 8 operations in Europe) and Tele2 (Tele2, 2008) has 5 operations (in total - 15 operations in Europe); France Telecom’s expansion in Europe and Africa, Telefonica’s expansion in Europe and the Latin America, Deutsche Telekom’s focus on Europe and the United States (“US”) as well as MTN’s establishment in Africa and the Middle East (De Gaetano, 2007) etc.

The applicability of the above described regionalization strategies to the GCC is evidenced by actual activities of the regional market players. In recent years the GCC telecommunications sector has also faced a drive for regionalization, with major market players crossing the national borders to enter other GCC markets (as shown in Table 1). There is also some evidence that if given the opportunity the regional operators would be keen to further strengthen their GCC-wide footprint. This is evidenced by Etisalat’s, Batelco’s and Zain’s attempts to win licenses in Qatar (ictQATAR, 2007; ictQATAR, 2008); Qtel’s (through ATCO Clearwire Telecom) attempt to obtain a wireless license in Bahrain (TRA Bahrain, 2006); Saudi Telecom’s objectives to become the third mobile operator in Bahrain (Al Hakeem, 2008).
Table 1. Regionalization of major telecommunications market players

<table>
<thead>
<tr>
<th>Group</th>
<th>Bahrain</th>
<th>Kuwait</th>
<th>Oman</th>
<th>Qatar</th>
<th>Saudi Arabia</th>
<th>United Arab Emirates</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Batelco</strong></td>
<td>Batelco</td>
<td>Qualitynet</td>
<td></td>
<td></td>
<td>Etihad Atheeb Telecommunication Company (Shamseddine, 2008)⁴</td>
<td></td>
</tr>
<tr>
<td>(Batelco, 2008a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Zain Saudi Arabia³</td>
<td></td>
</tr>
<tr>
<td><strong>Zain</strong></td>
<td>Zain</td>
<td>Zain</td>
<td></td>
<td></td>
<td>Zain Saudi Arabia³</td>
<td></td>
</tr>
<tr>
<td>(Zain, 2008)</td>
<td>Bahrain</td>
<td>Kuwait</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Qtel</strong></td>
<td>Wataniya Telecom</td>
<td>Nawras</td>
<td>Qtel</td>
<td></td>
<td>Bravo (through Wataniya Telecom) (Bravo, 2007)</td>
<td></td>
</tr>
<tr>
<td>(Qtel, 2008)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Etisalat</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Etihad Etisalat – Mobily</td>
<td>Etisalat</td>
</tr>
<tr>
<td>(Etisalat, 2008)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Saudi Telecom</strong></td>
<td>Third mobile operator⁶</td>
<td></td>
<td></td>
<td></td>
<td>Saudi Telecom</td>
<td></td>
</tr>
<tr>
<td>(Saudi Telecom, 2008a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Regionalization of market players unavoidably brings other ancillary effects, including regionalization of services, sharing of expertise and coordination of regulatory affairs among the international staff of regional operators. It also encourages the move towards the execution of certain regulated and/or non-regulated operations centrally (e.g., aggregation of procurement activities, sharing of information technologies (“IT”) platforms, centralized billing of services, aggregation of international connectivity and other activities that could help to achieve savings in operational and capital expenditure as well as other synergies); taking main strategic decisions, which determine plans and actions of operators, off-shore (i.e. not in the country of activity, but in the headquarters of a group) (Barakauskas, 2005) etc.

The trend above has a twofold impact on the need of closer regional integration – (1) it increases the demand for harmonized rules for market entry and regulation of behaviour in it in order to decrease transaction costs and increase legal certainty as well as predictability for regional investors; (2) it challenges regulation bound to national borders as it might be increasingly difficult to apply and enforce it with regard to the multi-country regional market players without appropriate regulatory cooperation and regional

---

⁴ Services have not been launched yet.
⁵ Services are expected to be launched in June 2008 (Florian, 2008).
⁶ Services have not been launched yet.
harmonization of regulatory processes. Therefore this represents a strong case for closer regulatory harmonization and cooperation in the region.

The basic research on regulatory integration suggests that typical arguments in favour for it are: (1) facilitation of the cross-border trade; (2) elimination of cross-border externalities; (3) reduction in the costs of regulatory compliance for business when operating across multiple regulatory jurisdictions; (4) preventing investment distortions (4) elimination of regulatory discrimination by treating foreign operators the same as domestic ones (in particular in terms of market entry and supply); (5) elimination of regulatory duplication through the home country control (Nicolaides, 2006; Ofcom, 2006). It seems that these arguments are clearly relevant to the GCC, taking into account the strong case for regional market integration presented above.

2. GCC framework for regional harmonisation in the telecommunications sector

Taking into account the case for further regional integration and harmonisation presented above, it is important to analyse the framework of the GCC that could foster such processes.

2.1. Coordination of activities related to telecommunications in the Arabian Gulf region prior to the GCC

History of coordination of activities related to telecommunications in the Arabian Gulf region precedes the formation of the GCC. In October 1971 the UAE, Bahrain, Oman and Qatar signed an agreement to establish the Permanent Committee for Telecommunications for the Arabian Gulf Region and Sultanate of Oman to be based in Bahrain. The mandate of this group was to co-ordination allocation of frequencies amongst these states. The mandate was expanded in 1974 to incorporate all the issues related to telecommunications sector alongside with frequencies – such issues included exchange of information on technical, economic and legislative affairs, including relevant studies; planning and coordination amongst the Member States; liaising with the International Telecommunication Union (“ITU”); protection of the interests of the Member States; discussing technological developments on the regional level etc. Oman, however, withdrew from the Committee in 1976 (its name was subsequently amended to reflect the change). Kuwait joined the Committee in April 1980 (GCC, 1998).

When the GCC was established, the first meeting of the GCC Ministers of Transportation and Ministers of Telegraph, Posts and Telephones was held on 30 May 1983. The Ministers agreed that Saudi Arabia and Oman joined the work of the Committee and the Committee was converted into a GCC agency (this was approved by the Ministerial Council on 24 August 1983). In 1984-1985 the Permanent Committee for Telecommunications for the Arabian Gulf Region was converted into the GCC Telecommunications Technical Bureau (GCC, 1998). Activities of this Bureau together with other telecommunications-related structures of the GCC are described below.
2.2. *Objectives of the GCC*

The Charter of the GCC includes very broad goals for the regional cooperation, including the coordination, integration and inter-connection between Member States in order to achieve unity between them; to deepen and strengthen relations, links and areas of cooperation now prevailing between them; to formulate similar regulations in various fields, including economic affairs and communications (GCC, 1981, Article 4).

