

Kingdom of Saudi Arabia

**A Public Consultation Document
On
Carrier Service Provider**

Issued by the CITC in Riyadh, 28 /5/ 1427H - 24/6/2006

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1. Background

The Communications and Information Technology Commission ("the **CITC**") is the entity authorized to regulate the telecommunications and IT sector in the Kingdom of Saudi Arabia ("the **Kingdom**"). The Telecommunications Act ("the **Act**"), which came into force in June 2001, provides the legal foundation for developing the telecommunications and IT sector. The Act mandates a number of objectives, which include, among others, to encourage the development of advanced telecommunications services at affordable prices; to nurture fair competition in telecommunications and IT markets; to ensure the efficient and effective use of telecommunications scarce resources; to promote the transfer and migration of telecommunications technology in order to keep pace with its advancement; to ensure transparency and fairness in proceedings; and to protect the interest of telecommunications users.

The CITC Ordinance ("the **Ordinance**"), which came into force in June 2001, was the instrument by which the CITC was established. The functions, governance, and finance of the CITC are also defined in the Ordinance.

The Telecommunications Bylaw ("the **Bylaw**"), which came into force in July 2002, stipulates the provisions by which the telecommunications sector is to be regulated as well as elaborating the Act.

To exercise its licensing function under Article Three of the Ordinance, the CITC intends to license Carrier Service Providers, and hereby request the public to provide views and comments in this regard.

2. Forms of Response and Procedures

The CITC welcomes comments on all issues related to licensing Carrier Service Providers. Specifically, the CITC encourages interested parties and telecommunications stakeholders to provide detailed answers to all questions raised in this Public Consultation Document ("this **Document**") and, as far as possible, provide relevant data, statistics, benchmarks, analysis to support their comments. These answers will be taken into consideration for developing the Licenses.

Views, comments, information provided in and in response to this Document will not bind the CITC. All responses will be regarded as properties of the CITC. When providing the comments, please indicate the question numbers to which their comments relate. Please provide contact details including the name of the respondent (and all related parties if the respondent is a member of a consortium), address and phone numbers.

The CITC may consider publishing all or parts of the information provided pursuant to this Public Consultation unless the respondent requests that it be kept confidential. Please indicate in your response if you wish to keep your identity or any part of your response confidential.

Responses, preferably in electronic form in MS Word format in addition to one hardcopy, must be submitted to the CITC on or before **3:00pm** local time **2/8/1427H (26/8/2006G)** to either one of the following addresses:

1. E-mail to: **csp_pc @citc.gov.sa**
2. Delivery by hand or by courier to:

The Office of the Governor
Communications and Information Technology Commission
King Fahad Road
P.O. Box 75606
Riyadh 11588, Saudi Arabia.

3. Definitions

For clarification purpose and to avoid misunderstanding of this document, the following terms are defined:

Private Network	A private network is one owned by a company, such as a public utility, not for the purpose of providing telecommunication services.
Carrier Service	A telecommunications service to provide backhauling networking services by private network facilities to telecommunications Service Providers.
Carrier Service Provider	A person licensed by the CITC to provide Carrier Services.
Consumer	A telecommunications end user.
Service Provider	Any person licensed by the Commission that provides a telecommunications service to the public. ¹

¹ See 1.46 Article 1 Bylaw, for the legal meaning of "Service Provider".

4. Introduction

The CITC has issued a number of telecommunications licenses since its establishment in June 2001. These include Mobile Telecommunications Licenses, Data Service Provider Licenses, Global Mobile Personal Communications by Satellite (GMPCS) Licenses, Very Small Aperture Terminal (VSAT) Licenses, and Internet Service Provider (ISP) Licenses.² Given the objectives mandated by the Act and the continuous growth in market demand for telecommunications services, the CITC is currently preparing to issue further fixed services, data services and mobile services licenses.³

The target business of Service Providers is mainly in the consumers market, rather than in the wholesale network facilities market. As such, under the current competition model the supply of wholesale network facilities is limited. Nevertheless, if a Service Provider is not able to build its own facilities due to certain constraints, the only alternative is to lease them from its competitors.

While leasing by entering into a commercial agreement, is theoretically available to all Service Providers, limited source of supply and imbalance in negotiating power render it a less than effective way of acquiring telecommunications facilities.

In light of increasing competition in the telecommunications consumers market, the CITC is of the view that it is appropriate to introduce a certain degree of wholesale facilities (private networks facilities) competition into the telecommunications sector at this stage, in order to assist entrants to rollout their services. The purpose of publishing this document is to facilitate the introduction of such form of competition.

