Telecommunications Reform in the Eastern Mediterranean: Jordan, Egypt, Lebanon and Syria

The challenge facing governments is to negotiate transition without alienating key constituencies

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Small steps – rather than long strides – characterize reform of the telecommunications sector in Egypt and the Levant countries comprising Jordan, Lebanon and Syria. These neighbours have reached different stages in passing sector laws, introducing regulatory bodies, liberalizing the market, encouraging competition, permitting private sector involvement, and privatizing state operators.

The telecommunications markets of these countries have relatively low penetration of traditional fixed line voice services, unbalanced tariffs (with expensive international calls subsidizing cheap local calls), weak leased line services, and consequently under-developed data communications services. A significant difference between the countries appears in the mobile sector: penetration of mobile services varies from relatively high in Lebanon to low in Syria.

At a time when capital is scarce in the telecommunications sector, large scale investment is needed in the region to roll out networks and improve services. The inability of heavily indebted governments to fund such investment means they have to turn to the private sector. This requires establishing a stable environment which will attract private capital, permit services to thrive and encourage the sector to grow.

There is extraordinary potential for growth in the telecommunications sector. Experience in more developed markets has illustrated that the optimal basis for investment in the sector is a competitive market subject to a law-based regulatory regime administered by a regulatory body acting under the rule of law with minimal political interference. The challenge facing the governments in the countries discussed in this article is to negotiate policy-focused transition in this direction without alienating key constituencies and thereby paralyzing the process.

Legitimate concerns of incumbent operators, private sector investors and consumers have to be addressed and balanced in ways that provide assurance over the end goal yet permit flexibility in getting there. For example, incumbent operators may require flexibility while undergoing burdensome transition in price rebalancing. Investors need to know that they can rely on the rule of law and a cooperative host government. Consumers may want alternative services and evidence of the effects of competition as the prices of previously subsidized services rise in the short term. Politicians want assurance over the accountability of the regulator as they cede direct control (which has also provided them with an indirect power base in their communities). It is key in managing transition to focus on win-win solutions whereby overall growth in the market compensates for loss of immunity from competition.

A feature common to the countries discussed here is the strong presence of France Telecom and regional player Orascom Telecom, which is controlled by the Egyptian Sawiris family. France Telecom is the state's partner in the incumbent Jordan Telecom, thereby also controlling the second mobile operator Mobilcom and the leading Internet service provider (ISP), Global One. France Telecom runs Cellis, one of Lebanon's two mobile operators, and is a partner with Orascom Telecom in controlling Egypt's mobile sector leader MobiNil. Having bought out Motorola in Jordan, Orascom Telecom controls Fastlink, the leading Jordanian mobile operator. Orascom Telecom has a strong presence in almost every telecommunications service in Egypt, including the leading ISP, LINKdotNET. Orascom Telecom's subsidiary SyriaTel was one of the two operators selected to provide mobile services in Syria earlier this year.

This article discusses some of the steps taken so far towards sector reform and identifies selected priorities for the regulatory agendas in Jordan, Egypt, Lebanon and Syria.

Jordan

Jordan has taken a number of important steps towards sector reform, with substantial results. The Telecommunications Law of 1995 underpins the regulatory regime[1]. The law established the Telecommunications Regulatory Commission (TRC) as an independent regulator[2] with enforcement powers[3]. The policy, regulatory and operational functions of the sector were divided among the Ministry of Posts and Communications, the TRC and the incorporated fixed line operator, Jordan Telecom. The law established a framework for frequency spectrum management[4], and a licensing regime[5] which the TRC administers in a manner that is transparent and credible.

Jordan Telecom introduced a tariff rebalancing plan in 1997 prior to privatization. The company was issued a license in 1999, providing legal certainty for France Telecom's consortium to become a 40% strategic investor, appointing five of the seven board members. The government currently hopes to sell more shares by public offering in 2002. Significant improvements have been made to Jordan Telecom's teledensity, which has reached about 13%, as well as its quality of service, pricing and coverage (covering hundreds of new villages and approximately doubling the total number of lines over the last five years). Two licensed payphone companies enhance access to affordable voice services.

