

HASHEMITE KINGDOM OF JORDAN
TELECOMMUNICATIONS REGULATORY COMMISSION

NOTICE REQUESTING PUBLIC COMMENT
ON THE LICENSING OF A NEW MOBILE OPERATOR IN JORDAN



Telecommunications Regulatory Commission

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1. Introduction

Pursuant to the Government's Policy Statement on the Information and Communications Technology Sector and Postal Sector (Policy Statement), the Telecommunications Regulatory Commission of Jordan (TRC) plans to issue an additional license for mobile service. According to the Policy Statement, the government's goals in the subsector include enhancing competition, deployment of advanced technologies, lowering of costs to users and stimulating economic development in Jordan. The TRC also takes this action pursuant to Jordan's commitment to the WTO to end the existing duopoly on mobile services by January 1, 2004.

The Telecommunications Regulatory Commission hereby seeks input from interested parties on the procedures and processes it will use to award an additional license for mobile wireless service. Interested parties are encouraged to submit comments regarding the issues outlined in this Public Notice to the TRC on or before 15:00 Amman time October 26th 2003. All comments of interested parties will be taken into account in the formulation of the final licensing guidelines. Pursuant to the Policy Statement, the TRC plans to issue such guidelines on or before October 31st, 2003.

2. Purpose of Notice

2.1 The Telecommunications Regulatory Commission of the Hashemite Kingdom of Jordan (TRC) hereby seeks public comment on the licensing of a new mobile operator in Jordan.

2.2 The purpose of this Notice is to invite interested parties to file with the TRC their comments on a number of issues related to the licensing of the new mobile operator in Jordan.

2.3 Parties filing comments or otherwise registering with the TRC with respect to this comment process will receive further correspondence related to the subject of this Notice.

2.4 The comments filed pursuant to this Notice will assist the TRC in determining a variety of issues relating to the structure of the mobile sector in Jordan and the issuance of a license for the operation of a new mobile network in the Kingdom.

3. Background

3.1 The TRC has embarked on a successful program for the liberalization of mobile telecommunications services in Jordan in accordance with policies established by the Government of Jordan. Over the last three years, the presence of a second

operator – MobileCom – has brought about some change in the market with more services and lower prices becoming available. The market, however, is not highly competitive and, as a result, Jordanian users of mobile service are not receiving the benefits of enhanced competition that are available to users in many other countries.

3.2 By way of background, Fastlink first entered into a License Agreement on October 30, 1994, and then the TRC and Fastlink signed a new License Agreement on December 21, 1999. The new public mobile telephone (cellular) license is effective for a period of 10 years, until November 1, 2009, and gives Fastlink exclusivity – along with MobileCom -- until January 1, 2004.

3.3 The second license for mobile services was granted to Jordan Telecom pursuant to the original License Agreement of May 6, 1999. The TRC and Jordan Telecom agreed to amend and restate the License Agreement effective January 23, 2000, for a period of 15 years until May 9, 2014. This license was subsequently transferred to its wholly-owned subsidiary, MobileCom. The new public mobile telephone (cellular) license gives MobileCom exclusivity – along with Fastlink – until January 1, 2004.

3.4 On April 6, 2003, the TRC issued a license to Jordan Radio Paging Co. Ltd (Mirsal) to provide Trunked Radio Dispatch Service. Mirsal has applied to transfer the license to New Generation Technology Co. Ltd. The transfer request is being processed by the TRC.

3.5 On September 4th, 2003, the Council of Ministers approved the Statement of Government Policy on the Information and Communications Technology Sectors and Postal Sector that was prepared by the Ministry of Information and Communications Technology. The Policy Statement requires that the present duopoly supply conditions in the mobile telecommunications sub-sector should cease and the sub-sector be opened to further competition in supply of services, on, or at the earliest opportunity following, 1 January 2004.

3.6 In accordance with its analysis, and the Government policy as articulated in the above mentioned Policy Statement, the TRC desires to license a new mobile operator in accordance with the *1995 Telecommunications Law, as amended*. The TRC therefore wishes to receive comments from interested parties regarding all issues relevant to the licensing and operation of a new mobile operator.

3.7 Currently, the two mobile licensees, Fastlink and MobileCom, are individually licensed to provide mobile services on GSM networks in the 900 MHz band. These networks are limited to services that can be provided on ETSI approved GSM 900 networks, cannot upgrade to newer technologies under their current licensing conditions. The Trunking Licensee is currently limited to providing Trunked Radio Dispatch Service, but may interconnect its network with the public telephone network at any time after December 31, 2003 and will be allowed to provide other value added services in conjunction with the Primary Dispatch Service only. The Trunking Licensee also has the exclusive right to use its particular deployed air interface technology for a head start period of two years from the deployment date or until such time as the number of the licensees users has reached 40,000 users, whichever is earlier.