5. A Gradual Liberalization of the Private Network Wholesale Market

The Carrier Service Provider License would initially be limited only to applicants who have surplus installed capacities of its private telecommunications networks at the time of applying for the License. In other words, a License would not be granted to an applicant who does not have existing telecommunications networks, unless the applicant has a very strong reason satisfying the CITC that, in spite of that, a License should be granted.

Q1. Given the current situation in the telecommunications sector and the upcoming licensing of new service providers, please provide your view as to whether there is a need, at this stage, to introduce a certain degree of wholesale facilities competition? Please provide sufficient information, for example, international experience, economic theories etc., to support your view.

² For details about the types of licenses issued by the CITC, the nature of and the procedure for applying these licenses, please consult the CITC website at www.citc.gov.sa.

³ For details please refer to "Launch of New Licensing for Fixed and Mobile Services (Presentations)" published on the CITC website on 13 March, 2006.

Q2. Service providers are welcome to provide the CITC with their experience in acquiring telecommunications facilities in the Kingdom.

6. Scope of Competition

6.1 Type of Networks

Given the geography of the Kingdom, long distance and local loop facilities are among the most required elements for a Service Provider to rollout its network. Considering that, the type of facilities that are allowed to be provided under the License would initially be limited to long distance and local loop facilities. Long distance and local loop facilities include copper cables, optical fiber cables, and other cables that can be utilized for transmitting telecommunications signals. Should future market demands require the licensing of other facilities, the CITC would react accordingly.

6.2 Scale of Networks

As discussed in the Introduction section above, the purpose of introducing the Carrier Service Provider License is to facilitate the rollout telecommunications services, the CITC would therefore preclude the possibility of licensing small scale facilities. It is only if the surplus installed facilities are of a significant scale of deployment (e.g. kingdom wide or regional coverage) that the CITC would consider the issuing of a License

Q3. Please provide your view on the initial scope of networks to be allowed under the Carrier Service Provider License. In your opinion, are there any other facilities that should be included at this stage?

Q4. Please provide your view on the scale of network deployment that warrants a License.

7. The Carrier Service Provider License

7.1 Class License

A Carrier Service Provider License would authorize the licensee to provide telecommunications services using its private networks only to Service Providers. The Carrier Service Provider License would be issued in the form of a Class License⁴ with special licensing conditions. License fees and license duration would conform to the regulations of Class License.

⁴ Refer to Article 11, Bylaw and consult the CITC website for details of Class License.

7.2 Licensing Conditions

As the CITC favors a gradual liberalization of the wholesale facilities market, special licensing conditions would be stipulated to limit the type of facilities, the geographic areas of operation, and other aspects of the Carrier Services of a particular licensee.

Q5. Please provide your opinion regarding what licensing conditions should be included in the License.

8. Relationship among Carrier Service Providers, Service Providers and Consumers

8.1 Relationship between Carrier Service Providers and Consumers

As elaborated in the previous section, a Carrier Service Provider would be licensed only to provide service to Service Providers; in other words, would be prohibited from providing telecommunications services directly to consumers, ie, entering into a contractual relationship with consumers.

Regardless of the network reach of a Carrier Service Provider, even if its network terminates on consumer premises, direct contractual relationship between a Carrier Service Provider and a consumer for the supply of telecommunications or related services would be prohibited by provisions of the License. However, it does not prohibit any contractual relationship, in respect of the same facilities, between a Service Provider and the consumer. In another word, a Service Provider is not prohibited from utilizing facilities of a Carrier Service Provider to supply telecommunications services to consumers. (The prohibition stipulated in the License would remain in force, unless the CITC subsequently approves that the Carrier Service Provider can obtain another type of license allowing him to provide consumer services).

8.2 Relationship between Carrier Service Providers and Service Providers

The contractual relationship between a Carrier Service Provider and a Service Provider would be one for the transfer of certain rights in telecom facilities from a Carrier Service Provider to a Service Provider. Network operation and maintenance services provided by the Carrier Service Provider or by the Service Provider can be specified under the terms and conditions of a commercial agreement between them.

8.3 Network Rollout Obligations of Service Providers

The purpose of introducing Carrier Service Provider License, as discussed, is to assist the entrants to rollout their services only. It follows that any network rollout obligations stipulated in Service Provider licenses would not be exempted by the leasing of facilities or network services from a Carrier Service Provider.

Q6. Please provide your comments on the contractual relationships among Carrier Service Providers, Service Providers and consumers.

Q7. Please provide your comments on the licensable activities within the scope of Carrier Service Provider License including operations and maintenance issues.