In the mobile sector, the TRC has licensed two operators to provide 900 MHz GSM services. Fastlink, owned by Orascom Telecom, has operated since 1995. The introduction of services in September 2000 by Mobilcom, owned by Jordan Telecom, led to tripling subscriptions and a surge in mobile services penetration to over 9%, as well as new and improved services and targeted customer packages. Sharp price reductions by Fastlink, initiated several months before the new operator entered the market, alerted the Jordanian population and policy makers to the benefits of competition.

The government's declared intention to license a third GSM operator at the end of 2003 will further develop competitiveness in the market. Jordan Telecom's control of the fixed line market, presence in the mobile sector, and purchase in early 2001 of the Jordanian arm of Global One (Jordan's leading ISP), give the company a strong cross-sector lead, positioning it well for further privatization.

Recent dramatic price reductions in Jordan Telecom's leased lines have been passed on by the ISPs to subscribers, with monthly subscription rates dropping substantially. Local access charges remain high, however, and still only about 3% of the population has access to the Internet. Positive steps by the government in passing e-commerce friendly laws have, however, increased foreign investor and venture capital interest in the Internet and software sector.

Legislating change

The government is currently strengthening the regulatory regime through improvements to the Telecommunications Law of 1995. Expected amendments include protecting the TRC from political influence by removing the Minister of Posts and Communications from the TRC Board of Directors[6], and making the TRC a more effective regulator by strengthening its enforcement powers.

There are other legislative measures that the government might consider in due course. For example, the lack of a general competition law in Jordan (a draft was rejected by parliament in April 2001) highlights the importance of mandating the TRC with a competition policy approach to regulation. The TRC regulates Jordan Telecom's tariffs but the Telecommunications Law does not guide the TRC on what principles and methods to apply. Although the company's license imposes a tariff rebalancing requirement using a basket of services, legislative guidance could encourage cost accounting and international benchmarking practices.

It is desirable in the long term to establish an interconnection regime in the law. Interconnection is now managed through the licenses, although these do not adequately specify negotiation procedures, the content of reference interconnection offers (RIOs), or the dispute settlement role of the TRC. Setting out the ruling principles for these issues in law, as encouraged in the World Trade Organization (WTO) Reference Paper on telecommunications regulation[7] to which Jordan is a signatory, will be important for the development of a competitive market.

Working with exclusivity rights

In the medium term, however, improvements to the law are unlikely to effect significant change in the fixed and mobile services market. Jordan Telecom enjoys the exclusive right until December 31, 2004 to operate a public switched voice service and the 'public telecommunications transport network' (PTTN), which includes leased circuit services and all PTTN facilities offered to other service providers[8]. The mobile operators are assured a duopoly over public mobile telephone services until after December 31, 2003.

The government's scope for liberalization measures is constrained by the fact that these contractual rights cannot easily be overcome directly by legislation. While the law may theoretically permit the TRA to amend licenses unilaterally[9], this would be antagonistic and inadvisable. Until now, the government has developed a relatively collaborative relationship with the fixed line operator and its strategic partner, France Telecom. The rewards have included substantial tariff reductions, improvements in the network and quality of service, and, recently, the construction by Jordan Telecom of a data backbone largely at the government's request.

Opportunities do exist, however, to introduce competition in the market. Fixed wireless services, for instance, may not fall within the exclusivity rights of either the fixed line or mobile providers. This would leave a discrete gap for the TRC to license new operators, increasing the competitive pressures on Jordan Telecom's voice services and, if adequate bandwidth is licensed, to the leased lines and data communications businesses. One or more mobile operators could be licensed now with permission to enter the mobile voice and data market as soon as the exclusivity provisions expire at the end of 2003[10]. This would allow adequate lead time to construct new networks and cause Fastlink and Mobilcom to begin early preparations for future competition. The government is also looking at the regulatory implications of voice over Internet protocol (VOIP).

