

Telecommunications and Internet Policy

Islamic Transitional Government of Afghanistan

Ministry of Communications

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FINAL WORKING DRAFT

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1.0 Introduction

The Islamic Transitional Government of Afghanistan firmly recognizes the importance of embracing telecommunications and Internet technologies to achieve the nation's development and reconstruction goals. An effective telecommunications infrastructure will help stimulate economic growth, raise living standards and restore the traditional sense of community and common purpose that unites the Afghan people. A modern communications network can play a vital role in narrowing the physical distances that separate our villages and towns and dramatically improve access to government services, educational opportunities and humanitarian relief efforts. They will lay the foundation for an Afghanistan that is vibrant, productive and strong.

Today Afghanistan has one of the weakest telecommunications systems in the world. Only one out of every 550 Afghan citizens has access to telephone service. Communications between provinces is extremely limited and effectively non-existent in smaller towns. Whole communities of our people face the "tyranny of distance" and the alienation associated with remote geography. Internet and data services have only recently begun. Government operations and the management of civil affairs are hampered by the absence of reliable communications services. Economic activity is difficult, costly and at times impossible. After 23 years of conflict and stalled investment, the entire sector needs to be completely rebuilt.

The Government's Telecommunications Policy is to enable the rapid growth of affordable communications to all of our people so they may experience the Digital Age, wherever they are and whoever they may be.

Afghanistan is committed to following international best practices in telecommunications sector reform. We will embrace a market regime based on aggressive market liberalization, transparent and non-discriminatory regulation, fair competition and private sector participation. The Government will move as quickly as possible to privatize the telecommunications sector to ensure that adequate financing is available to meet our development goals. Private investment has already led expansion of mobile communications. Private participation will be harnessed further to fund Afghanistan's substantial communications infrastructure needs. Taken together, competition and private investment will lower prices to consumers for network services and equipment, improve quality of service and accelerate a faster rate of market innovation.

Telecommunications is a basic enabler of informal social and economic discourse necessary in the strengthening of civil society. Reliable communications will enable the government to successfully execute the broad reconstruction effort. A modern network will enhance the effectiveness, efficiency and transparency of the public sector, improve delivery of social services, and build our future as a peaceful and unified society.

Telecommunications is also necessary for the resumption of productive capacity and stimulating activity in all sectors of the Afghan economy. It will play a critical role in reestablishing the financial system and relieving communication bottlenecks in commercial, governmental and cultural information flows. It is essential for boosting productivity and creating a climate for job creation, investment and sustainable growth.

Finally, a robust telecommunications environment will provide Afghanistan with greater assurances for achieving and sustaining national and civil security. Domestic preparedness, education, NGO and community outreach, peace-building and national security efforts are all strengthened when reliable and robust network resources are distributed widely throughout society.

2.0 National Telecommunications Policy Principles and Goals

To rapidly transform telecommunications into a leading engine in Afghanistan's renewal, the Ministry of Communications (MoC) has defined the following general principles to guide the national *Telecommunications and Internet Policy*:

- *Create a legal and regulatory environment that nurtures and accelerates industry growth.* The Government intends to rapidly introduce a *Telecommunications Law of 1382*¹ that will define the rights and responsibilities of market participants in the telecommunications sector. It will also create an independent telecommunications regulator, the *Telecommunications Regulatory Authority of Afghanistan (TRAA)*, to implement the Government's commitment to international best practices for sector modernization and reform.
- *Engage private investment to the greatest extent possible.* Afghanistan's capital requirements for telecommunications infrastructure are tremendous. Neither the state nor the international donor community can provide the vast financial resources necessary to quickly provide for the communications needs of the nation. The participation of private investors is essential and encouraged.
- *Establish a level playing field for competition.* The role of the state in providing telecommunications services will be steadfastly reduced in favor of fair, transparent and market-based competition among commercial enterprises.
- *Introduce market liberalization.* Afghan consumers will benefit from healthy competition in all aspects of telecommunications networks and services. Market opening will lead to a wider range of suppliers and products, lower costs, and establish a service industry that is responsive to customer demands. New entrants will bid competitively for market opportunities based on open and transparent international tenders. In the near term, the Government will introduce a framework of limited, managed competition to ensure stable market conditions for strategic infrastructure projects. Aggressive liberalization of the sector is anticipated after three years, or commencing in 2006.
- *Encourage the usage of Internet and information and communications technologies (ICTs).* Widespread adoption of modern information technology tools will create new educational opportunities for the young, improve the efficiency of government departments and private companies, and help Afghanistan to "leap frog" into the Digital Age. Recent technological advances have unleashed a range of new alternatives for bringing powerful and affordable voice and data services to consumers. The Government is committed to pursuing an open, flexible, and technology-friendly regulatory strategy to encourage the deployment of the latest technologies throughout Afghanistan.