The framework for coordination of economic activities of the Member States was established by the Economic Agreement between the GCC States, the revised version of which was adopted by the Supreme Council of the GCC on 31 December 2001 (GCC, 2001a). The Economic Agreement established a broad framework for economic integration including:

1) **Customs Union** (effective from 1 January 2003 (European Commission, 2008b)) with a common external customs tariff, common customs regulations and procedures, single entry point where customs duties are collected, elimination of all tariff and non-tariff barriers and according national treatment to all the GCC goods;

2) **Coordination of international economic relations.** The Economic Agreement aims to secure better terms and more favourable conditions for the Member States in their international economic relationships through collective negotiations and collective economic agreements with trading partners, unification of import/export rules and procedures as well as commercial exchange policies with the outside world;

3) **GCC Common Market** (effective from 1 January 2008 (GCC, 2007d)) through inter alia:

   a. According national treatment to all natural and legal citizens of the GCC Member States in all economic activities;
   
   b. Enhancing local, external and intra-GCC investment levels through unification of all the investment-related laws and regulations, according the national treatment to the GCC investments, integration of financial markets and unification of all related legislation and policies etc.;
   
   c. Encouraging the comprehensive and integrated development process of all the GCC states in all fields;
   
   d. Encouraging the joint projects of the Member States, both private and public, in order to utilize economies of scale, achieve economic
integration and improve the distribution of integration benefits among them. The fields for such cooperation include communications.

For the purposes of this paper it is of utmost importance that Article 24 of the Economic Agreement provides a very deep and broad obligation in the field of telecommunications, obliging the Member States to take all the necessary measures to ensure the integration of their communications policies, including telecommunications, post and data network services, which would lead to improving their service levels and economic efficiency and to strengthening the ties between GCC citizens as well as private and public institutions.

2.3. Implementation of the GCC framework

The implementation of the objectives, described above, is entrusted to the institutions of the GCC. The organizational structure of the GCC (relevant to the telecommunications sector) consists of the following (see also Figure 1 below) (GCC, 1981; 2001a; 2007f):

1) **Supreme Council** formed of the heads of the Member States. The Supreme Council lays down the higher policy for the GCC, reviews the measures submitted by the Ministerial Council and adopts them etc. This body also approves the bases for dealing with other states and international organizations, thereby coordinating the international activities of the GCC Member States. The substantive decisions in the Supreme Council are made by the unanimous voting;

2) **Advisory Body to the Supreme Council (Consultative Commission);**

3) **Dispute Settlement Body.** This body is established on an ad hoc basis for each individual case and adjudicates the disputes over the interpretation and implementation of the Charter of the GCC, which are not resolved within the Ministerial Council or the Supreme Council. Disputes are referred to it by the Supreme Council. The Dispute Settlement Body submits its recommendations or opinions to the Supreme Council for such action as the Supreme Council deems appropriate;

4) **Ministerial Council.** The Ministerial Council (normally composed of the Ministers of Foreign Affairs) prepares and proposes various measures aimed at developing cooperation and coordination between the Members States as well as adopts resolutions or recommendations in this regard. This body also makes the substantive decisions unanimously;

5) **Secretariat General (headed by the Secretary General).** The Secretariat General prepares various studies and reports as well as follows up the implementation by the Member States of the Economic Agreement as well as of the resolutions and recommendations of the Supreme Council and the Ministerial Council. This body also fulfils the administration of the day-to-day activities of the organization, including budgetary management etc.;
6) Committees, tasked with implementation of the Economic Agreement. The field of telecommunications is assigned to the Ministerial Committee for Post, Communications and IT (GCC, 2004b; 2007g; 2007h), comprising of the relevant sector ministers (GCC, 1998);

7) The Ministerial Committee, referred to above, is assisted by the Executive Committee, comprised from the undersecretaries of the relevant ministries of the GCC Member States (GCC, 2004a)\(^7\);

8) There are two specific Steering Committees working under the Executive Committee. The separation between these Steering Committees is established so as to ensure separation between the roles of the policy makers and regulators on the one hand and operators on the other at the same time allowing possibility for coordination between these to arms. The structure of the Steering Committees is as follows (GCC, 2004a)\(^8\):

   a. Steering Committee of Legislation and Regulation of Telecommunications and IT, which deals with aspects related to policies, legislation and regulation of telecommunications and IT sectors in the Member States, including issues related to radio frequencies. This Committee is comprised of the representatives of the ministries and regulatory authorities of telecommunications of the Member States. This Committee has 2 sub-committees – the Legislation and Regulation of Telecommunications and IT Sub-committee and the Technical Bureau Technical Sub-committee;

   b. Steering Committee for Telecommunications and IT Operators. This Committee deals with issues related to operation of telecommunications and IT networks, including economic issues, tariffs, technological developments and projects. It comprises of senior executives concerned with the operation of telecommunications services and IT in the Member States (i.e., operators). The Committee also has 2 sub-committees – the Operation and Tariff Sub-committee (which inter alia deals with accounting tariffs amongst the GCC states as well as other services and their pricing) and the Telecommunications and IT Services Sub-committee;

9) The GCC has also a few semi-separate bodies (agencies) subordinate to the Secretariat General. One of these bodies is the GCC Telecommunications Technical Bureau established in Bahrain. As explained above, this Bureau is a successor of the pre-GCC Permanent Committee for Telecommunications for the Arabian Gulf Region. The Telecommunications Technical Bureau is specifically

\(^7\) The Executive Committee is under revision at present – see below (GCC, 2008a; 2008b).

\(^8\) The structure of Steering Committees and Sub-committees is under revision at present – see below (GCC, 2008a; 2008b).
tasked to promote co-operation among the GCC states in all matters related to telecommunications and in particular to (GCC, 1998):

a. Coordinate the general policies for telecommunications services with a view to unify or standardize them;

b. Develop unified short and long term frequency spectrum policy to be used by the Member States in order to prevent interference, especially in the border areas. The Bureau should also follow up implementation of such a policy;

c. Rationalize the use of radio spectrum;

d. Standardize operation of telecommunications services, technical standards and specifications as well as general conditions applicable to telecommunications systems and equipment, where possible;

e. Unify the legislation governing the use of telecommunications equipment, in particular wireless one, where possible;

f. Coordinate positions of the Member States at the international and regional conferences;

g. Collect information on telecommunications services in the Member States and promote sharing of it, especially with regard to experiments and special expertise;

h. Encourage the manufacturing of telecommunications equipment and materials;

i. Achieve the optimum use of the resources of existing telecommunications institutes and centres in the GCC Member States.