The government's challenge is to use the limited negotiating resources available to it to encourage the fixed and mobile operators to reduce their prices, extend coverage, improve their services and perhaps even accelerate the opening of the market. One resource would be a careful reading of the licenses, whose exclusivity provisions may not be as airtight as commonly assumed. If fully exploiting loopholes would damage relations between the government and its private sector partners, drawing attention to them could at least provide leverage in the negotiated liberalization process.

For example, it can be argued from the text of Jordan Telecom's license that its exclusive right to operate the fixed network refers only to Jordan Telecom's fixed network and not to other networks that are constructed by other operators[11]. It may be that the government would be within its rights to permit new operators or governmental entities and network operators (e.g. in the transport and power sectors) to develop competitive networks to offer leased circuits, data communications and Internet services. The government could promise them access to the fixed line voice market when Jordan Telecom's exclusive right over voice services expires, thus encouraging the incumbent to prepare in advance for competition.

Jordan Telecom's license expressly contemplates the TRC authorizing alternative facilities providers to provide leased circuit services and other PTTN services (primarily data communications), including international services, if Jordan Telecom is not providing these services to other public telecommunications service providers 'promptly and at reasonable rates'[12]. Using international benchmarks and cost accounting to interpret 'promptly' and 'reasonable', the TRC could bring pressure to bear on Jordan Telecom in this area.

A third example concerns Jordan Telecom's exclusivity rights over leased circuit services and other PTTN services. It can be argued from the terms of the license that while other operators may not offer such services to other telecommunications service providers, they may offer them to public[13]. Although leased line prices were recently sharply reduced, opening the service to competition would result in further price reductions and improvements in the quality of services. These benefits would be passed on to service providers and ultimately consumers, thereby accelerating the government's REACH initiative, which is aimed at developing Jordan's information technology industry.

Egypt

The Government of the Arab Republic of Egypt has in recent years focused on licensing mobile telephone services, expanding the telecommunications sector infrastructure, and making the Internet more accessible. Substantial investments were made in improving services and increasing the penetration rate and capacity of the state-operated fixed network. Nevertheless, teledensity remains low at around 9%, as does the penetration of mobile services at around 4%. Overall regulatory reform took a back seat while these measures were pursued, although new legislation is now on the table.

Law No. 19 of 1998[14] began the separation of regulatory and operational functions. It established the national telecommunications service provider as Telecom Egypt and provided for an agency to regulate the wire and wireless telecommunications sector[15].

Decree No. 101 of 1998[16] implemented this, establishing the agency with the stated object of ensuring that technological advances meet the needs of individuals and the state at the most favourable prices. The sector was to be 'subject to free and open competition between the best international and national expertise'[17]. The agency was granted the power to approve licenses (although licenses were to be issued by ministerial decree), establish competition rules, monitor technological development, ensure cost-based tariffs, as well as to fix charges and allocate spectrum for wireless communication services[18]. The sector minister chairs the eleven member Board of Directors of the agency[19].

In October 1999, a new Ministry of Communications and Information Technology (MCIT) was established. The MCIT prepared a comprehensive plan prioritizing the development of information and communications technology, including mandating the newly established Telecommunications Regulatory Authority (TRA) with the tasks in Decree No. 101. Limited resources have restricted the effectiveness of the MCIT and TRA as proponents of the sector. The continuing monopoly of Telecom Egypt, the exclusivity rights of the mobile operators, and the lack of a coherent licensing regime and proactive competition policy continue to constrain sector development.