4. Issues for Comment

4.1 The TRC invites interested parties to submit written comments on any issue that they deem relevant with respect to the mobile sub-sector in Jordan, and in particular, any issue that they deem relevant with respect to the licensing of the new mobile operator.

4.2 The TRC particularly encourages comments from interested parties with respect to the following specific issues:

4.3 *Number of licenses:* The TRC intends to select one additional national mobile operator by means of an open and transparent application process that will be initiated by a Call for Tenders.

4.4 *Technology Neutrality:* The TRC believes that the new licensee should have flexibility in the selection of the technology employed. Accordingly, no explicit standard (except as specified in paragraph 4.11 below) will be imposed as a license condition. To provide parity and give the incumbents the same flexibility, the TRC will remove the license conditions mentioned in paragraph 3.7 above that are imposed on the incumbent mobile telephony operators. The technology limitations included in the Trunking license will be removed pursuant to the terms and conditions contained therein.

4.5 *Spectrum allocation:* The TRC is making available for the new network operator 2 x 15 MHz in either the 1800 MHz or the 1900 MHz bands with the applicant making the choice of which spectrum band it prefers.

As these bands are currently occupied by the Jordanian military, they will be evacuated according to normal spectrum evacuation procedures. The required period of time for evacuation is at most 9 months after the payment of the cost of such evacuation.

The TRC also recognizes that the incumbent operators have an interest in acquiring additional spectrum. The TRC will also make spectrum available to existing operators in the 900 and 1800 MHz bands upon request and a showing of need. Fees for such additional spectrum will be determined based on the TRC's licensing fee schedule plus an additional fee based on an estimate of the value of such spectrum as determined based on internationally accepted valuation methods.

4.6 *Service Roll-out Requirement:* The new licensee will be subject to timing and coverage requirements for network deployment that are on par with those contained in the licenses of the incumbent operators. However, in the bid evaluation, extra points will be awarded for accelerated deployment.

4.7 *Interconnection:* The licensee will have the right to interconnect, without limitation, its public telecommunications network with other licensed public telecommunications networks in Jordan immediately upon beginning operations pursuant to the TRC's Interconnection Guidelines.

4.8 *State of the art technology:* The TRC notes that the Government's above mentioned Policy Statement specifically requires that Jordan attain a mobile communications environment that is technologically advanced and at least comparable, and preferably superior, to those of its peer states. In addition, the terms of the license should specifically facilitate value-added innovation. The TRC therefore encourages applicants to choose state of the art technology to ensure the deployment of advanced mobile services, including high data rate services and that enable the availability of a variety of advanced services such as high speed internet access, Videotelephony, position location commercial applications, e-payment services/solutions, etc. In the bid evaluation, extra points will be awarded for such advanced networks.

4.9 *Spectrum license tariff:* The license fees for the use of spectrum in Jordan are currently established in accordance with the TRC's published spectrum license tariff schedule, available on the TRC's web site. Note that these fees are separate from the licensing fee, which will be established according to the value of the license as estimated according to internationally accepted methods of wireless licensing valuation.

4.10 *Term and duration of license:* The new mobile operator will be issued a license for a term of 15 years and will be eligible for renewal in accordance with the TRC's normal practices and procedures.

4.11 *Technology:* The use of digital technology by the new mobile operator is required and the technology must be approved by an international standards body and deployed commercially.

4.12 *Exclusivity:* There will be no exclusivity for either the new mobile license or for MobileCom and FastLink after December 31, 2003.

4.13 *Eligibility to apply:* The currently licensed mobile operators and national public trunking operator and their substantial shareholders (more than 10%) are not eligible to apply for the new mobile license. Applicants must demonstrate that they have no substantial ownership (more than 10 percent) in any possible organization that may be a competing applicant for the new mobile license. In accordance with the Statement of Policy, the suppliers within the mobile sub-sector will be comprised of at least three infrastructure-based operators that are under different ownership. Again, consistent with the Statement of Policy, there will be no unjustifiable impediments to particular potential entrants in the market, including those related to nationality of ownership, flows of capital and other similar matters.

4.14 *Mobile Number Portability:* In order to establish market conditions that provide maximum choice, consumers should be able to switch operators in order to take advantage of attractive service offerings. A major drawback to switching mobile operators is that, at present, customers need to change their mobile telephone numbers. To provide flexibility to consumers, all mobile licensees shall implement number portability, as technically feasible, according to the TRC's requirements and guidelines when they become available and enforceable. The TRC plans to address

the best method of implementing number portability and establish rules targeting implementation as early as possible in 2004.