The operational methods of the GCC Telecommunications Technical Bureau include communication with the relevant national authorities as well as liaising with the ITU and other regional and international organizations, related to telecommunications and radio spectrum management. The Bureau also conducts studies, researches, develops plans, prepares and proposes legislation, standards and specifications for telecommunications equipment and facilities, organizes conferences and meetings as well as assists the GCC Members in the fields related to telecommunications. It can be concluded that the Bureau essentially acts as a facilitator for intra-regional discussions in the field of telecommunications and radio spectrum as well as, if required, international representative for the GCC (GCC, 1998). In practice, the GCC Telecommunications Technical Bureau carries most of its activities in the fields of radio spectrum and telecommunications equipment, in particular with regard to developing of
spectrum plans and coordination of activities related to cross-border interference (GCC, 2006).

GCC Telecommunications Technical Bureau is technically and strategically supervised by the Technical Bureau Technical Sub-committee. The General Secretariat undertakes the financial, administrative and organizational supervision of the Bureau (GCC, 1998).

The organizational structure of the GCC, related to the telecommunications sector is presented in the Figure 1 below.
Figure 1. Organizational structure of the GCC, related to telecommunications

Some elements are under revision at present – for details see below (GCC, 2008a; 2008b).
Recent decisions of the Ministerial Committee for Post, Communications and IT (preceded by the decision of the respective Executive Committee) are aiming to change the structure of the GCC Committees in the field of telecommunications. During the meetings of the both bodies in Doha, Qatar at the end of May 2008 it was decided to (GCC, 2008a; 2008b):

1) Rename the Executive Committee for Posts and Telecommunications into the Commission of the Representatives and Officials of the Ministries of Post, Telecommunications and IT;

2) Consolidate both Steering Committees mentioned above into the one Steering Committee for Communications and IT;

3) Create a Sub-committee for Computer Emergency Response Centres (“CERT”).

As of the date of writing this paper\(^{10}\) the new structure has not yet become fully operational (as new committees have not met yet) – therefore it remains to be seen what (positive or negative and to what extent) impact on the operation of the GCC and harmonization of the regional policy, legislative and regulatory frameworks the new structure will have.

The Charter of the GCC does not include any explicit provisions on the follow-up of the implementation of the legislative framework of the GCC, except for the general delegation of this duty to the Secretariat General (GCC, 1981, Article 15 (3)). The Economic Agreement is more explicit on this issue. Article 26 (3) of this Agreement (GCC, 2001a) states that Member States shall provide the Secretariat General with periodic reports regarding implementation of the provisions of the Agreement and the applicable resolutions taken to implement those provisions. In the light of these reports, the Secretary General shall submit a periodic report to the Supreme Council. The Secretariat General shall set a mechanism for the preparation of these reports, their contents, and the completion dates thereof.

### 2.4. Lessons from the EU, which could be used to improve the GCC framework

In order to properly analyze the GCC framework for the integration of telecommunications policies and regulatory frameworks, it might be useful to look into the experience of the regional integration in the EU, which is probably the most developed region in this regard.

Firstly, it is important to mention that the process of opening of the telecommunications markets in Europe was initiated and essentially led by the European Commission as an executive body of the EU. The process of liberalization started with the European Commission’s Green Paper on the development of the common market for telecommunications services and equipment (European Commission, 1987), which

\(^{10}\) Date of final revision – 19 June 2008.
suggested the gradual opening of the markets of telecommunications equipment and services. The initiative of further liberalization was pushed by the European Commission even against the wishes of some Member States\textsuperscript{11}. It is clear that neither the Secretary General of the GCC nor the GCC Telecommunications Technical Bureau have powers that would enable them to drive the process of the regional integration to the extent that the European Commission has and does.

The European Commission also plays an important role in monitoring the implementation of the regulatory framework and ensuring that it is effectively implemented in the Member States as well as benchmarking progress of them. This function is mainly\textsuperscript{12} executed through (European Commission, 2008a):

1) Infringement proceedings, whereby the European Commission refers the Member States to the European Court of Justice for the non-implementation or the incorrect implementation of the EU law (European Union, 2006, Article 226) (Member States may even be subject to pecuniary fines for failure to correctly implement their obligations (European Union, 2006. Article 228));

2) Annual report on the implementation of electronic communications (telecommunications) regulatory framework in the Member States, where the progress of the individual countries is evaluated.

The powers and activities of the European Commission above provide for both the formal enforcement and the peer pressure mechanisms that ensure effective implementation of the EU legislative framework in the Member States. It does not however seem that the Secretariat General of the GCC (or the GCC Telecommunications Technical Bureau) enjoys comparable powers (and indeed any real enforcement powers (Legrenzi, 2003; 2006)) except for the possibility to monitor the implementation and raise related issues to other (political) bodies of the GCC (including the Ministerial Council and the Supreme Council). Furthermore, at present the information on how Members implement the GCC commitments and policies is difficult to find. Therefore it seems that even the peer pressure possibility is not used to the full extent possible.

The role of the European Court of Justice, played in the integration within the EU, is a clear evidence of how important the effective dispute settlement is for the process of regional integration. The European Court of Justice adjudicates disputes and interprets the EU law upon the referrals from the Member States, other European institutions, the national courts of the Member States and, in certain circumstances, direct applications

\textsuperscript{11} When the first Commission’s liberalization directive in the telecommunications sector (European Commission, 1988) was adopted, France with the support of Belgium, Greece, Italy and Germany tried to unsuccessfully challenge this initiative at the European Court of Justice (European Court of Justice, 1991).

\textsuperscript{12} The EU wide cooperation involves more and deeper mechanisms, aimed at ensuring consistent implementation of the electronic communications (telecommunications) regulatory framework within the Union. These mechanisms include the so-called Article 7 mechanism, whereby the European Commission has a power to review and, in certain circumstances, even veto decisions of the regulatory authorities of the Member States, related to the ex-ante regulation (European Union, 2002). The analysis of these mechanisms however is outside the scope of this article as they are elements of the specific implementation set-up for the detailed common regional rules.
from natural and legal persons (European Union, 2006, Articles 226-239) and has an 
ultimate interpretation, arbitration and sanction powers in cases of disputes, including the 
disputes among the Member States. The Court’s decisions are obligatory on the Member 
States.

