

An Overview of Telecoms Licensing in Saudi Arabia

Nick O'Connell - Partner, Head of Digital & Data - Saudi Arabia - Digital and Data / Intellectual Property
n.oconnell@tamimi.com - Riyadh

Amy Land-Pejoska - Associate - Digital and Data
- Riyadh



The Saudi telecoms market is the largest in the GCC, and its licensing structure provides opportunities for a variety of market participants. In this article, we provide a general outline of the various licence categories, and the violations associated with non-compliance.

Pursuant to the Telecoms Law (Royal Decree No. (M/12) of 12/03/1422H (3 June 2001); Council of Ministers Resolution No. (74) of 05/03/1422H (27 May 2001), the Communications and Information Technology Commission ('CITC') is responsible for identifying the telecommunications-related licences available in the Kingdom, and the conditions an applicant must meet in order for the relevant licence to be issued.

The Telecoms Law contemplates four broad categories of licences, which are further detailed in the Telecoms Regulations (Telecom Act Bylaws (Ministerial Resolution No. (11) of 17/05/1423H (27 July 2002)):

- Telecommunications licences;
- Radio frequency licences;
- Numbering licences; and
- Equipment licences.

Licensees are required to comply with conditions specified in their licence. The repeated failure to comply with basic licensing conditions provides a basis upon which the CITC can amend, suspend, revoke or decline to renew a licence. Other reasons that would permit the CITC to amend, suspend, revoke or decline to renew a licence include: failure to commence operations within 12 months from licence issuance; failure to pay applicable fees; repeated failure to comply with decisions of the CITC; carrying out activities contrary to the public interest; and the purported assignment of the licence to a third party without the CITC's prior consent. Of course, the licensee's bankruptcy, dissolution or liquidation would also provide a legitimate basis for the licence to be revoked.

Practices violating the provisions of the Telecoms Law are prohibited and the CITC has considerable power to investigate and prosecute offences, including by establishing a Committee to consider and rule on violations. Penalties can include fines of up to SAR25M (about USD6.5M), as well as an account of profits

and publication of details of the violation and the violator. In appropriate circumstances, criminal prosecution may also occur, and affected parties may also make a claim for damages.

Violations of specific relevance to licensing issues include:

- providing telecommunications services or operating (or connecting to) a public telecommunications network without obtaining a licence from the CITC;
- using any telecoms equipment not licensed by the CITC, or importing, marketing or using non-compliant telecoms equipment;
- using any radio frequency without a licence from the CITC; and
- any other practice violating the provisions of the Telecoms Law.

Telecommunications Licences

The Telecoms Regulations contemplate two types of telecommunications licences: 'Individual' Licences and 'Class' Licences. Class Licences are further split into 'Type A' Class Licences and 'Type B' Class Licences.

Individual Licences

The following are the types of activities covered by Individual Licences:

- fixed voice telephone services;
- public mobile cellular telecommunications services;
- operation of a public telecommunications network; and
- national and international fixed and mobile data communications services.

The CITC has discretion to specify other types of service that shall require an Individual Licence.

The types of requirements that the CITC can impose for an Individual Licence include requirements relating to scope and quality of services; terms and conditions of exclusivity; service rollout requirements; limitations on ownership of other service providers; tariff conditions; and requirements relating to providing the CITC with information.

The CITC can publish information on the procedures and requirements for applications for different types of Individual Licences, and in appropriate circumstances it may call for public consultation before calling for applications. The type of information published needs to provide enough detail on the criteria of the licence to enable applicants to file complete applications, and applicants need to be provided with enough time to provide a complete response. Licences for the same type of services should have the same requirements unless there is an objectively justifiable reason to take a different approach.

At a minimum, an applicant for an Individual Licence needs to provide the following information to the CITC as part of its application:

- name and location details;
- a description of the specific type of service that the applicant proposes to provide, and the geographic area the service would cover;
- a description of the specific network and telecommunications transmission system that the applicant proposes to establish and operate, and the schedule for implementation and roll-out of the network and system;
- clear evidence that the applicant has the financial capability to provide the proposed services and to

- implement the proposed network; and
- clear evidence that the applicant has the technical capability and experience (or has access to the same) to provide the proposed services and to implement the proposed network.

Upon request, the CITC is required to provide unsuccessful applicants with an explanation as to why the application was unsuccessful.

The Regulations contemplate the manner in which CITC can manage the issuance of Individual Licences in certain circumstances, such as where frequencies are scarce or where the CITC is seeking to swiftly transition towards a more competitive model for the subject service. This may involve the use of a comparative evaluation process, an auction process, or such other process as the CITC may consider appropriate. When limiting the number of licences being awarded, the CITC is required to adopt a process that is objective, transparent, and non-discriminatory.