Fixed line services are provided exclusively by Telecom Egypt, whose flagship part-privatization by initial public offering[20] was indefinitely postponed at the end of 2000. Adverse market conditions were cited, although resistance from stakeholders also played a part. At time of writing, the government has hired financial advisers for a sale of up to 34% of the company to a strategic investor.

Addressing various regulatory issues, whether by law, decree or license, would enhance Telecom Egypt's privatization prospects. These include establishing the principles and procedures to apply to Telecom Egypt's price regulation, tariff rebalancing plans, universal service obligations and reimbursement for the costs of universal services. Since each of these issues has a direct bearing on revenues and costs and will be hotly negotiated, clarity will be important to attract investors and raise the price.

Telecom Egypt has begun to rebalance its tariffs, partly under pressure from decreasing international accounting rates. Regulation geared towards long term tariff rebalancing will be an important element in opening the market. High revenues from Telecom Egypt's monopoly in international services heavily subsidize national calls, with the result that low prices may be a barrier to market entry by competitors. The priority of tariff rebalancing will have to be weighed against the importance of softening the impact of the difficult process of transition. This may mean offering flexibility in pricing and other areas in return for an overall rebalancing package.

Two mobile operators provide GSM 900MHz services, and competition between them has lowered prices and increased subscribers. MobiNil, controlled by France Telecom and Orascom Telecom, leads the market. Misrfone, or Click GSM, is 60%-held and controlled by Vodafone (and is now contemplating an initial public offering). No other operator may provide services until December 2002.

Telecom Egypt expects to enhance its privatization value by entering the mobile services market when the exclusivity rights expire and is beginning to seek a strategic partner with which to build its network and services. Telecom Egypt transferred its original mobile operations to MobiNil in 1997 and there is now debate concerning whether Telecom Egypt will have to obtain a new license and pay a license fee to commence services. (Misrfone argues that according to its license, Telecom Egypt should have to pay a fee equivalent to the US$ 516 Misrfone paid, plus interest.) The Egyptian market has plenty of growth capacity for a third operator (and perhaps a fourth), and the effect of a new entrant in the market is likely to be increasingly competitive pricing and resulting growth in users and usage. To ensure that the market functions competitively, regulatory measures requiring non-discriminatory interconnection and regulation of anti-competitive cross-subsidization will be important.

Draft Unified Telecommunications Law

With the cooperation of a private sector working group, during 2000 the MCIT prepared a new draft Unified Telecommunications Law to establish a framework for regulating the sector[21]. Important to the prospects of Telecom Egypt is a provision in the draft law assuring the company of an exclusive right to provide international telecommunications services for five years, a comparatively long grace period in today's international market. This cash-generating line of the business includes international gateway to and from the mobile operators. The cushion is intended to give Telecom Egypt time to rebalance its tariff structure and prepare for a competitive market.

It is widely hoped that the government will enact the draft law in 2001. Establishing broad policy guidelines, the draft law sets out general principles of transparency, free competition, universal service and consumer protection. It supercedes Decree No. 101 in establishing the organization and responsibilities of the TRA. A large (13 member) and broadly-based board of directors including governmental officials and private sector participants, and chaired by the Minister of MCIT is contemplated, meeting once a month. Whether this structure, which is aimed at achieving cross-sector consensus, will make for a focused and effective regulator will depend on the resources available to the TRA to identify issues, frame options and recommend decisions to the board.

A number of opportunities exist to strengthen the regulatory regime contemplated by the draft law. If not included in the law, these might be dealt with in secondary legislation.

For example, further developing the competition policy aspects of the draft law would enable the TRA to implement a more permissive formal regulatory regime. The TRA could be equipped to monitor the competitive functioning of the market and mandated to intervene where it identifies restraints on competition and abuses of dominant position rather than requiring extensive licensing and rule-compliance from operators. To the extent the TRA is expected to implement its competition mandate effectively, it would benefit from guidance on defining product and geographic markets, identifying barriers to entry, determining significant market power and dominance, as well as identifying control over essential facilities. For these purposes, it would help to ensure that the TRA can require cost accounting and reporting from operators with significant market power.