The major integrationalist role of the European Court of Justice is played via its 
interpretive powers of the legal instruments of the EU. The Court has actively used these 
powers to introduce the principles that had a crucial impact on the integration. The 
decisions of the Court have established the primacy of the European Community law as 
well as introduced the principle of “direct effect”, whereby the EU legislation or Court 
judgments are directly applicable to national settings without having to be separately 
transposed into the national legal frameworks. The Court has also introduced into the 
European Community law the principle of mutual recognition, thereby reducing the need 
for detailed harmonization and at the same time enabling the realization of the four 
freedoms of the European Community: free movement of goods, services, capital and 
people. The European Court of Justice has also ensured the objective and consistent 
application and interpretation of the EU law (Kirchner, 2006). It is clear that the Dispute 
Settlement Body could in no way play such a role, taking into account its current powers 
and the ad hoc nature.

Finally, one of the main differences between the EU and the GCC decision making 
frameworks is that the EU recognizes the majority rule (Kirchner, 2006; European Union, 
2006, Article 205) whereas the GCC requires unanimity. This allegedly makes more 
difficult to agree on common policies in the GCC, particularly where the objective of the 
common decisions is not to merely codify the existing national practices, but to push 
these practices further. It can be argued, however, that taking into account the number of 
the GCC countries (6), it is easier to achieve consensus in this organization than it would 
be achievable within the EU with its 27 countries.

Having overviewed the differences between the GCC and the EU institutional structures 
it can be concluded that there are a few main deficiencies in the GCC framework that 
have a potential to deter the faster harmonization of the economic policies and laws in 
general and telecommunications regulatory frameworks in particular. These are:

1) Consensus based decision making process. It risks making the pace of integration 
equal to the preparedness of the slowest Member State as well as induces the risk of the “race to the bottom” harmonization;

2) No strong pro-active central guardian of integration (as this role is being played 
by the European Commission in the EU). The GCC Secretariat, including the 
GCC Telecommunications Technical Bureau, does not seem to be pro-actively 
proposing or pushing for new integration policies neither it has real powers to do so;
3) Non-existence of the efficient, effective and enforceable mechanism for follow-up of the implementation of the decisions and treaties made. This has a strong potential to dilute the decision making efforts;

4) Non-existence of the dispute resolution process, supporting the enforcement mechanisms and assisting in developing the regional legal framework and instruments of economic integration. Such a process proved to be very important for furthering the integration of the European region. The GCC Dispute Settlement Body, however, lacks many elements to be able to successfully play this role. The disputes can be referred to it only by the Supreme Council, it is composed ad hoc (therefore the ability to formulate long-term consistent jurisprudence is very limited) and does not adopt enforceable decisions – only the opinions and recommendations, which are channelled back to the political consensus driven body – i.e., the Supreme Council.

The deficiencies above can effectively impede coordination and fast-paced integration of sectoral (including telecommunications) economic policies. Of course, the possibilities of integration would be even more enhanced if the GCC were given certain supra-national powers (including the possibility of the direct applicability or at least direct effect of legal instruments adopted by the GCC).

It should also be mentioned, that some forms of the cooperation in the GCC could even risk becoming detrimental to the development of the effective telecommunications markets in the GCC. This at least to some extent applies to the GCC Steering Committee for Telecommunications and IT Operators\(^\text{13}\) and its Sub-Committees. Analysis of their constituency and functions above shows that operators use these Committees to coordinate their tariffs and other operational issues. In the single-operator-per-country times such coordination might have been justifiable. However with introduction of at least some level of competition in all the GCC countries, the set-up of the Committees could be conducive to cartel-type behaviour among competitors and facilitate price fixing as well as other similar activities. Furthermore, these activities could be carried on under the guise of the inter-governmental regional cooperation and therefore could be considered to have a tacit approval from the governments of the GCC countries. Therefore it is of the utmost importance to ensure that such coordination activities are subject to clear rules in order to ensure that they are not detrimental to the introduction of the competition in the telecommunications markets.

3. **Harmonization from the inside - achievements of the GCC in the field of telecommunications**

Having reviewed the objectives and structures for the regional integration within the GCC it is important to look into the actual achievements. Various authors have divergent

\(^{13}\) It is now being merged into the single Steering Committee; however it seems that the Sub-committees will remain as they are. It therefore remains to be seen what impact such a restructuring will have on the nature and extent of cooperation between operators in the framework of the GCC.
views on general achievements of the GCC. Some of them praise the achievements of the organization in regional integration, in particular in terms of elimination of barriers to free movement of goods, services, national labour, and capital as well as the establishment of the Customs Union (Fasano and Zubair, 2003). At the same time others suggest that the GCC is more about words than deeds (Legrenzi, 2003; 2006). Therefore it seems to be very difficult to make a general statement on the achievements of the GCC and is important to specifically look into specific actions and their results in the telecommunications field.

3.1. Harmonisation and integration activities of the bodies of the GCC

As was discussed above, Article 24 of the Economic Agreement provides the basis for harmonization of telecommunications policies that could include opening of the markets. However, it does not seem that in practice the bodies of the GCC furthered such harmonization very far. Most of the achievements reported by the GCC in the telecommunications field relate to the pricing of specific telecommunications services - mainly coordination of the accounting rates and mechanisms for international settlement; coordination of specific technical issues, related to regional interconnection between national networks (including build-out of optical fibre links) or other operational issues, related to maintenance of networks (such as discussions on working hours in order to ensure constant maintenance of networks) or implementation of specific applications in the networks (such as CAMEL) (GCC, 1995; 1999; 2001b; 2004b; 2005b; 2006; 2007a; 2007b; 2007g; 2007h). In tackling these topics the GCC seems to be coordinating the commercial policies of the operators (in particular monopoly or incumbent operators of international gateways) rather than coordinating national telecommunications policies or regulatory framework. Noteworthy that virtually the only telecommunications-related topic explicitly included in the public reports of the activities of the Ministerial Council is the issue of accounting rates (GCC, 1995; 1999; 2001b; 2004b; 2005b; 2007g; 2007h). Therefore it seems that despite the revision of the structure of the GCC bodies, which resulted in the institutional framework described above, the GCC framework of coordination has not fully embraced the move to separate telecommunications policy making and regulation from the operations and is to some extent a left over from the state-owned-monopoly environment.

The telecommunications sector activities have also included the coordination of education policies in the field, issues related to the security of the Internet (establishing of the Computer Emergency Response Teams) as well as Arabization of the World Wide Web. There has been no, however, initiatives to harmonize conditions of market entry and undertaking business activities in it that would have a real effect on integration and would gain public attention (GCC, 1995; 1999; 2001b; 2004b; 2005b; 2006; 2007a; 2007b; 2007g; 2007h).