Class Licences

Class Licences allow more than one service provider to provide the subject services, and impose identical conditions on all licensees in the relevant class.

The key differences between Type A Class Licences and Type B Class Licences are as follows:

- Type A: the CITC is permitted to limit the number of licensees, and adopt a competitive approach to the qualification process; and
- Type B: the CITC is not permitted to limit the number of licensees, and it may not adopt a competitive approach to the qualification process. (Applicants need only submit a basic registration form, providing the applicant's name, address, and information on the subject service.)

The following are examples of the types of services/networks the subject of Type A Class Licences:

- national and international voice call resale services;
- Very Small Aperture Terminal ('**VSAT**') satellite services;
- public pay telephone services;
- radio paging services;
- temporary network services; and
- Internet of Things-Mobile Virtual Network Operator ('**IoT-MVNO**') services.

The following are examples of the types of services/networks which fall under Type B Class Licences:

- Internet Service Provider ('**ISP**') services;
- Value-Added Network ('**VAN**') services;
- Global Mobile Personal Communication by Satellite ('**GMPCS**') services;
- Public Call Office ('**PCO**') services;
- Audio Text Service;
- Automated Vehicle Location Service ('**AVL**');
- Broadband Satellite Services;
- Call Center Services;
- Electronic Wallet Services;
- Leasing Utilities Communications Facilities;
- Network Operation Center;
- Providing Internet Services on Aircraft;
- Providing Mobile Communication Services onboard Aircraft;
- Bulk Short Messages Service ('**SMS**'); and
- Wholesale Infrastructure Services.

Upon request, the CITC is required to provide unsuccessful applicants with an explanation as to why the application was unsuccessful.

Radio Licences

Under the Regulations, it is not permitted to install, operate, or possess radio equipment or use a radio frequency except pursuant to, and in accordance with, a radio licence.

The Regulations allow the CITC to prepare and publish procedures related to the management of the radio frequency spectrum, including procedures dealing with classes and conditions of radio frequency licences and radio equipment licences, and associated application procedures, information requirements, application forms and fees.

The CITC has prepared a National Frequency Spectrum Plan (originally in effect from 2/5/1429H (13 February 2008)), consistent with international and regional regulations, agreements and standards, in order to allocate frequency spectrum among different types of use, and to prescribe associated technical standards.

Numbering Licences

The CITC has prepared a National Numbering Plan (most recently revised in 1432H (2011)), consistent with international and regional conventions, regulations and recommendations. The National Numbering Plan is intended to manage the resource, efficiently allocate numbers, and plan for growth in demand so that numbers can be readily assigned and ported between carriers, etc.

The Regulations require telecommunications service providers to use numbers assigned to them by the CITC in accordance with the National Numbering Plan, and to ensure that such numbers are used in accordance with the National Numbering Plan. These requirements impose obligations on service providers in respect of subscribers with regard to the issuance and variation of the numbers issued to them. The Regulations also provide for Mobile Number Portability, and further CITC guidance has been issued on this.

Failure to comply with the numbering provisions would be likely to constitute a breach of the 'catch all' prohibition on 'any other practices in violation of this law' found in the Telecoms Law.

Equipment Licences

The CITC is required to prescribe the procedures and requirements applicable to type approval / telecoms equipment licences, as well as details of telecoms equipment approved for use in Saudi Arabia (as well as local labelling requirements showing that equipment is approved). This relates to radio-apparatus, radio-sensitive equipment, interference-causing equipment and any other device, apparatus, product, tool, machinery, equipment or thing connected to a telecommunications network or that may interfere with telecommunications services.

It is permitted to use telecommunications equipment that has been type approved, or otherwise complies with technical standards that have been approved, by the CITC. The Regulations specifically prohibit the use of telecommunications equipment other than pursuant to a licence issued by the CITC. They also prohibit the manufacture, importation, distribution, leasing, offering for sale or sale of such equipment.

What Next?

The CITC is proactive in continually reviewing the licence regime, particularly in terms of introducing new Class Licences where technological developments require it. Examples include the recent introduction of

an IOT MVNO regime. Prospective participants in the Saudi telecoms market, and those hoping to offer peripheral services that could require a local licence, are well advised to familiarise themselves with the licensing categories and ensure they obtain the appropriate licences.

Al Tamimi & Company's [Technology, Media & Telecommunications team](#) regularly advises on issues relating to licensing in the telecoms sector. For further information, please contact [Nick O'Connell](#) (n.oconnell@tamimi.com) or [Amy Land-Pejoska](#) (a.pejoska@tamimi.com).