The Ministry of Economy has reportedly prepared a draft antitrust statute, and in due course it will be necessary to establish the division of responsibilities and nature of cooperation between the TRA and the body responsible for policing the antitrust law, if it is enacted.

Other issues raised in the draft Unified Telecommunications Law that will have to be clarified in secondary legislation concern the licensing regime, pricing, universal service and interconnection. Legislative guidance on these issues would be valuable to establish policy reference points and aims so that the TRA's focus is clear, to protect it from political interference and 'regulatory capture', as well as to prevent abuse of discretion.

The draft law establishes a licensing regime for telecommunications networks and services other than private networks. Licensing networks may enable the TRA to ensure competing service providers have access to and use of operators' essential facilities. The regulatory focus in competitively functioning markets, however, is increasingly technology-neutral, regulating the market in services rather than networks. The TRA would benefit from legislative guidance in formulating its approach in this regard.

The TRA will also need guidance on how to decide the form licenses should take. Which services should require individual licenses (such as the fixed and mobile operators) as opposed to class licenses? Can the TRA simply require registration of services rather than licensing where a competitive market is likely to achieve the pricing and service quality priorities of regulation, and where universal service policies are less important? Although the TRA has in practice begun issuing class licenses, explicit guidance on organizing licenses, including measures ensuring transparency (a perceived problem in the recent issuance of class licenses for ISPs), would be valuable if not in the law then in secondary legislation. Where competitive markets have developed, forbearance from regulation, particularly in licensing and tariff regulation, could be encouraged.

Pricing and universal service policies are particularly cost-sensitive and politically charged issues. The law does not highlight the objective of tariff rebalancing, for instance, which will become an important priority in preparing for an open market since domestic tariffs are still too low to recover costs. Unless addressed in the law, secondary legislation will have to provide direction to the TRA on this issue in order to protect it and Telecom Egypt from political resistance and interference if the TRA is to negotiate an effective rebalancing package.

Universal service is raised as a priority in the draft law, and with good reason given the low penetration of basic services, particularly in rural areas. There is no guidance in the law on how to determine which services should be universally available, which operators should be subject to universal service obligations, how pricing flexibility could be offered in exchange for serving uneconomic areas, as well as how to balance the realities of costs against the extent of the need. Clear decisions on these issues will be important for universally affordable services to become a reality.

The primary focus of the universal service policy in the draft law is on pricing. A universal service fund derived from the TRA's unexpended budget (which largely comes from government funds and license and permit fees) is intended to reimburse operators for the difference between TRA-approved tariffs and government-prescribed prices. Unexpended budgets are an unusual luxury, however, so the government's own budget will be expected to bear the balance. The financial and political implications will result in interesting tensions between the TRA's tariff regulation activities and the government's power to intervene.

The goal of universal service in Egypt needs to take account of the vast infrastructure roll-out that will be required by either the incumbent or other operators. The structure in the draft law does not contemplate built-in flexibility for alternative structures and new ideas for meeting these needs. Examples would include: low user schemes; targeted subsidies promoting specific universal service initiatives (e.g. subsidized rural licenses issued by competitive bidding); tariff flexibility in high use areas in exchange for serving uneconomic areas; focus on community access rather than citizens' rights; and permitting alternative operators access to the lucrative international service market in order to encourage them to serve uneconomic areas.

The MCIT and TRA might consider encouraging new technologies that can introduce competitive dynamics to the market and offer solutions in rural areas where infrastructure costs make universal service obligations particularly burdensome. Wireless local loop operators, and operators like National Telecommunications Company (NTC), which uses a combination of fixed and satellite technologies to provide rural services, could be encouraged to expand their networks. VOIP can also add to the competitiveness of the market – Telecom Egypt is wisely embracing rather than resisting this technology.