The field where the GCC is particularly active is coordination in the planning and managing the radio spectrum. The activities include certain standardization activities (e.g., recognition of GSM-R as a regionally applicable standard), mutual recognition
(e.g., with regard to radio amateurs), solving intra-regional interference issues, spectrum planning, as well as coordination with other countries, regions and internationally (GCC, 1995; 1999; 2001b; 2004b; 2005b; 2006; 2007a; 2007b; 2007g; 2007h). These activities however relate mainly to clear cross-border issues as well as establishing the region as a single unit in the international spectrum-related activities. They do not have overarching impact on the national frameworks for telecommunications harmonization.

Therefore it seems that the actions of implementing authorities of the GCC at the moment do not significantly complement the Economic Agreement in terms of harmonization of telecommunications policies and regulations in order to overcome rather divergent national telecommunications frameworks of various Member States (as described below). It does not also seem that the GCC integration processes attach much political importance to these issues. An evidence of this could be the fact that the telecommunications sector has never been mentioned in the closing statements of the Supreme Council (GCC, 2007c).

3.2. Existing policy and regulatory convergence and divergence

It is however important to mention that the intra-regional telecommunications sector is subject to the same horizontal rules as are applicable to all the sectors. Therefore the telecommunications industry can benefit from the GCC Common Market rules that guarantee freedom to engage in all economic, investment and service activities, freedom of capital movement, stock ownership and formation of corporation, but only to the extent accorded to nationals of the respective countries. The Economic Agreement accords the right of national treatment, but not the separate right of market access. Therefore, according to the Economic Agreement, national markets are opened to persons of the other GCC countries to the extent they are open on the national level without the real pressure to open them further. This contrasts with the liberalization process of the telecommunications sector in the EU, where Member States were made to open their markets in full and not to merely extend their national policies to the regional level.

The insights above are even more relevant when one looks into the existing telecommunications sector policies and regulatory frameworks in separate GCC countries. The strategies adopted vary from the full market liberalization in Bahrain through the managed gradual market opening of varying degrees in Saudi Arabia, Oman and Qatar to the state-controlled duopoly in the United Arab Emirates and the monopoly in the fixed telecommunications (still part of the Ministry) in Kuwait.

In order to look even beyond the overriding differences mentioned above, Tables 2, 3 and 4 as well as Figure 2 below show the similarities and differences in policy, legislative and regulatory frameworks of the GCC Members as well as openness of these frameworks for outside investments.\footnote{This paper does not aim to suggest that all the elements compared have to be necessarily harmonized – this benchmark is done for illustrative purposes only.}
One of the most important measures of the telecommunications policy, legislative and regulatory frameworks is the level of competition allowed and achieved – this is compared in Table 2 below.

**Table 2. Level of competition in the GCC telecommunications markets**
(self-research)

<table>
<thead>
<tr>
<th>Country</th>
<th>Fixed Telecommunications</th>
<th>Mobile Telecommunications</th>
<th>Internet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bahrain</td>
<td>Competitive</td>
<td>Duopoly, additional (third) licence to be awarded in 2008</td>
<td>Competitive</td>
</tr>
<tr>
<td>Kuwait</td>
<td>Monopoly</td>
<td>3 operators (the last one to be operational in 2008)</td>
<td>Competitive</td>
</tr>
<tr>
<td>Oman</td>
<td>Monopoly, second fixed licence to be awarded in 2008</td>
<td>Duopoly, additional (third) mobile licence is planned to be issued soon</td>
<td>Monopoly, second fixed licence to be awarded in 2008</td>
</tr>
<tr>
<td>Qatar</td>
<td>Monopoly, second fixed license to be awarded in 2008</td>
<td>Monopoly (the second licensed operator plans to launch in 2008)</td>
<td>Monopoly, second fixed licence to be awarded in 2008</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>Monopoly, new 3 fixed licenses awarded in 2007 – new entrants not operational yet</td>
<td>Duopoly (the third licensed operator plans to be operational in June 2008)</td>
<td>Competitive</td>
</tr>
<tr>
<td>UAE</td>
<td>Duopoly</td>
<td>Duopoly</td>
<td>Duopoly</td>
</tr>
</tbody>
</table>

Besides the competition allowed and achieved, it is important to further look into the degree of private participation allowed in the GCC markets, in particular in terms of ownership of incumbent operators – this is done in Figure 2.

**Figure 2. Government ownership of incumbents**\(^{15,16}\) (Makauskaitė, 2008)

---

\(^{15}\) Bahrain and Oman committed to eliminate national government ownership in any supplier of public telecommunications services as soon as feasible (Article 12.7 (4) of the US-Bahrain Free trade agreement (USTR, 2004) and Article 13.7 (4) of the US-Oman free trade agreement (USTR, 2006a)). In Bahrain the Government has recently announced the plans to reduce ownership to below 50 per cent (TeleGeography, 2008). Oman also plans sell-off of 30 per cent of shares (Makauskaitė, 2008).

\(^{16}\) Du (the second operator) in the UAE is also owned by the Government (EITC, 2008).
Further to the substantial (although varied) ownership of the incumbents in the GCC countries, it appears that one of the preconditions for market entry in most of the GCC countries is the requirement (or at least an encouraged characteristic of entry in some cases) to sell some of the shares to the Government or, at least, public. This was clearly the case with the third entrant in the mobile market in Kuwait, where the requirement for the new operator was that the Government had to own 24 percent of it and local public further 50 percent (BMI, 2008). Licensing of the second mobile operator in Saudi Arabia included the requirement that potential bidders formed a consortium of at least five Saudi companies and an international mobile operator, with foreign investors allowed to buy up to 49 percent of the joint company; there was also a requirement that 20 percent of a licensee would have to be sold off to public in the beginning of operations and a public offering for another 20 percent was required in the third year of operation (Zawya, 2004). Requirements for the third mobile entrant and new fixed entrants in Saudi Arabia included obligation to sell 40 per cent of shares of the new mobile company and 25 per cent of fixed entrants to public (Economist Intelligence Unit, 2007). The second entrant (the only operator competing with the incumbent) into the UAE’s telecommunications market was backed 50 percent by the UAE Federal Government, 25 per cent from Mubadala Development Company (a wholly owned investment vehicle of the Government of the Emirate of Abu Dhabi, UAE (Mubadala, 2007)) and 25 percent from Emirates Communications and Technology Company (which is indirectly fully owned by the ruler of Dubai HH Sheikh Mohammed Bin Rashid Al Maktoum – via Dubai Holding (Zawya, 2008a) and TECOM Investments (Zawya, 2008b)) (EITC, 2008). The second mobile licence in Qatar was won by the consortium of Vodafone and state owned-Qatar Foundation (Lohade, 2007) (the latter is an organization founded by the Emir of Qatar (Qatar Foundation, 2008)) – Vodafone now owns 51 percent of the licensee and Qatar Foundation – the remainder; 40 percent of the shares will have to be sold in the initial public offering and 15 percent - to the state-owned affiliates, leaving Vodafone and Qatar Foundation with 45 percent (Bahrain Tribune, 2008). Such a trend in market entry does
not facilitate free entry into the markets nor convergence of them. It also complicates the establishment of integrated regional groups.

