



Ministry of Mass Communication

Proposed National Communications Policy

September 2002

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3.3.3 Space Segment

CRC will be responsible for ensuring that access to space segment through Intelsat or any other global or regional satellite system is transparent and non-discriminatory for all licensed operators.

3.3.4 Numbering Plan

The Commission shall expedite the updating and introduction of a new national numbering scheme for all telephone operators within one year from the adoption of this Policy, subject to a feasible implementation plan. The numbering plan must take into account any existing or anticipated distinctions among types of services and pricing plans. The Commission will further promote the introduction of number portability in Sri Lanka, to the extent this is technically and economically feasible. All fixed service operators that are allocated blocs of telephone numbers must contribute to the maintenance of a universal directory database, which will be maintained by an authorized telecommunications industry organization, under Commission supervision, on a shared, non-discriminatory basis, and available to all telephone operators and customers at reasonable cost.

3.3.5 Internet Domain Names

The Council for Information Technology or CINTEC is presently responsible for administering Sri Lanka's Internet Domain Name System (.lk). However CRC will have the responsibility to ensure that administration of this resource is carried out in a non-discriminatory, transparent manner.

4 Market Structure, Liberalization, and Competition

It is the policy of the Government to promote the widest possible development and availability of information and communications technologies and services in Sri Lanka. These services will be provided in an open, market-oriented environment, which allows private sector companies maximum flexibility to develop the sector in response to consumer demand and public needs. Traditional limitations or barriers to market entry will be reduced or eliminated in favor of a liberalized environment which allows the forces of the market and technology to determine the most effective means to provide services to end users. This will include inter alia the use of such new technologies like Voice Over Internet Protocol (VOIP). The primary role of the Government, through the CRC, will be to facilitate fair and effective competition in all market segments, while supporting the expansion of the industry to the greatest extent possible. In regulating the market due regard would be paid to actively encouraging the introduction and / or replacement with new equipment, technology and services which would lead to greater efficiency and effectiveness in the provision of communication services.

4.1 Information and Communications Market Structure

The present market structure for information and communications services in Sri Lanka consists of various distinct market segments, which have been defined by traditional technological and service characteristics, and by the terms and restrictions contained in operator licenses. Under this new Policy, given the changing market and technological forces in the industry, the communications market structure in Sri Lanka should evolve toward a technologically neutral, open and convergent status. Certain distinctions may remain for purposes of licensing, regulation, and competition policy, for example between public switched access networks and dedicated transmission networks, or for those services depending upon scarce resources. The primary objective of this Policy, however, is to remove artificial technology and service barriers, and to encourage the forces of convergence and market innovation.

4.2 Cross-ownership

In keeping with the principles of encouraging open markets and supporting the trends of industry convergence, owners of telecommunications networks and facilities will generally not be prevented from offering multiple and diverse services to their customers over those networks, nor will they be unduly restricted from obtaining further ownership interest in other telecommunications or information service networks and operations. This policy will be subject, however, to specific requirements governing fair competition practices, as identified elsewhere in this Policy. Operators that are deemed to have significant market power by the Commission or that have control over bottleneck facilities or scarce resources, including frequency assignments, shall be subject to appropriate structural and behavioral regulation and other appropriate safeguards, to ensure that competition in other markets is not adversely affected by their entry into new service areas. The Commission shall establish clear guidelines for the determination of significant market power within each service market and market segment. Undue restrictions shall not be placed on operators' establishment of affiliates and subsidiaries.

Communications operators that do not have control of scarce resources or do not possess significant market power will not be restricted from cross-ownership of multiple networks or services in various market segments.

4.3 Manufacturing, Construction, and Equipment Supply

The Government encourages the growth of domestic capacity to manufacture telecommunications equipment, as well as Sri Lanka based facility construction and equipment supply companies. Such equipment should conform to common standards which will be defined by the CRC in consultation with stakeholders and in reference to international best practices. All companies operating in these markets shall be treated in a competitively neutral, non-discriminatory manner, whether they are independent or affiliated with telecommunications operators. With regard to import duties on foreign equipment, all

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vendors of such equipment shall receive the same treatment, whether requirement to pay duties or exemption therefrom.

Construction of telecommunications network facilities by operators or subcontractors must conform to local and national standards for quality and professionalism. Operators whose network construction causes damage or disruption to public or private property shall be obligated to compensate the owners of such property.