The draft law establishes an interconnection regime that is broadly in line with the WTO Reference Paper on regulatory principles. Implementing this in practice will be essential to develop competitive conditions (e.g. requiring publication of a detailed reference interconnection offer, and specifying negotiating and dispute resolution processes).

Enacting the draft law will be an important step towards changing the sector, as will secondary legislation addressing the points discussed above. Whether the regime will function, however, will largely depend on institution-building efforts regarding the currently under-resourced TRA (e.g. hiring qualified professionals, developing independence from the MCIT, and providing specialized training and study tours). There is much valuable work to do to build a regulatory body capable of ensuring the market functions competitively, attracts badly needed private capital and offers the people affordable services.

Lebanon

For some years, the Lebanese telecommunications sector has enjoyed an unusual opportunity to profit from the benefits of ready-made competitive dynamics. Mobile penetration rates are comparatively high, reaching parity with the teledensity of the fixed line service of the Ministry of Posts and Telecommunications (MPT) and its state-owned operating company, Ogero. The government service is losing market share in new customers, who are increasingly opting for cost-controllable pre-paid mobile services instead of choosing the burden of subscribing to the fixed line service. The potential for substitution effects between services to drive competition would permit a relatively light regulatory regime, suitable for a country of Lebanon's size, with regulation focusing on policing anti-competitive structures and behaviour in the market.

Large investments have focused on the necessary rehabilitation of the fixed network after the civil war ended in 1991, although penetration rates remain at about 21%. The lack of public payphone services weakens affordable universal access. Some progress has been made on tariff rebalancing, with significant cuts in international rates at the end of 2000. The data communications market is no longer as severely constrained as in the past by bureaucratic and cost problems associated with the fixed network provider. As in several other developing countries, the government has allowed the market to bypass these limitations by issuing VSAT licenses. The leading data communications operators are now GlobalCom (formed by the merger of ATG Group and the Mikati Group), Pesco and the previously dominant France Telecom-MPT joint venture, Sodetel.

The mobile sector, on the other hand, has been much more dynamic. A duopoly has served the market since 1994, when the MPT entered into two 10 year (extendable by two years) Build Operate Transfer (BOT) contracts. The operators are Cellis, owned 67% by France Telecom and 33% by the Mikati Group, and Lebanese-owned Libancell of which Finnish company Sonera owns about 14%. User numbers and usage rates are high, and a variety of pre-paid, WAP and banking services have been introduced. Prices are also high, however, as limited competition and stringent tariff regulation restrain the market. The operators have been hampered by heavy revenue sharing obligations towards the government and caps on the numbers of subscribers they could serve, although they have used pre-paid services to avoid the caps.

The sector is in need of substantial reform. There is currently no effective division of roles between policy, regulation and the operation of the fixed line telephone services. Nor is there a transparent licensing regime ensuring fair market entry, competition policy or spectrum management capability.

Draft Telecommunications Law

During 1999 and 2000, the government began to prepare for privatization of its fixed line service. It wisely decided to introduce a law which would liberalize the telecommunications sector, introduce a coherent licensing regime, establish an independent regulatory authority and privatize the fixed line service. In addition to offering the opportunity for growth, these measures are likely to have a large impact on the price investors are willing to pay since they reduce the risk premium.

Between 1999 and 2001, the MPT and its advisers drafted a telecommunications law designed as a flexible, market-oriented instrument, with competition policy as the conceptual driving force behind regulation. The regulatory authority is charged with, and empowered for, policing the market according to competition principles (restraints on trade and abuse of dominant market position), which are threaded through the licensing, pricing and interconnection provisions of the draft law. Tariff regulation is keyed to market power, with the regulatory authority encouraged to forbear from regulation generally where competitive forces are achieving the aims of regulation.

The regulatory authority envisaged in the draft law would be independent of the government, although the politics of this issue were one reason for the delay in presenting the law to parliament. Its accountability is provided for by financial and operational reporting requirements and judicial review, but there is discomfort in political circles with ceding power to an independent regulator.

