

HASHEMITE KINGDOM OF JORDAN



Telecommunications Regulatory Commission (TRC)

Notice Requesting Comments on the Draft Regulatory Decision on the Provisioning of Mobile Virtual Network Operator (MVNO) Services in Jordan

*Deadlines for submitting comments: 4/6/2008
Comments to submitted to: MVNO@trc.gov.jo*

Introduction

In accordance with Article 6e of the Telecommunications Law, the Telecommunications Regulatory Commission (TRC) is required to stimulate competition in the telecommunications and information technology sectors, relying on market forces, and regulating them so as to ensure the effective provision of telecommunication and information technology services.

The present Government Policy in ICT and Postal Sectors, aims to facilitate and promote the entry of non-facilities based mobile providers in Jordan, including Mobile Virtual Network Operator (MVNO) services, with minimum regulatory intervention so as to encourage further investments in the Mobile Telecommunications sub-sector and to further enhance the competition within this sub-sector through the expansion of customer choice in the provision of mobile telecommunications services, lowering of costs to users, increased mobile penetration rates and stimulating economic development in Jordan.

Consequently, in alignment with implementation of that policy, on 14th January 2007 the TRC published a full public consultation on the implementation of MVNOs and related matters. Comments were invited from interested parties on the most appropriate method of implementing MVNO in Jordan.

On 5th June 2007, based on its consideration and analysis of the comments received on the public consultation, the TRC published a Draft Regulatory Decision on the Provisioning of MVNO Services in Jordan. The Draft Regulatory Decision proposed a regulatory approach for the introduction, regulation and provisioning of Public Mobile Wireless Services by MVNOs. All interested parties were invited to comment on the Draft Decision.

On 26 September 2007, the TRC published the Regulatory Decision on the Provisioning on Mobile Virtual Network Operator (MVNO) in Jordan which was approved by the Board of Commissioners of the TRC per its decision no. (1-19/2007) dated 16/9/2007, along with an Information Memorandum, that included the TRCs detailed analysis of all interested parties comments and submissions received during the two rounds of consultations and presented the TRC's considered conclusions and reasoning of all the terms of the that regulatory decision

Following the TRC regulatory decision, legal proceedings were instituted in the High Court of Justice challenging certain aspects of that decision. On 27th March 2007, a decision was handed down by the High Court of Justice negating the TRC's decision.

The TRC has now fully considered the High Court of Justice decision that annulled the previous TRC's decision by issuing these modified terms which constitute the TRC's revised Regulatory Decision on the Provisioning of Mobile Virtual Network Operator (MVNO) Services in Jordan.

Therefore, the TRC invites all interested parties to submit their comments on the draft regulatory decision stated in this document by the end of 4/6/2008. All comments will be taken into account in the formulation of TRC's final conclusion, but the TRC is under no obligation to adopt any of them.

Draft Regulatory Decision on the Provisioning of Mobile Virtual Network Operator (MVNO) Services in Jordan

1 Citation

- 1.1 The following terms constitute the TRC's Regulatory Decision on the Provisioning of Mobile Virtual Network Operator (MVNO) Services in Jordan and shall come into effect as of the date of its approval by the Board of Commissioners of TRC.

2 Definitions

- 2.1 The following words and phrases shall have the meanings assigned thereto hereunder, unless the context indicates otherwise. Any words and phrases not defined hereunder shall have the meanings ascribed thereto in the Law and the Regulations issued pursuant thereto:
- 2.2 **“Customer”** means any Person who has indicated willingness to the Licensee to receive telecommunications services from the Licensee on the Licensee’s terms and conditions, or has entered into a contract with the Licensee for the provision of such services.
- 2.3 **“Class License”** means a License to provide Public Telecommunications Services and/or operate Public Telecommunications Networks (i) not requiring the use of Scarce Resources, or (ii) requiring the use of Scarce Resources that have been specifically exempted by the TRC from an Individual License requirement.
- 2.4 **“General Spectrum License”** means the TRC General Radio Spectrum License for Radiocommunications Systems Related to the Integrated Licensing Regime granted by the TRC to use certain radio frequencies associated with the Licensed Activities undertaken pursuant to the Operating License and the License Agreement.
- 2.5 **“Individual License”** means a License to provide Public Telecommunications Services and/or operate Public Telecommunications Networks that use in the provision of some or all services or operation of networks Scarce Resources that have not been specifically exempted by the TRC from an Individual License requirement.
- 2.6 **“Interconnection Services”** means the services identified in the Interconnection Instructions that may be provided by interconnected Licensees to each other in accordance with the Interconnection Instructions.
- 2.7 **“Licensee”** means the holder of an Individual License or a Class License.
- 2.8 **“Licensed Activities”** means the activities the Licensee is allowed to conduct under the terms of the License Agreement and the Operating License.