4.15 *Infrastructure Sharing:* Pursuant to Policy Statement and the terms of their existing licenses, the incumbents and Jordan Telecom shall allow the new licensee to share infrastructure to enable build-out of its network as quickly as possible. Further, the new licensee may share infrastructure with other entities pursuant to commercial agreement and applicable law.

4.16 *National Roaming:* The TRC will require the existing licensees to allow roaming on their networks for the new licensee, to the extent technically feasible, so that the new licensee can offer nationwide service as expeditiously as possible. This requirement will expire 2 years after the date of license issue in order to encourage rapid network build-out.

4.17 *Tender process:* The TRC proposes the selection of one additional mobile operator on the basis of a comparative evaluation process that includes a fixed license fee in combination with applicable revenue sharing. The license fee will be determined according to an assessment of the value of the spectrum as determined according to internationally accepted valuation methodologies.

3.18 *License Amendment:* In order to ensure parity of existing licenses and the new licensee, the TRC will amend the licenses of the existing licensees regarding specific matters discussed in this document. The applicable license amendments and authorization to utilize additional spectrum will take effect at the same time the new mobile licensee is required to commence service. Such amendments will be conducted according to the consultation process required in the Telecommunications Law.

5. Prequalification Requirements

5.1 *Pre-qualification Requirements.* In order to demonstrate that the applicant has the capability to successfully build and operate a mobile wireless network in Jordan, the applicant will be required to participate in a pre-qualification process that will be announced subsequent to the publication of the final licensing guidelines by the TRC.

5.2 The applicant will be required to submit detailed information with respect to mobile wireless operations in which the applicant, any of applicant's subsidiaries or any of the applicant's significant shareholders (whether direct or indirect) have been involved. "Significant shareholder" means any shareholder holding more than 10 percent. "Subsidiaries" means any company or other entity in which the applicant has, directly or indirectly, an ownership interest of at least 20 percent. In the pre-qualification submission, the following must be demonstrated:

5.2.1 That the applicant, any of the applicant's significant shareholders or any of applicant's subsidiaries or consortium members have been involved in the operation of at least one commercial wireless mobile network service provider for a minimum of three years utilizing globally-approved, standard-based digital technologies;

5.2.2 That the applicant, any of the applicant's significant shareholders or any of applicant's subsidiaries have been able to provide funds or obtain financing to support

capital contributions commensurate with their shareholding in the wireless mobile network service provider;

5.2.3 Confirmation that the applicant, any of the applicant's significant shareholders or any of applicant's subsidiaries have never had a telecommunications operating license revoked as a result of any inability to meet pre-established license terms or been sanctioned by a regulatory authority for non-performance of license terms.

5.3 The TRC reserves the right to disqualify any applicant if the TRC makes a formal finding that award of the license to such applicant would result in a significant adverse impact on competition in the market for telecommunications services in Jordan.

6. Timetable and Procedures

6.1 The TRC invites written comments from all parties interested in providing their views with respect to the mobile sector in Jordan no later than October 26th, 2003.

6.2 Parties interested in receiving further notices from the TRC regarding the licensing of mobile services in Jordan should express such interest to the TRC as soon as possible. Expressions of interest should set out the full name of the interested party as well as the name, mailing address, telephone, fax number and e-mail address of the person responsible for receiving communications with respect to matters relating to the new mobile license.

6.3 *Clarifying Questions:* Parties may submit questions to the TRC regarding specific matters of clarification of terms and conditions contained in this document. Such questions should be submitted no later than 15:00 Amman time on October 15th. The TRC will publish on its web site a Frequently Asked Questions guide containing all such relevant questions, without attribution, and answers on or before October 19th.

6.4 *Public Licensing Forum:* The TRC will organize a meeting to address the issues noted above as well as to provide information for prospective bidders. This meeting is tentatively scheduled for October 23rd, 2003 at the Four Seasons Hotel, Amman. Further information will be made available on the TRC's web site.

The meeting organized by the TRC will address the following:

- terms to be incorporated in the new mobile license
- timetable for the new mobile license application process
- overview of the application submission requirements and related evaluation criteria
- overview of the license application pre-qualification process and related submission guidelines

6.5 This is a consultation document. As such, the TRC notes that none of the ideas expressed or comments made in this Notice necessarily will be contained in the final licensing guidelines. Furthermore, the final licensing conditions will be based on the terms outlined here, input from commenting parties and other information that may be made available to the TRC. The TRC reserves the right to determine all

matters relevant to the further liberalization of the mobile sector in Jordan in its sole discretion in accordance with the Telecommunications Law and applicable government policy. Submissions received by the TRC as a result of this Notice will not necessarily be adopted.

6.6 All communications with the TRC in connection with this Notice should be addressed as follows:

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