9. Applicants of Carrier Service Provider License

While the CITC does not prefer to limit the applicants of Carrier Service Provider License to a certain sector of the economy or a group of companies, the CITC requires the following criteria to be satisfied before the granting of a Carrier Service Provider License would be considered:

- (a) The applicant is not holding a valid license which authorizes the licensee to rollout telecommunications network for providing telecommunications services.
- (b) The applicant has surplus installed telecommunications facilities of at least a significant scale, which can be made available for use by Service Providers.
- (c) The network deployment scale of these surplus installed telecommunications facilities would assist a Service Provider to rollout its telecommunications services.

Q8. Please provide your comments on these criteria, and whether these criteria are enough given the gradual liberalization policy discussed above.

10. Rights and Obligations under the Telecommunications Act and Bylaw

A Carrier Service Provider is required to observe the Telecommunications Act and Bylaw. In particular, the following areas would be of specific concern to the CITC.

10.1 Designation of Dominant Service Providers

A Carrier Service Provider may be designated as a dominant service provider by the CITC according to Article 30 of the Bylaw.

Q9. *Should all Carrier Services be grouped into one relevant market? If not, what are the relevant market categories?*

10.2 Tariff Filing and Approval

A Carrier Service Provider may be required to file its tariffs with and obtain the tariff approval of the CITC according to Article 47 of the Bylaw.

Q10. *Please give your view regarding the extent to which the CITC control the tariffs.*

10.3 Accounting Separation

If an applicant of a Carrier Service Provider License is also a service provider of a non-telecommunications public service, and the applicant uses infrastructure of the public service to provide a Carrier Service, the CITC may require the Carrier Service Provider to submit an audited, segmented financial statement to the CITC. The CITC may also ask the applicant to suggest a means to ensure that no cross-subsidization between the public service and the Carrier Service would occur. Two scenarios are envisaged for the purpose of illustration:

- (a) An applicant applies to the CITC for using auxiliary telecommunication networks of its public service to provide a Carrier Service. For example, a non-telecommunications public utility wants to provide a Carrier Service using its optical fiber cables originally installed for internal communications.

In this scenario, cross-subsidization between the public service and the Carrier Service can be prevented because the telecommunication networks are separated physically (networks for telecommunications only) from the infrastructure and therefore separation of accounts is easier. And the applicant can easily satisfy the CITC that cross-subsidization would unlikely to occur.

- (b) An applicant applies to the CITC for using facilities of its public service to provide a Carrier Service, for example, providing a Carrier Service using a copper cable network currently being used for providing a non-telecommunications public service.

In this scenario, inter-sector cross-subsidization between the public service and the Carrier Service would likely occur if proper measures are not introduced, and it follows that the applicant has a heavier burden to satisfy the CITC that cross-subsidization can be prevented.

- Q11.** *Regarding scenario (a) and (b), please provide your views as to what measures are appropriate to prevent cross-subsidization.*
- Q12.** *Regarding scenario (b), please provide your views as to what costing methodologies should apply.*
- Q13.** *Please comment, in the case of Carrier Service Provider License, whether accounting separation is an adequate and sufficient measure to prevent and detect cross-subsidization activities.*

11. Information Required for Application

Depending on the outcome of this public consultation proceeding, when CITC starts to accept Carrier Service Provider License applications, the following list of minimum information will be required from an applicant:

- (1) A document stating whether the applicant or any of its affiliated companies is currently a holder a valid Telecommunications License, or any license for providing a public service, and the details of these licenses.
- (2) A document describing the nature of the applicant's business in the Kingdom.
- (3) Documents listing the type and quantity of telecommunications facilities that can be utilized for Carrier Services. Specifically, the applicant should provide sufficient information to satisfy the CITC that the surplus capacities are of significant scale of deployment that warrant the issuing of a Carrier Service Provider License.
- (4) Network schematic diagrams, showing the types and quantities of facilities, network coverage maps with geographic location names where the telecommunications networks are installed, and equipment lists.
- (5) Measures to be employed by the applicant for the prevention of cross-subsidization.
- (6) In an exceptional case where the applicant does not have surplus capacities to offer, supporting documents providing the reason why the CITC should grant a License.

- Q14.** *Please comment on whether the above information is adequate given the Carrier Service Provider licensing policy that would be carried out by the CITC.*

12. Other Related Issues

In order to give the public a wider scope to contribute and provide their comments regarding the Carrier Service Provider License, the CITC invites the public to express their views regarding any other related issues, including the effect Carrier Service Provider Licensing would have on existing telecommunications and IT landscape, the benefit to telecom stakeholders, and the benefit to the public.

Q15. Interested parties are welcome to express their views and opinions regarding other related issues.