

An Insight into the Communication Sector in Iraq

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The technology, media and telecommunications (“TMT”) sector is one of the fastest growing sectors in Iraq, which has opened doors to the investment projects, as it responds to global innovation and the development of new technologies. Hence, the Iraqi government is encouraging foreign companies to invest in this field, which is a huge technology contest that generates a competing environment among the companies to provide their best services.

The TMT sector has witnessed, in the past few years, a substantial growth in respect of direct foreign investments, specifically in the field of internet and telecommunication services. In this article we will focus on the most important laws and regulation that govern this sector and the facilities thereof.

In 2004 the Coalition Provisional Authority (“CPA”) issued Order No. 65, the main objectives of which is to develop the communication infrastructure, which requires a predictable and sound regulatory regime that is conducive to attracting investments to this sector and to establishing the framework for full and fair competition among all providers.

In order to attract private sector investment and promote public confidence and accountability, by establishing an open and transparent regulatory organisation that reflects the international best practices, Order No. 65 established the Iraqi Communication and Media Commission (“CMC”). In accordance with the Iraqi Constitution and Order No. 65, the CMC is deemed to be an independent entity and non-profit-making administrative institution, which is solely responsible for regulating and licensing telecommunications, broadcasting, information services and other media in Iraq, and shall be committed to the principles of objectivity, transparency, non-discrimination, proportionality and due process in carrying out its duties.

It is hoped that this initiative will place the communications sector as an engine of growth in the Iraqi economy, as it becomes an area of increasing employment opportunities in Iraq, in contradiction with the investment status in this field during the era of the former regime, which was close to non-existent with employment opportunities limited to those provided by the Iraqi Telecommunication and Post Company (“ITPC”) – the sole entity entrusted to manage and regulate the communication process in Iraq.

The Role of the Regulators in Telecommunications

Two governmental entities are competent to govern telecommunications licensing in Iraq – the CMC and the Ministry of Communications (“MoC”). The MoC operates two state-owned companies – the ITPC and the State Company for Internet Services (“SCIS”). The ITPC is responsible for the fibre optic network, the microwave backbone and limited Fixed Wireless Local Loop (WLL) CDMA network, whilst the SCIS is handling the internet subscribers and internet communication in Iraq, providing wireless internet access for government agencies, DSL and Dial up VOIP services and internet protocol (IP) address registration.

The CMC is the primary regulatory body in Iraq and is responsible for regulating telecommunications and media, promulgating policy for frequency management, and licensing wireless and telecommunications services. The CMC is Iraq’s first independent media and telecommunications regulator. The following are

the most important licenses that the CMC grants:

1) Satellite Communications Stations (VSAT)

Upon obtaining the VSAT license, the licensee shall be authorised on a non-exclusive basis to provide the following services, on a retail and wholesale basis, in the licensed region and within the license term:

- VSAT data services;
- VSAT Internet services;
- VSAT VOIP;
- VSAT backhaul telecommunications services;
- Delivery over Licensee's network of any text, sounds, images, audio and video programming (broadcast, on demand and/or interactive), information, data or other content and related information services.

Further, in order to provide the above-mentioned services the licensee will have the right, upon obtaining approval from the CMC, to construct, install, lease, own, operate and maintain a VSAT Network and interconnect its network with any VSAT network within the licensed area. It is important to note that at the moment this license is granted for Oil & Gas companies which have contracts with the Ministry of Oil and the subcontractors of such companies. The license shall be effective for one year and renewal shall be subject to any amendments by the CMC.

2) Importing telecommunications devices

Importing telecommunications devices requires a permit from the CMC, which has set forth extensive requirements. The applicant must submit to the CMC a full description of the devices to be imported, accompanied units, and clarification of the brand name, model number and serial number. It is impermissible to sell or supply telecommunications devices and accessories of whatever kind to any concerned party (whether governmental or private) without obtaining a frequency license from CMC in respect of these devices.

3) Internet service providers (ISP)

The CMC is the competent authority to issue a license, to efficient and experienced ISP applicants, to provide fixed internet services in Iraq upon and subject to the terms, conditions and obligations set forth to achieve the intended goals of increasing internet penetration in the country as well as ensuring high Quality of Service (QoS) levels. In addition, the term of this license shall be for three years starting on the date of issuance and it is renewable subject to the amendments of CMC, as the intention is to improve this license to make it in line with future Iraqi Telecommunications law. This license shall cover providing internet services, data services in closed circuit and visual and audio broadcasting services via the system's data network. In order to provide the said services, the licensee shall have the right, upon approval of the CMC, to construct, install, purchase, lease, own, operate and maintain a network alone or jointly with others. It is important to note that the licensee must comply with the regulations of the CMC throughout the license period, otherwise the CMC shall have the right to suspend the license or impose fines and penalties upon the occurrence of certain violations set forth in the regulations.

The future of the telecommunications sector in Iraq

The ITPC should complete the FTTH projects to reach the whole country, improving the quality of internet services in Iraq at a better cost and improving the weak infrastructure. In addition, the MoC is willing to grant the fourth license in respect of cellular phone services. Such a license shall be a great opportunity for foreign telecommunications companies to enter into the Iraqi telecommunications market to compete the three current telecommunications companies in this field. Further, Iraq has recently launched 3G services with an intention to adopt 4G LTE in the near future. In the long term, there are plans for the MoC to be

restructured into public/private partnerships including The National Mobile Company, an Iraq Telecommunication Company, an Internet Company and a National Infrastructure Company. The post office will likely become a separate agency. Furthermore, one of the major telecommunications companies in Iraq, cooperating with a licensed entity by CBI, has launched the Electronic Payment System through cellular services. To conclude, the Iraqi telecommunications market offers many opportunities once the civil unrest stabilises and the authorities and operators are able to concentrate again on telecommunications and digital growth.