

Telecom Regulatory Board (TRB)
Public Consultation
On Telecom Market Development Issues

TRB-P-2004-12-10-1

Purpose

The TRB herewith solicits comments, factual contributions and advice from all interested parties¹ on a variety of inter-related obligations stemming from the Ministry of Communications *Telecommunications and Internet Policy* (3 July 2004)². Additional policy guidance may also be found in the MoC *Ten-Year Plan for the Telecommunications Sector* (February 2004)³. This Consultation shall focus on the following:

- 1) Local Fixed Service Provider Licenses (LFSP);
- 2) Telecommunications Development Fund (TDF);
- 3) Third GSM Services License;
- 4) Unified Services License Regime;
- 5) International Gateway Services.

Procedure

Interested parties may submit written responses not later than Thursday 20 January 2005 at 16:00 Kabul time to the TRB, MoC Tower, 10th floor. Requests for clarification and electronic submittals may be sent prior to this date to the TRB at consultation@moc.gov.af. All correspondence shall reference the above-captioned TRB Proceeding number.

Comments may pertain to one or all of the enumerated topics. Interested parties are strongly encouraged to provide evidence of successful international best practices and personal experience. TRB staff will summarize all contributions, which will be issued to all parties by mid-February. The TRB Board is expected to consider these matters by the end of February 2005.

In order to obtain structured inputs and advance this dialogue, the TRB staff has developed the brief summary statements of the proposed initiatives below.

Local Fixed Service Provider Licenses (LFSP)

The *Policy* anticipated the issuance of an international competitive tender for at least two national licenses by December 2003 (9.3.1). To a large extent, this prescribed initiative was delayed pending the promulgation of the draft Telecom Law (dTL) as well as the lack of institutional capacity within the newly formed TRB. Recognizing these realities,

¹ This notice shall be sent to all existing licensees, all embassies in Kabul and potential investors.

² See MoC official website at <http://www.moc.gov.af>.

³ See MoC official website at <http://www.moc.gov.af>.

the MoC explored a build-operate-transfer (BOT) approach in which private investors would form joint ventures with Afghan Telecom (AT) to rapidly attract foreign direct investment (FDI) and modern know-how. Among the motivations behind this consideration was that BOT was seen as way to attract strategic investors who may eventually become majority owners of AT after its corporatization – in effect, a phased performance-based beauty contest. Ultimately, however, BOT arrangements for telecom infrastructure have a poor track record, require a more robust legal-regulatory framework than presently available in Afghanistan and send the wrong signal to private investors with respect to the government’s commitment to an open, competitive market.

One aspect of the LFSP license policy has already been the subject of public consultation. Limited Mobility has been defined by the TRB as:

“Limited Mobility” means wireless access within a single cell, not to exceed five (5) kilometers radius. Use shall be restricted to the “home” cell in which the end user has been registered; there shall be no “roaming” or hand-over between cells.

Consequently, the TRB welcomes public comments on the following:

- Is there any reason to limit the number of LFSP licenses?
- Is there any reason for the TRB to distinguish between national, regional or local licenses?
- Aside from tariff structure, is there any reason for the TRB to pre-set service boundaries?
- What should be the criteria for the selection of LFSP licensees (track record, number of subscribers served, gross revenues, regional presence)?

Telecommunications Development Fund (TDF)

At present, the two GSM Services licensees contribute 2.5% of their annual net revenues⁴ to a specially created fund (TDF) designed to foster the deployment of infrastructure of strategic importance, including for public safety and to reach low-density and un-served areas (9.17.2)⁵.

One of the only advantages Afghanistan’s extremely low telecom services penetration⁶ is that it provides a *tabla rasa* for the adoption of the latest technologies and techniques.

The *Policy* envisions that the funds are to be made available to any licensed service provider for specific infrastructure projects, with the implication that funding would be limited to extensions of those service provider networks. However, the TRB staff believes that there are several government infrastructure projects that may be leveraged to achieve rapid community access to telecom services. For example, USAID is providing

⁴ Note that the *Policy* states “gross revenues” but the GSM Services licenses state “net revenues.”

⁵ In the near future, AT will also be required to contribute – the government’s fiscal procedures are being researched.

⁶ Telephone penetration is presently less than 0.2% for traditional fixed and less than 2% for mobile.

funding for the construction of 1000 schools nationwide – perhaps some portion of the TDF should be used to provide internet connectivity, training and curricula support at these schools? The MoC has also received donor support for the deployment of a Government Communications Network (GCN)⁷ and District Communications Network (DCN)⁸. While the chief application of this infrastructure will be for government exclusive-use administrative communications, perhaps some portion of the TDF should be used to provide community access to telecom services either within these government facilities (public telecenters, WiFi hotspots) or to subsidize extensions from these facilities to homes and businesses in the surrounding area. Finally, the MoC is evaluating a feasibility study for a fiberoptic backbone ring⁹ to connect the major urban centers – perhaps a portion of the TDF should be used to subsidize spurs to reach low-density or un-served communities?