- 2.9 **“License Agreement”** means any License Agreement issued by the TRC in accordance with the Telecommunications Law.
- 2.10 **“Mobile Network Operator” (MNO)** means a Licensee that provide Public Mobile Wireless Services and holds a General Spectrum License for the provision of such services.
- 2.11 **“Mobile Virtual Network Operator” (MVNO)** means an operator which may own or control infrastructure and which is licensed to resell Public Mobile Wireless Services under its own name using the network, in full or in part, of licensed MNO(s).
- 2.12 **“MVNO Services”** means Public Mobile Wireless Services that are provided by an MVNO.
- 2.13 **“Operating License”** means the Public Telecommunications Services Individual License granted by TRC to the Licensee, as amended or modified in accordance with the terms stated within the License Agreement.
- 2.14 **“Person”** means any individual, company, corporation, partnership, joint venture, consortium, government or governmental entity.
- 2.15 **“Public Mobile Wireless Services”** means Public Telecommunications Services, as defined by the Telecommunications Law, that (i) permit two-way communications between users’ terminals (radio stations) and other similar radio stations, as well as with any apparatus, station or service connected to any of the Public Telecommunications Networks in Jordan, and (ii) are supplied by means of multiple cells of radio communication transceivers, configured so as to permit full mobility of customer radio stations, with hand-off between adjacent cells.
- 2.16 **“Regulations”** means any instructions and regulatory decisions issued by the TRC in accordance with the Telecommunications Law.
- 2.17 **“Scarce Resources”** include radio frequencies and/or public rights of way and/or numbering that have not been exempted from an Individual License requirement by the TRC and as defined in the Regulations.
- 2.18 **“Telecommunications Law”** means the Telecommunications Law (Law No. 13 of 1995) of Jordan, and its amendments.
- 2.19 **“TRC”** means the Telecommunications Regulatory Commission of Jordan.
- 2.20 **“Telecommunications System”** means any transmission or switching device or other device or instrument used to convey, receive or transmit telecommunications signals for the purpose of providing public telecommunications services.

3 Provisioning of MVNO Services in Jordan

3.1 Types and Characteristics of MVNO

- 3.1.1 The MVNO Services as defined in Article 2.12 above could have, but are not limited to, the following characteristics:
 - 3.1.1.1 Full responsibility of the MVNO for the relationship with its subscribers in accordance with terms and conditions of its License Agreement and any related Regulations.
 - 3.1.1.2 Differentiated tariff schemes and business strategies of MVNO from those of its host MNO.
- 3.1.2 MNOs and MVNOs shall be free to negotiate the model that best fulfils their interests and business strategies. Consequently, more than one type of MVNO can be implemented in Jordan depending on how far an MVNO wishes to rely on the facilities of the host MNO, the adopted segmentation of the market, and the proposed product sets.

3.2 Licensing

- 3.2.1 The MVNO is a provider of Public Telecommunication Service (as defined within Article 2 of the Telecommunications Law). Thus, any Person intending to provide MVNO Services is required to acquire a License in accordance with the existing licensing and regulatory regime.
- 3.2.2 The type of License required for the provision of MVNO Services shall be an Individual License. This is due to the use of Scarce Resources (numbers) as detailed in Article (3.5) hereunder.

3.3 Interconnection

- 3.3.1 MVNOs shall be eligible to interconnect and negotiate their interconnection arrangements with other Licensees in accordance with their License Agreements and any related Regulations.
- 3.3.2 If the operational arrangements between the host MNO and the MVNO implies wholly or in part using one or more of the identified Interconnection Services, then the host MNO and the MVNO are free to use such Interconnection Services within such arrangements provided that such services are implemented in accordance with their License Agreement and Interconnection Instructions.

3.4 Access to the MNO Facilities

- 3.4.1 Individual Licensees intending to provide MVNO Services shall be eligible to negotiate their operational arrangements with the intended host MNO fairly and without unfair discrimination or preferences in order to obtain access to

the MNO's underlying network infrastructure and Telecommunications System for the purpose of conveying the traffic originated by and/or destined to the MVNO subscribers.