Further to the above, Table 3 below compares the institutional frameworks for regulation in the GCC Member States in order to provide the overview of the preparedness of these individual countries to implement the pro-competitive telecommunications policies.

Table 3. Regulatory authorities
(Bahrain, 2002; El-Darwiche et al., 2007; Makauskaitė, 2008; Oman, 2008; Qatar, 2006; Saudi Arabia, 2001; UAE, 2003; self-research)

<table>
<thead>
<tr>
<th>Separate regulatory authority</th>
<th>Bahrain</th>
<th>Kuwait (^{17})</th>
<th>Oman</th>
<th>Qatar</th>
<th>Saudi Arabia</th>
<th>UAE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent from the Ministry</td>
<td>√</td>
<td>X</td>
<td>√</td>
<td>Yes, but ictQatar is also responsible for the policy issues (The Peninsula, 2004)</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>Independent Chairman</td>
<td>√</td>
<td>X</td>
<td>X (Minister)</td>
<td>√ (Heir Apparent)</td>
<td>X (Minister)</td>
<td>√</td>
</tr>
<tr>
<td>Independent Board</td>
<td>√</td>
<td>X</td>
<td>√</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>Fixed management’s term in office</td>
<td>√</td>
<td>X</td>
<td>X</td>
<td>√ (The Peninsula, 2004)</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>Grounds of removal of management (ideally fraud or serious fault)</td>
<td>√</td>
<td>X</td>
<td>X</td>
<td>N/A</td>
<td>X</td>
<td>√</td>
</tr>
<tr>
<td>Self-funding</td>
<td>√</td>
<td>X</td>
<td>Independent, but approved by the Council of Ministers</td>
<td>√</td>
<td>Self-funded and government appropriation</td>
<td>Self-funded and government appropriation</td>
</tr>
<tr>
<td>Transparency</td>
<td>Compulsory consultation s</td>
<td>N/A</td>
<td>Optional consultations on some</td>
<td>Public consultations - optional /</td>
<td>No requirements</td>
<td></td>
</tr>
</tbody>
</table>

\(^{17}\) Public information on the telecommunications policies and regulatory regime in Kuwait is very limited.
Finally it is important to look into specific instruments used to regulate the markets in the GCC countries – this is done in Table 4.

**Table 4. Regulatory instruments and approaches**
(Bahrain, 2002; El-Darwiche et al., 2007; Makauskaitė, 2008; Oman, 2008; Qatar, 2006; Saudi Arabia, 2001; UAE, 2003; self-research)
<table>
<thead>
<tr>
<th>Market power based intervention</th>
<th>Bahrain</th>
<th>Kuwait</th>
<th>Oman</th>
<th>Qatar</th>
<th>Saudi Arabia</th>
<th>UAE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Significant Market Power and Dominance</td>
<td>N/A</td>
<td>Dominance</td>
<td>Significant Market Power and Dominance</td>
<td>Dominance</td>
<td>Concept essentially not used</td>
<td></td>
</tr>
</tbody>
</table>

| Public Reference Interconnection / Access Offer available (Batelco, 2008b; Omantel, 2007; 2008; Saudi Telecom, 2008b; 2008c) | \(\sqrt{\text{}}\) | X | \(\sqrt{\text{}}\) | X | \(\sqrt{\text{}}\) | X |

<table>
<thead>
<tr>
<th>Local loop unbundling / bitstream</th>
<th>Partially implemented (bitstream), further unbundling planned</th>
<th>N/A</th>
<th>Planned</th>
<th>Planned</th>
<th>Partially implemented (bitstream and/or line sharing)</th>
<th>Planned</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Carrier (pre-) selection</th>
<th>Implemented</th>
<th>N/A</th>
<th>Planned</th>
<th>Planned</th>
<th>Planned</th>
<th>Implemented</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Regulation of retail prices</th>
<th>(\sqrt{\text{}})</th>
<th>N/A</th>
<th>(\sqrt{\text{}})</th>
<th>(\sqrt{\text{}})</th>
<th>(\sqrt{\text{}})</th>
<th>(\sqrt{\text{}})</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Number Portability</th>
<th>Planned</th>
<th>Planned</th>
<th>Implemented</th>
<th>Planned</th>
<th>Implemented</th>
<th>Planned</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>VoIP</th>
<th>Legal</th>
<th>Recently re-opened by the Government</th>
<th>Legal for licensed operators, policy currently under consultation</th>
<th>N/A; most probably illegal, as not in the fixed licenses</th>
<th>Policy under review</th>
<th>Legal for licensed operators, only within the UAE</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Individual and class licences</th>
<th>Both</th>
<th>N/A</th>
<th>Both</th>
<th>Both</th>
<th>Both</th>
<th>Only individual</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Universal licences</th>
<th>Planned for 2009</th>
<th>N/A</th>
<th>In consideration</th>
<th>No</th>
<th>In consideration</th>
<th>(\sqrt{\text{}}) (TRA UAE, 2006a; 2006b)</th>
</tr>
</thead>
</table>

From the analysis above it is clear that differences in policies and conditions for market entry in the GCC countries could clearly have a detrimental effect on regionalisation policies of market players. It could be recognized, however, that some GCC member have adopted or are in the process of adoption of the similar policy and regulatory solutions. However it unlikely stems from purposefully harmonisation efforts and is more a natural outcome of the decisions to open the markets as well as of the extra-regional pressures, described in the next session below.

The degree of divergence described above leads to the conclusion that if the GCC was to go the route of harmonization in the telecommunications sector, the first stage would be to achieve the basic agreement on the principles of development of telecommunications...
sector. Only then it would be possible to discuss organization of implementation and regulatory functions. Once such an agreement is reached and taking into account that most of the GCC countries are rather small (except for Saudi Arabia) and the regulatory expertise are rather scarce, there might be a merit to discuss integration of certain regulatory and related functions, e.g. integration of type approval functions (via regional laboratories or other similar bodies), review of the regulatory decisions (e.g., a region wide appeal body) or even some rule-making functions.

4. **Harmonization from the outside - impact of extra-regional commitments on the telecommunications policies of the GCC Member States**

Although the GCC does not seem to pay much attention to the harmonization of telecommunications policies, Member States are still not free to implement any national telecommunications policies they wish. The multitude of international commitments constrains such freedom.