4.4 Further Market Opening

To achieve the objectives of an open, technologically neutral, and competitive market will require significant changes to the present licensing and regulatory regime, and to the status of existing licensed operators and service providers. While commitments and restrictions contained in current licenses will be honored, this Policy requires and proposes a rapid transition away from market entry barriers, toward a more open, liberalized environment. Accordingly, the TRC will implement the following specific market opening initiatives:

- **Public retail switched access networks.** Following the termination of the exclusivity clauses in the licenses of the present operators, there will be no limitation on the licensing of operators or service providers to offer either domestic or international telephone services and leased circuits. The CRC would be expected to announce forthwith and implement within three months of this policy coming into force the terms and conditions for issue of International Gateway licences (class licences) without limit to the number of licenses and the types of services. Companies wishing to engage in the provision of these services after the exclusivity expires may apply for Commission *for* licensing on *invitation*, without regard to the nature of the technology to be utilized, including fixed wireline, WLL, Internet Protocol, or other technology. Services may be provided over facilities-based networks, or via resale of other network services, or a combination of both. The Commission shall issue licenses to provide such services to all qualified applicants, subject to such reasonable regulatory requirements as may be necessary to ensure fair competition and the availability and equitable use of scarce resources, and an appropriately planned timetable for review and analysis of all applications, and of the various market conditions affecting different types of licensees.

However the Commission will maintain the status quo with regard to Fixed Mobile distinction for a period of one year from the date of implementation of this policy. Thereafter the distinction will be withdrawn for low-teledensity areas outside the Western Province. This will be reviewed by the Commission with a view to extending this withdrawal to the Western Province after the period of 12 months from the implementation..

To ensure that these markets are effectively and rapidly opened to new entry, the Commission shall initiate the process of inviting initial license applications immediately,

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unless otherwise stated, upon the adoption of this Policy. This will allow new service providers to begin constructing facilities, establishing business relationships, and preparing to market their services, so that they can be fully operational as soon as possible after the official date of the market opening.

Service providers seeking to offer public access services on a resale basis, by means of public pay phones, telecenters, and similar arrangements, will be allowed to enter this market with a minimum of restrictions and regulatory requirements. Wholesale prices for network facilities, including unbundled individual network elements, shall be subject to Commission review and regulation, and should be based upon the principles of incremental cost, and competitive neutrality.

For services that depend upon the assignment of radio frequencies, including mobile telephone services, paging and trunking services, and fixed WLL services, the Commission shall examine the potential to issue new licenses utilizing available frequencies in each area. This process must follow the Commission's complete review of spectrum use in Sri Lanka. Where adequate spectrum is available, the Commission shall invite applications to utilize this spectrum by existing or new operators, with the goal of maximizing competition and development. As soon as possible, the Commission shall evaluate and conduct public consultations on the desirability and feasibility of introducing next generation communications services (including third generation cellular services) in Sri Lanka. Subject to its findings, the Commission shall then decide on timing and process designed to award new licenses and frequency assignments. This process shall be open, fair, and transparent, and the associated license fees shall not burden the development of new services in this sector.

- **Dedicated transmission networks.** The Commission shall take immediate steps to remove entry barriers and restrictions on the provision of dedicated telecommunications networks and services, for both wholesale and retail customers. These include backbone transmission capacity, two-way leased circuits for closed user group voice and data transmission, one-way distribution networks for cable television or other services, and access to the Internet and Internet-based services. Companies wishing to provide any or all of these networks and services will be encouraged to enter these markets with a minimum of regulatory burdens. The Commission shall issue class licenses, registrations, or similar common authorizations for these types of networks and services, and shall not unreasonably restrict their availability, subject to requirements that companies proposing to construct new facilities-based networks must conform to obligations for shared access to rights of way and support structures.

4.5 Licensing

In order to encourage maximum participation in the sector, the Commission's authorization regime will be simple, open, non-discriminatory, transparent and light handed.

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There will be two types of authorizations to provide telecommunication services and to establish and operate telecommunications networks:

- (1) general authorizations or class licenses for networks and services which do not require access to scarce resources and which carry a limited number of rights or obligations; and
- (2) individual licenses for networks and services which require access to scarce resources and which have more comprehensive rights and obligations attached to them.

There will generally be no limitation on the number of licenses issued except in the case where the use of scarce resources such as frequencies is associated with the license; however, the Commission must monitor the status of various market segments, as well as the impacts of cross-ownership, to ensure that an effectively competitive market is emerging.

Conditions attached to licenses and authorizations may include the following (but must, in every case, be competitively neutral across licensees in each market segment):

- requirements related to the effective and efficient use of scarce resources such as radio frequencies, numbers and rights-of-way
- universal service obligations
- obligations related to interconnection of networks and interoperability of services;
- obligation to provide leased lines
- obligation to maintain network integrity, interoperability of services, data protection, and avoidance of harmful interference
- obligation to provide certain information to the regulator for regulatory and statistical purposes
- measures to prevent anti-competitive behavior
- obligations related to consumer protection (such as billing, disputes settlement, change of access, tariffs, and other conditions)
- obligations to provide customer data base information for a universal directory;
- provision of emergency services
- special arrangements for disabled persons

Where licenses are required, the Commission may establish license fees that are reasonable in relation to maximizing the economic efficiency and regulation of the licensed services, and to the value of the license in the market. All fees will be published. The Commission shall not impose unreasonably high license fees that may deter market entry or limit operators' ability to invest in the rapid development of services. To ensure fair treatment of companies that have already paid high license fees relative to new entrants that may pay much lower fees, the Commission may establish interim measures that provide temporary benefits or advantages to existing license holders, but only to the extent of compensating for the differential cost of market entry due to the license fees. For this

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purpose, the Commission shall consider the competitive advantage of earlier entry as a condition of potential compensation.