- 3.4.2 Traffic generated by the subscribers of the MVNO on the host MNO network is not considered within the scope of the Traffic Origination Services as defined within the current Interconnection Instructions¹. Therefore, the provision of any service by the MNO to the MVNO that is not identified within the current Interconnection Instructions, such as access to MNO's underlying network infrastructure and Telecommunications System necessary for MVNO operation, shall be subject to commercial negotiations between the MNO and the MVNO.

3.5 Numbering and Network Code Requirements

- 3.5.1 The TRC shall allocate MVNOs with unique blocks of 100,000 numbers from number capacity designated for cellular mobile radio telephone services in accordance with the National Numbering Plan (NNP)² and the Regulations for Allocation and Reservation of Number Capacity³. Sub-allocation from number ranges of the host MNO shall not be allowed.
- 3.5.2 When required by the MVNO, the TRC shall allocate Mobile Network Codes (MNCs) to MVNOs in accordance with the National Numbering Plan (NNP) provided that the MVNO has the capacity to authenticate a roamed subscriber. That is to say in order to be eligible for an MNC allocation, the MVNO must have a Home Location Register (HLR), switching capacity and an authentication centre as stated in the NNP.

3.6 Quality of Service Obligations

- 3.6.1 The MVNO shall be subject to the Quality of Service (QoS) obligations for Public Mobile Services where applicable. To ensure that the Quality of Service (QoS) obligations for Public Mobile Services are fully met the MVNO and the host MNO shall sign a Service Level Agreement (SLA).

3.7 General Provisions

- 3.7.1 Win-back campaigns by the host MNO shall be prohibited in relation to any Customer for a period of Six (6) months starting from the day the MVNO starts providing MVNO Services to that Customer.
- 3.7.2 There will be no undue restriction upon the number of Individual Licensees to provide MVNOs Services.
- 3.7.3 Revenue share obligations that are imposed on the MNOs shall also be applicable to the MVNOs. Therefore, the MVNO shall pay to the TRC

¹ TRC Board Decision No. (2-1/2005) Date (5/1/2005)

²² TRC Board Decision No.(1-14/2003) Date (18/3/2003)

³ TRC Board Decision No.(1-29/2004) Date (22/6/2004)

annually in arrears on each anniversary of the Effective Date 10% of its operating revenues from its MVNO Services net of service tax, calculated in accordance with the following formula as amended modified or replaced by TRC:

Operating Revenue from MVNO Services = A' + (B - C), where:

- A': Total annual sales of the licensed MVNO Services to its Customers net of service tax.
- B: The annual aggregate receivables from interconnected licensees and international carriers for the interconnection capacity or traffic originating from their customers and destined to customers on the MVNO's network.
- C; The annual aggregate payables by the MVNO to interconnected licensees and international carriers for interconnection capacity, traffic originated form MVNO's network or its customers' traffic originating using the host MNO's network.

- 3.7.4 Providing MVNO Services by an MNO shall be subject to TRC pre-assessment, evaluation and determination on a case-by-case basis so as to ensure that this shall not give rise to any anti-competitive practice or market distortion.
- 3.7.5 Mobile Number Portability (MNP) regulations shall be applied to the MVNO as soon as they are implemented.
- 3.7.6 Any agreement between the MVNO and the host MNO shall be filed with the TRC and shall contain provisions that govern disputes between the two parties. Such provisions shall ensure that the provision of MVNO Services to the Customers may not be withheld as a consequence of disputes between the two parties, except in accordance with the Telecommunications Law and the procedures outlined in such agreement(s).
- 3.7.7 Any dispute or difference arising between the host MNO and the MVNO relating to or arising out of any agreement(s) that govern the MVNO operation shall be resolved in accordance with the dispute resolution mechanisms stated within such agreement(s).
- 3.7.8 Without prejudice to Article (3.7.7) above, if both parties fail to resolve such dispute, it shall be resolved in accordance with the Dispute Resolution Instructions⁴ issued by the TRC.
- 3.7.9 TRC shall continually review this Regulatory Decision to ensure that MVNO Services adequately meet Customer needs.

-- End of Decision --

⁴ TRC Board Decision No.(13-3/2007) Date(15/2/2007)