

## **Feedback on the Public Consultation Document: Update to the Competition Safeguard**

Central Ecommerce Co Ltd (JorMall) extend our gratitude to the Telecommunications Regulatory Commission (TRC) for the opportunity to provide feedback on the Public Consultation Document regarding the Update to the Competition Safeguard Instructions in the Telecommunications Sector.

The SMS market is constantly growing, with an estimated annual volume of **2.5 billion SMS**. The TRC plays an important role in regulating this market, ensuring proper oversight by **requiring SMS vendors to obtain licensing** before offering services. This regulation is critical to maintaining the integrity and fairness of the SMS market in Jordan.

As a vendor in the bulk SMS services industry, we have thoroughly reviewed the draft instructions and appreciate the efforts made by the TRC to align regulations with international best practices and address anti-competitive behavior in Jordan's telecommunications sector. However, we would like to draw your attention to several critical issues that affect SMS vendors and seem to have been overlooked in the updated instructions: **Anti-competitive practices within the SMS business**.

As SMS vendors who purchase bulk SMS from local mobile operators, we face several market challenges that create an unfair competitive environment between SMS vendors and mobile operators. These issues include:

1. **Payment for submitted messages rather than successfully delivered messages:** SMS vendors are required to pay operators based on the number of submitted messages, regardless of whether those messages are successfully delivered. This practice leads to unfair costs for vendors, as we are billed for messages that do not reach the intended recipients, placing an undue financial burden on us.
2. **Lack of a standard pricing plan for SMS:** Mobile operators do not provide a transparent or standardized pricing plan for bulk SMS services. This lack of consistency creates pricing uncertainty and makes it difficult for SMS vendors to operate on equal terms. Standardizing pricing structures would ensure fairness and eliminate arbitrary pricing that can disadvantage smaller vendors.
3. **Direct competition between operators and SMS vendors in the retail market:** Mobile operators themselves are active participants in the retail SMS market, directly competing with SMS vendors who are also their customers. This creates a conflict of interest, as operators can leverage their dominant position to offer more favorable terms to themselves than to independent SMS vendors, distorting competition.
4. **Free SMS packages linked to other services:** Mobile operators offer free SMS packages to clients who purchase other services, such as mobile subscriptions or data plans. These bundles effectively crowd out independent SMS vendors from the market, as we cannot compete with the operators' ability to provide "free" SMS as part of a larger service offering.
5. **Aggressive pricing by mobile operators:** Mobile operators often offer aggressive pricing schemes that independent SMS vendors cannot match due to the operators' larger market share and resources. This practice further tilts the playing field in favor of mobile operators and makes it difficult for independent vendors to compete in a fair manner.

6. **Operators' behavior when receiving SMS messages from other operators:** Some mobile operators delay or block the delivery of SMS messages received from other operators, negatively impacting both the sending operators and the SMS vendors that rely on their services. This behavior not only causes delays in message delivery but also creates an unfair competitive environment, favoring the operator that controls the flow of SMS traffic.
7. **Operators falsely reporting blocked messages as successfully delivered:** a Some mobile operators report advertising messages as successfully delivered, even when they have been blocked. This practice is highly misleading, as it charges SMS vendors for services that were not fully executed, creating further financial burdens for vendors while distorting the actual performance and reliability of the SMS services.
8. **Operators charging termination fees on submitted, but not successfully delivered messages:** Another unfair practice is that operators charge termination fees on submitted SMS messages, regardless of whether those messages are successfully delivered. This practice results in SMS vendors incurring costs for messages that never reach their destination, leading to unjustified financial penalties and further misbalancing the market.
9. **Operators depriving local SMS vendors from selling international messages terminated to Jordan mobile numbers:** Local SMS vendors are being restricted from offering international SMS services that terminate on Jordanian mobile numbers. This deprives local vendors of a significant business opportunity and allows mobile operators to monopolize this market segment, further limiting competition and creating barriers for local vendors.

In addition to the unfair practices between mobile operators and SMS vendors, there are also **unfair competitive practices among SMS vendors** themselves that undermine the integrity of the SMS market:

1. **Selling SMS below cost:** Some SMS vendors sell SMS services at prices below their actual costs, which creates an unsustainable pricing environment and distorts competition. This practice forces other vendors to either follow suit and operate at a loss or be driven out of the market entirely.
2. **Failure to deliver the full ordered quantity of SMS messages:** Certain SMS vendors do not deliver the full quantity of SMS messages ordered by clients. This dishonest practice not only harms the reputation of the SMS industry but also undermines trust between vendors and clients. This practice contradicts with the TRC objective of protecting consumers.
3. **SMS vendors selling services without TRC approval:** Some SMS vendors are operating and selling SMS services in the market without obtaining the necessary approvals from the TRC. This practice undermines the regulatory framework established by the TRC, allowing these vendors to bypass important safeguards and gain an unfair advantage over compliant vendors.

While the updated Competition Safeguard Instructions address general anti-competitive practices such as abuse of dominance, predatory pricing, and collusion, they do not specifically address these pressing issues in the SMS market. We believe that these **unfair competition practices**, both between operators and SMS vendors, and among SMS vendors themselves, need to be explicitly addressed within the framework.

We respectfully request that the TRC consider expanding the scope of the Competition Safeguard Instructions to:

1. Provide **clearer guidelines** specific to the bulk SMS market, ensuring that pricing, billing practices, and competition between operators and vendors are regulated in a fair manner.
2. Require mobile operators to **charge only for successfully delivered SMS messages**, rather than submitted messages, to ensure fairness in billing.
3. Mandate **transparent and standardized pricing plans** for SMS services to eliminate arbitrary or discriminatory pricing practices.
4. Regulate the **retail activities of mobile operators** to ensure they do not exploit their dominant market positions to compete unfairly with independent SMS vendors.
5. Restrict mobile operators from offering **bundled free SMS packages** that distort competition and harm the independent SMS vendor market.
6. Address the **aggressive pricing strategies** employed by mobile operators to prevent them from unfairly driving SMS vendors out of the market.
7. Prevent the practice of **falsely reporting blocked messages as successfully delivered**, which misleads SMS vendors and results in unfair charges for services that were not fully provided.
8. Stop the practice of **charging termination fees on submitted SMS, but not successfully delivered messages**, which unfairly penalizes vendors and results in unjustified costs.
9. Prevent operators from **depriving local SMS vendors of the opportunity to sell international messages** that terminate on Jordanian mobile numbers, allowing for fair competition in this market.
10. Implement regulations that prevent SMS vendors from **selling below cost**, which leads to unfair competition and market distortion.
11. Enforce standards to ensure SMS vendors **deliver the full ordered quantity** of SMS messages to protect consumers and maintain trust in the market.
12. Ensure that all SMS vendors **obtain proper TRC approval** before offering services in the market, creating a level playing field for compliant vendors.

Addressing these concerns will help foster a more competitive, balanced, and transparent market for SMS services, ensuring a level playing field for all participants.