If the focus remains on increasing the number and reach of service providers, and maximizing the leverage of the TDF, the most successful methodology is the “reverse subsidy” approach¹⁰. If this were applied in Afghanistan, the process might proceed as follows:

- 1) The monies in the TDF may be supplemented by donor contributions, including the multilateral development banks and USAID (for example, the total pool may consist of 35% derived from the local TDF contributions, 35% provided by the multilateral banks and the remaining 30% from bilateral donors).
- 2) The territory of Afghanistan is segmented into parcels for bidding¹¹. This could simply be each of the 34 provinces, or larger groupings (regions) that balance high-density urban population centers with low-density rural and mountain areas.
- 3) The TDF Administrator sets the target teledensity to be reached within a specific timetable for each parcel. For example, villages under 200 population may only require a public coinbox installation, while all villages over 1000 population may be required to have 5% teledensity – or an average teledensity target could be established for the entire parcel.
- 4) An international competitive tender is conducted. For each parcel, the bidder requiring the lowest amount of subsidy from the TDF pool for the greatest number of new subscribers is the winner¹². In those cases where bidders require no subsidy, multiple licenses may be issued immediately for those parcels.
- 5) All licensees shall have the identical terms and conditions, with respect to network build-out timetable, Quality of Service (QoS) and all licensees have the identical legal-regulatory treatment under the TRB (for example, mandatory network interconnection, regulatory fees, penalties and fines).
- 6) To the extent that the *Policy* encourages the deployment of wireless local loop (WLL) technology, the TRB may also consider a moratorium on frequency

⁷ It would be useful for MoC to publish a summary document explaining the GCN on its website.

⁸ It would be useful for MoC to publish a summary document explaining the DCN on its website.

⁹ It would be useful for MoC to publish this feasibility study on its website.

¹⁰ Supported by the World Bank in Chile, Peru, Nepal and elsewhere. Provide best reference URL.

¹¹ The TDF Administrator will conduct a further Request for Information (RFI) to shape the exact terms.

¹² Licenses are non-exclusive – the competition only pertains to obtaining TDF subsidies.

assignment and spectrum use fees for the period of the TDF subsidy (typically 3-5 years).

Obviously, there is interplay between the international competitive tender for national LFSP licenses and the sub-national licenses envisioned in the TDF context. Should the TDF competition also include a national license – and if so, should sub-national licenses also be awarded? Can the TDF be sufficiently large to embrace a nationwide scope, and what are the risk implications of devoting a substantial subsidy to a single service provider? Further, considering that the LFSP tender could be launched immediately while the TDF regime will take a minimum of 4-6 months to properly establish, perhaps the more prudent approach is to await the results of the LFSP tender, but allow those licensees to also compete for the TDF parcels at a later date.

Some other pertinent questions are:

- Who should contribute?
- Who should be qualified to obtain funding support?
- What kinds of services or projects should be supported?
- Who should manage the TDF – MoC, TRB or an independent body?

Third GSM Services License

The *Policy* explicitly preserves a duopoly for GSM services until 10 January 2006 (9.2.1). The Minister has subsequently issued a written guarantee of this commitment to further protect these investors.

While there has been remarkable uptake of GSM services (growing from roughly 10,000 subscribers in 2002 to over 500,000 subscribers today), this still represents a teledensity of under 2% nationwide¹³.

The *Policy* also envisions allowing the GSM services licensee to provide any network services after 10 January 2006, and Fixed Services Providers will likewise be allowed to provide mobile services.

In this context, the major questions are:

- Should a third GSM services license be awarded with effect after 10 January 2006?
- Should the technology platform be specified (GSM, CDMA)?
- Is there any point in distinguishing between full and limited mobility when all service providers are allowed to offer all services after 10 January 2006 (see Unified License regime below)?

¹³ At present, only the eight major urban populations have permanent mobile coverage, and even that is highly congested and therefore spotty service.

- Should the *Policy* be revised to eliminate the mutual exclusions with immediate effect (allowing the GSM licensees to provide fixed services and *vice versa*)?
- What are the implications on frequency management?

Unified Services License Regime

The *Policy* explicitly envisions that all licensed service providers will be allowed to provide all telecom services after 10 January 2006 – which implies a Unified Services license regime. In addition, the *Ten-Year Plan* explicitly recommends the migration to a Unified Services regime by 2006 and envisions the abandonment of licensing in favor of authorizations (meaning the elimination of individualized criteria for services and service providers in favor of generalized terms and conditions equally applicable to all).

It seems obvious that the ability to provide the full range of telecom services – on the technology platform of choice – will be an attractive incentive to any serious investor. Further, full knowledge of this future state will allow existing service providers to plan and configure their networks to optimize their incumbent position and better prepare for future competition on a variety of fronts.

Once again, the central issue becomes one of timing. Should the LFSP licenses, which could be tendered immediately, be “future proofed” to allow automatic conversion to Unified Services commencing January 2006? Similarly, if the bidders for the TDF parcels know that their licenses will automatically convert to Universal Services, the potential requirement for subsidies may diminish. And finally, why issue a restrictive third GSM services license when Universal Services may be offered?

Additional questions arise:

- Is there any reason to enumerate existing technology categories if all services may be provided (for example, voice, data and video are simply applications once digitized)?
- Is there any purpose in restricting VoIP services in a Unified Services regime?
- What are the implications on frequency management?

International Gateway Services (IGS)

The *Policy* entertains the possibility of opening the IGS market to competition in 2006¹⁴ pending an internal government review of this policy (9.5.1), which is currently in place to preserve a Taliban-era contract.

- Do consumers benefit from the IGS monopoly?
- Are international services (connectivity) logically included as Unified Services?
- Is it necessary for MoC to coordinate the interconnection with foreign parties?

¹⁴ It is not at all clear that international services is a distinct market segment, except to allow those licensed to reap the benefits of monopoly profits.