First of all, national telecommunications policies are affected by the commitments undertaken in the framework of the WTO. These commitments however do not have the symmetrical impact on all the GCC Member States, despite all of them are the Members of the WTO. Bahrain, Kuwait, Qatar and the UAE have not undertaken any commitments in the field of telecommunications (they were able to do so as they became Members of the WTO before the conclusion of the WTO negotiations on basic telecommunications). Whereas Saudi Arabia and Oman, which entered the WTO after the negotiations on basic telecommunications were completed, had to enter into the extensive commitments in this field (WTO, 2000; 2005).

Both Oman and Saudi Arabia have committed not to maintain essentially any restrictions on entry to their telecommunications markets - except for the possibility to maintain certain restrictions on maximum foreign participation in the share capital – 70 percent for Oman and 60 or 70 percent (depending on the activities) for Saudi Arabia. They have also committed to grant national treatment in the field of telecommunications for the persons of other WTO Member States.

Furthermore, both Oman and Saudi Arabia have supplemented their schedules of commitments by the so-called WTO Reference Paper. The standard text of this paper was prepared as the result of the WTO negotiations on basic telecommunications. It is reported that the Reference Paper was originally put forth by the US and was adopted without any authentic negotiation (Mashayekhi, 2000).

The Reference Paper essentially provides for the high-level harmonization of telecommunications regulatory policies, establishing basic principles that WTO Member States have to implement in the legislative and regulatory frameworks for telecommunications. These principles ensure that a committed Member State does not merely open the telecommunications sector for entry, but ensures the existence of certain minimum set of conditions enabling effective possibility for new market entrants to
compete in the market, characterized by the dominance of an incumbent operator. The Reference Paper (WTO, 1996) obliges Member States to implement adequate safeguards to prevent anti-competitive practices in the telecommunications sector; ensure timely interconnection at non-discriminatory, transparent and reasonable terms and conditions and cost-oriented rates; and establish adequate possibility for dispute resolution. The Paper also includes requirements for the universal service policies, licensing, establishment of independent sector regulators, and allocation and use of scarce resources. Therefore it can be concluded that the Reference Paper effectively dictates a rather broad set of elements for national telecommunications policy and regulatory frameworks.

The other international initiative having a significant impact on the telecommunications regulation in the GCC countries is the Middle East Free Trade Area initiative of the US. One of the elements of this initiative is the conclusion of similar (i.e., following the standard form prepared by the US) bilateral Free Trade Agreements with the Middle Eastern countries. This initiative follows a multi-stage process, where the US aims to first negotiate bilateral agreements, then link them into sub-regional agreements, and, at the end of the process, to integrate all the separate bilateral free trade areas into the single US-Middle East free trade area (Lawrence, 2007).

Similarly to the case of the WTO, not all of the GCC countries have undertaken the commitments under the Free Trade Agreements with the US. Indeed only Bahrain has such an agreement in force (since 1 August 2006 (USTR, 2006b)). Oman has also concluded the negotiations and signed the agreement (on 19 January 2006 (USTR, 2006c); the agreement is still pending implementation). The negotiations are still open with the UAE (commenced on 8 March 2005 (USTR, 2005)).

The US free trade agreements with Bahrain (USTR, 2004) and Oman (USTR, 2006a) include rather detailed and far-reaching obligations on the free trade in services in general and liberalization of the telecommunications sector in particular. Commitments include full opening of the sector via commitments of market access and national treatment. Free trade agreements also include a broad set (which is much broader and more detailed than the commitments under the WTO Reference Paper) of specific commitments imposing specific elements of the telecommunications regulatory frameworks, e.g. safeguards of competition, requirements for interconnection and number portability, requirements to open incumbent’s services for resale, empowering national regulator to ensure access to unbundled network elements and co-location as well as provision of leased circuits. The commitments require independency of regulatory bodies, divestiture of government ownership in telecommunications service providers, effective enforcement of regulatory frameworks, establishment of dispute resolution frameworks, implementation of certain principles for allocation of scarce resources and licensing, allowing flexibility in choice of technologies etc. The free trade agreements establish rather detailed rules in the above mentioned areas.

The detailed international commitments in the telecommunications sector, undertaken by the individual GCC Member States, to some extent contrasts with the provisions of the
GCC Economic Agreement. Article 2 of the Economic Agreement requires that the Member States coordinate their international economic relationships with a view to collectively negotiate and conclude international trade agreements.

One could also raise a question of compatibility of certain above-described third-party commitments with Article 31 of the Economic Agreement. This Article prohibits granting any preferential treatment by a Member State to a non-Member, exceeding that granted to the GCC Member States, or conclude any agreement that violates provisions of the Economic Agreement. As it was mentioned above, the GCC Economic Agreement (as contrary to the free trade agreements with the US) does include neither comprehensive market access commitments, nor detailed commitments to introduce certain regulatory framework, protecting the new market entrants. On the other hand, however, whenever such commitments to the third parties are introduced in the national legal frameworks and become applicable with regard to national parties, they become captured by the national treatment commitment, applicable towards the GCC parties. Therefore in effect it is unlikely that any discrimination to the detriment of the GCC Member States could occur.

Regardless legal compatibility of the individual external commitments of the GCC Member States with the GCC legal framework, it is clear that such a process undermines possible harmonization initiatives inside the GCC, in particular taking into account possible future efforts of the US to use these bilateral free trade agreements as a basis for a single pan-Middle East free trade area. Such a development would in effect replace the intra-regional integration efforts of the GCC with the US imposed regional harmonization on the US terms. Furthermore, it could hinder the ongoing process of integration within the GCC as it is demonstrated by the tensions for the operation of the common external tariff of the GCC Customs Union, which arise because some of the GCC Member States have commitments to the US and others do not (Lawrence, 2007). Therefore certain GCC Member States (i.e. Saudi Arabia) have rather sensitively reacted to these initiatives of the US (Heard, 2005; Momani, 2005).

The possible negative impact of extra-regional commitments is amplified by their asymmetric nature as only half of the GCC Members have entered into such commitments (Bahrain, Oman and Saudi Arabia) and even they did it to the different extent (Bahrain has no WTO telecommunications commitments whereas Saudi Arabia has not entered into the free trade agreement with the US).