The draft law provides a framework for a licensing regime that requires individual licenses for the incumbent fixed line operator and the mobile operators, and class licenses for other services. The interconnection regime is structured along the lines of the WTO Reference Paper. The universal service provisions leave room for a variety of innovative market-oriented approaches rather than focusing on a universal service fund, which could be bureaucratically burdensome for a small country like Lebanon. The regulatory authority is encouraged to use international benchmarking to determine a range of issues and develop new directions for regulation.

Passing the draft law would be an important step in attracting capital and releasing the potential for growth, the tax revenue from which the heavily indebted government would welcome. The Council of Ministers approved the draft in June 2001 and it is on its way to parliament.

Privatization

While parliament considers the draft law, the government can begin preparing the fixed line operator for a competitive market, developing a tariff rebalancing plan and ensuring that all operational functions are contained within a distinct legal entity. Simultaneously, MPT staff might begin preparing a draft license and reference interconnection offer that could be negotiated and agreed as the regulatory authority becomes established. Private sector operators could be invited to participate in drafting individual or class licenses in preparation for the new regime.

A key issue for the new regulatory structure was the conversion of the BOT contracts into licenses under the new licensing regime. When negotiations with the operators on the terms of conversion failed, however, in June 2001 the government exercised its right to cancel the BOT contracts with 180 days' notice. The government also announced its decision to auction new 20 year mobile licenses by the end of 2001.

Various repercussions ensue. First, with the BOT contracts cancelled, the two mobile networks (along with the goodwill and the customers) revert to the government. The government now has three established businesses to privatize – the two mobile services and the fixed line service. It has also indicated its intention to grant a third mobile license to the fixed line operator in order to add value in privatization and introduce competition for the existing duopoly.

The cancellation of the BOT contracts offers new packaging options which may be worth considering. For example, the fixed line operator could be packaged with one of the established mobile networks instead of the new third mobile license (the new license would then be auctioned to a new investor). That would mean the fixed line operator would not have to seek the capital required to roll out the third mobile network when it may need to focus its financial and managerial capital on developing its own business in a commercial environment.

Another packaging issue is the trade-off between the fixed line operator's exclusivity period for international services and the increased price investors would pay for mobile licenses with earlier international gateway rights. Packaging the fixed line operator with a mobile license would give it some of this up-side to compensate for some of its loss if its exclusivity period were shorter than currently contemplated. Various such options exist, each of which needs to be evaluated for its implications for the developing market and privatization revenue – this article is merely raising some of the choices.

The most pressing matter, however, is the urgency of preparing the regulatory ground for the issuance of the new licenses. The government has given itself to the end of the year, unless it extends the BOT contracts or itself takes control of the mobile networks.2 Setting up a fully functional regulatory regime is likely to take around a year – beyond the government's current timetable.

It may be worth the wait, however. Preparing the regulatory regime before issuing the new licenses would help ensure a well-functioning market for the future. In addition, and perhaps more interesting to the highly indebted government, developing the regulatory regime affects license prices. As the auction of the second Moroccan GSM license showed in 1999, the creation of a credible, pro-competitive regulatory environment and an open, professional bidding process brought more competition from reputable bidders and raised the price well beyond expectation. The more seriously interested bidders you have, the higher the price you can expect.

Auction strategy will be crucial. Getting key bidders into the game (and keeping France Telecom interested, despite its disappointment over the cancellation of the Cellis contract) will be key to the revenues the government can raise. It is also important to ensure that the networks are free of legal claims, making it a priority to settle disagreements with the mobile operators – over how much the government must pay them in compensation for the networks, as well the existing arbitration over the operators' payment obligations during the course of the contracts.

If the government plays its cards well, it has the opportunity to raise substantial privatization revenues at the same time as issuing in a new era of liberalized telecommunications services.