4.6 Competition Policy and Enforcement

A comprehensive framework for ensuring fair competition is critical to effective market development, and the cornerstone of this Policy. This framework consists of all the policies, procedures, regulations, rules, and the necessary administrative structure related to the non-discriminatory allocation and administration of scarce resources, licensing, interconnection, equal access, dispute resolution, and access to information.

- **Interconnection.** Companies licensed to operate public telecommunications networks and to provide public telecommunication services will be obligated to provide interconnection for purposes of transmitting traffic between subscribers of different networks. The CRC will make it a high priority to establish and administer an interconnection regime, which will be non-discriminatory and transparent, and will promote fair and effective competition for all operators. Operators will be free to negotiate interconnection agreements among themselves on such terms and conditions as they may choose, as long as such agreements are in the interests of fair market competition and are subject to Commission approval thereof. The Commission will facilitate and monitor such negotiations, and will encourage operators to achieve agreement in a timely manner.

In cases where parties are unable to come to a satisfactory agreement, the CRC shall intervene to determine interconnection terms, either through mediation or specific interconnection rulings. Within six months of the adoption of this Policy, the CRC will establish reference interconnection framework including general terms, conditions, and methodologies that it will apply in reviewing interconnection proposals, including the basis for determining interconnection charges. Such charges must be cost-oriented, and based upon the unbundled costs of network elements required for interconnection *or benchmarks* thereof. The Commission will consult with all affected operators in developing this interconnection regime, and will make it publicly available upon completion of the interconnection reference framework.

Operators in dominant market positions, including SLT, will be required to publish a catalogue or Reference Interconnection Offer, indicating all conditions (price, technical, administrative, etc) of interconnection to their networks, which will be available to all potential interconnecting operators. Similarly situated operators will be provided interconnection on the same terms and conditions. This Reference Interconnection Offer must receive prior approval of CRC, subject to review of its provisions.

- **Equal Access.** To the greatest extent possible, customers shall be afforded equal access to all competing service providers in a market, meaning that any customer should have the opportunity to choose among the services of all competing providers, without cost

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penalties or unduly burdensome technical barriers. Operators of dominant or bottleneck networks will be required to facilitate such equal access by any technical modifications that may be necessary. The costs of providing equal access will be shared on a non-discriminatory basis by all competitors.

- **Dispute resolution.** Within the CRC there will be established a capacity to resolve disputes between and among competing operators in all matters, especially those related to negotiation of interconnection arrangements. All rulings on competitive disputes will be transparent and non-discriminatory, and will be resolved in the shortest time possible. The Commission's rulings will have the force of law, and will be implemented immediately upon the effective date of a decision, unless the Commission determines otherwise. If rulings are appealed either within the Commission or in the Courts, the rulings will remain in force unless and until they are altered or overturned. Notwithstanding this provision, the Courts will retain the authority to issue stays of effectiveness upon legal showings of potential harm, or other basis, as under standard law.

5 Universal Access Policy

This section establishes the principles and requirements for a national policy on universal access to information and communications services throughout Sri Lanka.

5.1 Universal Access to Information and Communications

The Government considers that it is a fundamental right of all citizens to have access to diverse and unrestricted sources of information and means of communication. The Sri Lanka Information Infrastructure will not be complete until it reaches all locations and people throughout the country, and provides reasonable and affordable access to the full range of traditional and emerging information and communications services. These include conventional voice telephone service, the Internet, electronic mail, and text message services, among others. Access to these services must also take account of different needs among the user population, including considerations of gender, age, ethnic and linguistic distinctions, and handicaps. To the greatest extent possible, access should be available at high transmission speeds, utilizing state-of-the-art technologies. Access should also be reasonably affordable to everyone, and affirmative measures should be taken to assist low income users to afford access to communications and information.

The Commission shall develop specific indicators of ICT access, consistent with international experience and precedent in this area, and shall identify appropriate targets for moving toward universal access nationwide within a reasonable time frame. It shall periodically evaluate the progress of the industry toward achieving these targets, and shall adopt such policies and mechanisms as may be necessary to ensure their achievement. In particular, the provisions of the following sections will be implemented as a foundation of Universal Access policy.