In order to strengthen commitment to coordinate international trade relations, the Supreme Council of the GCC adopted a “common trade policy for the GCC countries”, which aims to standardize foreign trade policy of the GCC states and ensure dealing with the outside world as a single economic unit, along with the adoption of the common trade policy that facilitates the internal movement of citizens, goods, services and modes of transport and takes into account the preservation of environment and protection of consumers (GCC, 2005a). Recently the GCC countries ceased pursuing individual international trade negotiations.
Despite the strong political will to act as a single trade bloc in international trade negotiations, practical attempts to do this do not seem to be too successful so far. The GCC is in negotiations to conclude free trade agreements with the EU, the European Free Trade Area, Australia, Japan, India, Singapore, China, Turkey, India (GCC, 2005a; Zee News, 2007), New Zealand (New Zealand Ministry of Foreign Affairs & Trade, 2008), South Korea (Korea.net, 2007), Syria, Jordan (MENAFN, 2006), Pakistan, the Association of Southeast Asian Nations (‘ASEAN’) etc. (GCC, 2007e) Some of these agreements under negotiations also include extensive telecommunications commitments. However no free trade agreement with major extra-regional (non-Arab\textsuperscript{18}) party was concluded so far, even though negotiations with the EU (at that time – the European Economic Community) were launched already in 1988 (Khaleej Times, 2005). The Europeans blame the lack of a common regional position on the side of the GCC for the prolonged negotiations (Momani, 2005). Such difficulties are understandable taking into account divergence of national policies and regulatory frameworks, including in the field of telecommunications, of various GCC Member States as described above.

It could be concluded that although the Economic Agreement encourages the coordinated engagement in the international economic commitments of the GCC Member States in order to better reflect the economic interests of them and at least to some extent outweigh the strong negotiating power of the extra-regional powers, the goals have not been really achieved in practice. Furthermore, to some extent momentum could have already been lost as some of the Member States have undertaken broad extra-regional commitments, mandating rather detailed regulatory frameworks with not so much room for manoeuvre. The current process of negotiating free trade agreement on behalf of the GCC could entail further risks of loosing control over the regional integration and allowing outside parties to dictate pace and scope of integration, if the agreements are concluded and detailed commitments are undertaken with no real thought of the real needs of the GCC-wide regional harmonization and related frameworks.

\textit{Conclusions and final insights}

From the overview above it appears that the GCC countries present a clear case for further harmonization as markets demonstrate a move towards regional integration even if more extensive policy and regulatory integration is pending. However at the same time there is a rather long way to go in terms of integration of telecommunications policies and regulatory frameworks as the national strategies for regulation and introduction of competition differ significantly from country to country – they range from the full openness through the managed introduction of competition to limiting market structure to essentially state-controlled (through ownership) duopoly or even monopoly.

There are specific and rather developed regional structures in place to facilitate the harmonization of telecommunications frameworks for the benefit of the members of the GCC. It seems that some improvement to these structures may facilitate deeper and better harmonization, particularly in terms of establishing an institutional champion for

\textsuperscript{18} The GCC has concluded the free trade agreement with Lebanon (Momani, 2005).
integration, making the decision making process easier and strengthening the arrangements for follow-up of the implementation of the commonly agreed rules. On the other hand it is important to ensure that some forms of the GCC facilitated coordination (i.e., the cooperation of the market players in the committees of the GCC) do not result in the anticompetitive activities having detrimental effect on the development of the competitive telecommunications markets in the GCC.

Furthermore, it does not seem that even the existing powers of the GCC were used to foster real harmonization of the telecommunications policies and regulation. On the contrary, it seems that the change of national telecommunications frameworks (and potentially even regional harmonization of them) is generally imposed by the extra-regional forces – particularly, the framework of the WTO, and the bilateral free trade agreements (in particular, with regard to the US in the context of the Middle East Free Trade Area initiative)\textsuperscript{19}. Such commitments themselves are usually undertaken without the possibility of a real discussion of their appropriateness for the region as they are prepared by the outside parties – be it countries that participated in the negotiations on basic telecommunications, which took place prior to Oman and Saudi Arabia joining the WTO, or the US, pushing for harmonized provisions in every free trade agreement they conclude with individual countries (Lawrence, 2007).

Despite the recent attempts to consolidate the efforts of the individual GCC countries in the process of undertaking international commitments in the field of trade liberalization in general (and in the field of telecommunications as a part of it), so far various GCC countries got involved in diverging commitments through individual arrangements. These international commitments appear to create asymmetrical pressures on the individual Members of the GCC as only half of them (Bahrain, Oman and Saudi Arabia) have undertaken such commitments. Even the three committed countries have committed to varied levels of detail – i.e. the US free trade agreements impose much more detailed commitments on Bahrain and Oman compared with Saudi Arabia’s (and Oman’s) commitments undertaken in the framework of the WTO. This asymmetry could have a hindering effect on the internal process of harmonization within the GCC.

Attempts to consolidate the GCC’s negotiation position are also impeded by the weak regional harmonization, which would precede extra-regional discussions. The GCC countries seem to be de facto only looking for the common ground in terms of market liberalization when negotiating with outside parties rather than first achieving common regional understanding (supported by regional harmonization) on the best ways to regulate the regional market and then defending such an understanding in the international processes. This is contrary to the more successful practices of the EU, which first integrated policies within the region and then started exporting these policies internationally.

\textsuperscript{19} The World Economic Forum notices that it seems that the trend where laws and regulation in the ICT sector are created to meet international demands such as WTO requirements rather than responding to local business or public demand seems to be a characteristic feature of the current legal and regulatory environment of the Middle East (Dutta et al., 2007).
Because of the above, the GCC countries risk that the shape and pace of liberalization of telecommunications markets will be dictated by external parties (in particular, the US) without necessarily fully taking the interests and policy considerations of the GCC region countries into account (as negotiating power of the GCC countries is weakened as they engage in individual negotiations). Continuation of such a process might lead to the de facto harmonization in the GCC without real discussion among the GCC countries on the best ways and means to achieve proper liberalization and regulation of telecommunications markets and without looking into the ways to strengthen regional integration. This would lead to harmonization imposed from the outside rather than stemming from the inside.

Because of the above it is of the utmost importance for the GCC countries to start using existing instruments of regional harmonization in practice (and consider strengthening them) in order to gradually achieve regional harmonization of telecommunications policies, legislation and regulatory frameworks that would benefit their market players and consumers and then would be the basis for the international discussions on trade liberalization.

References


44. Etisalat. (2008). International Investment. Retrieved May 10, 2008 from http://www.etisalat.ae/index.jsp?lang=en&type=channel&currentid=5c78e15c0b56a010VgnVCM100000a0a0a0a000000a0a00a0000&parentid=ed38800d1f52a010VgnVCM100000a0a0a0a000000a0a00a0000.


94. Telecommunications Regulatory Authority of the Kingdom of Bahrain (TRA Bahrain). (2007). Understanding Telecom Usage in Bahrain. Conclusion of