Syria

The Syrian telecommunications sector is in the early stages of permitting private sector services. The state-owned monopoly, the Syrian Telecommunications Establishment, was incorporated pursuant to Law No/11/ of 1985, but there is little sign of liberalization or privatization. Teledensity is low at around 10%. Until 2000, providing Internet access was prohibited except through the public library in Damascus.

After a trial of two networks, in January 2001 the government awarded 15-year BOT contracts for national GSM services to SyriaTel, controlled by Orascom Telecom, and Lebanese-owned Investcom. The contracts contemplate revenue sharing arrangements which rise from 30% to 50% of revenues over the course of the contracts. Each operator is required to roll-out its services to 850,000 customers by the end of the contract, a penetration rate of about 10% based on today's population. Take-up will largely depend on pricing: the pilot scheme in 2000 suffered from lack of interest due to extremely high connection costs.

The award of the contracts is now being examined by governmental committees for proper legal and financial compliance. Compliance may not be the main issue, however. BOT contracts for mobile services are now the exception internationally. Any potential rescission of the contracts would more likely be due to a reconsideration of overall strategy and the higher revenues the government could make from issuing licenses instead.

In any event, prices of all services are likely to remain high (both compared with other countries and considering average incomes), penetration rates are likely to remain low and services to remain basic until measures are taken to open the market.

1 A copy of the law can be found at http://www.mopc.gov.jo/lawed.htm

2 Chapter III The Telecommunications Regulatory Commission (Articles 4-19)

3 Chapter IX Seizure Authority (Articles 62-66), Chapter X Appropriation (Articles 67-70), and Chapter XI Crimes and Penalties (Articles 71-84)

4 Chapter V Management of Frequencies and the Licensing of Their Use (Articles 30-37)

5 Chapter IV Licensing of Telecommunications Networks (Articles 20-29), Chapter VI Renewal, Amendment and Cancellation of Licenses (Articles 38-47), and Chapter VII Technical Approvals and Licensing of Telecommunications Equipment (Articles 48-61)

6 The Minister currently chairs the TRC Board of Directors pursuant to Article 8 of the Telecommunications Law.

7 See the Annex to the Fourth Protocol to the GATS Agreement, the 'Agreement on Basic Telecommunications' negotiated under the auspices of the WTO in February 1997, which came into effect on January 1, 1998.

8 Jordan Telecom license, Section 2.4.1.

9 Article 39 of the Telecommunications Law. Consultation with, but not consent from, the licensee is required.

10 This is permitted under the licenses (e.g. Fastlink license, Section 2.4.2).

11 The exclusive right to operate the PTTN comprises 'the public telecommunications transport network in Jordan, *now existing and as it may be modified or expanded*.' (Jordan Telecom license, Section 1.1.15.) The rationale behind the exclusivity provision may have been to prohibit resale of the use of Jordan Telecom's network and arguably does not restrict the building and operation of new networks that are not modifications or expansions of the PTTN as it was when the license was signed.

12 Jordan Telecom license, Section 6.1.3.

13 The exclusivity right over these services appears to be restricted to the provision of services to 'other public telecommunications service providers.' (Jordan Telecom license, Section 2.4.1(ii))

14 Law No. 19 of 1998 on the transformation of the National Telecommunications Organization of the Arab Republic of Egypt 'Telecom Egypt' into an Egyptian joint stock company.

15 Article 12 of Law No. 19.

16 Decree No. 101 of 1998 by the President of the Arab Republic of Egypt on the Establishment of an Agency to Regulate Wire and Wireless Telecommunications Services.

17 Article 1 of Decree No. 101.

18 Article 2 and 5 of Decree No. 101.

19 Article 4 of Decree No. 101.

20 Law No. 19 permitted a public offering of shares in the company with assured employee participation.

21 Comments here are on the July 2000 draft which may since have been modified.

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