Specific targets for the sector in the near term include:

- *Quickly restore the productive capacity* of the existing public network with expanded and upgraded systems in the primary and secondary cities;
- *Establish a national long distance network* to provide basic voice, data and Internet communications to even the remotest regions in the nation;
- *Establish a National Backbone Network* around the country that connects major domestic population centers and our international neighbors;
- *Issue additional nationwide licenses for Fixed Telecommunications Services;*

¹ N.b., the Islamic calendar year of 1382 began on March 21, 2003.

- *Issue multiple ISP licenses;*
- *Increase teledensity* from the present 0.18% to 0.43% in 2003/2004, with the intention of many-fold expansion in the years to come;
- *Increase mobile teledensity* from the present 0.92 users per thousand population to 2.52 mobile user in 2003/2004;
- *Maximize the use and value of radio frequency spectrum* through competitive international tenders; and,
- *Establish tele-centers in small communities* to bring the benefits of modern communications to all of our people as quickly as possible. It is essential that all 423 administrative districts be integrated with Kabul, with each other, and with the rest of the world.

Due to the ever-changing nature of the telecommunications sector and its importance to the nation's development and reconstruction goals, the MoC will periodically review this policy and publish updates to its official website.

3.0 Role of the Government

The Government's chief objective as articulated and led by the MoC is to set the overall vision for the telecommunications sector, to promote access to ICT as a facilitator for sustainable development and to create an enabling environment for private investment, competition and rapid industry growth. Through the creation, "corporatization" and rapid privatization of Afghan Telecom, the Government will relinquish its role as an *operator* of public telecommunications services. The MoC's specific responsibilities include:

- i. Provide overall direction for telecommunications sector development and formulate broad policies for the benefit of all of Afghanistan;
- ii. Ensure that this Policy is consistent with other national development plans and laws;
- iii. Rapidly separate the Ministry's Telecommunications Department into a state owned enterprise to be known as "Afghan Telecom";
- iv. Encourage private investment in the sector from the earliest stage of development and immediately open Afghan Telecom to private equity participation;
- v. Establish an independent *Telecommunications Regulatory Authority of Afghanistan* (TRAA) to ensure regulatory transparency and fair treatment for all market participants;
- vi. Promote domestic and international investment in the telecommunications sector;
- vii. Encourage competition in infrastructure, services and investment;
- viii. Stimulate introduction of telecommunications network services in underserved and rural communities to the best of its ability with available resources and with support from donors; and,
- ix. Represent the Government of Afghanistan in telecommunications and Internet matters pertaining to regional and international organizations.

4.0 Creation of a Regulatory Authority

The *Telecommunications Regulatory Authority of Afghanistan* (TRAA) will be established in 1382. It is anticipated that, for the foreseeable future, the TRAA will be authorized as an independent agency

reporting to the Ministry of Communications. It will be funded by the monies collected through the transparent application of its regulatory duties. The TRAA will propose a budget to the Minister of Communications for review and approval by the Council of Ministers on an annual basis.

The scope of the Regulatory Authority's duties will include, but shall not be limited to the following:

- i. Implementation of the national policy of competition and market liberalization;
- ii. Issuance of Licenses for the provision of mobile, fixed and other network services;
- iii. Issuance of Licenses for Internet Service Providers;
- iv. Setting rules regarding interconnection between Licensed Operators to ensure that interconnection is available on a fair and non-discriminatory basis;
- v. Publishing a framework Interconnection Agreement to be used by all holders of Operator Licenses;
- vi. Regulating tariffs;
- vii. Dispute resolution between service providers;
- viii. Consumer protection;
- ix. Setting technical standards for type approval of telecommunications network and customer premises equipment;
- x. Monitoring service quality and adherence to rules and regulations by service providers;
- xi. Preparing a national numbering scheme and ensuring non-discrimination in the allocation of numbers; and,
- xii. Any other functions that ensure a fair, transparent and competitive market environment according to international best practices that may be considered to be necessary by the Government.

The TRAA will publicly publish all policies, regulations, license conditions, interconnection agreements, tender qualification and scoring criteria, quality of service reports and other documentation required for full transparency and to ensure a 'level playing field' for all market participants. In addition the TRAA shall prepare and, through the Ministry of Communications, deliver to the Council of Ministers an annual report containing financial details pertaining to the activities of the TRAA for the preceding year. An electronic version of such report shall be published on the TRAA's official website.

5.0 Creation of Afghan Telecom

The Government intends to separate the Telecommunications Department of the Ministry of Communications, including authorizing the transfer of related assets, to a newly established state-owned enterprise, "Afghan Telecom". The legal rights of Afghan Telecom will be further articulated in the forthcoming *Telecommunications Law of 1382*.

At the time of establishment, Afghan Telecom shall be a public corporation owned by the Government and administered by the MoC. However, the Government seeks rapid privatization of the communications sector and Afghan Telecom is encouraged to engage operating and investment partners to become a market-oriented and commercial enterprise.

Afghan Telecom's charter to provide domestic and international telecommunications services in Afghanistan will be normalized with forthcoming licensing requirements to be published by TRAA.

6.0 Competition Policy

The Government supports the full liberalization of the communications sector as market forces allow - to promote innovation, extend network coverage and lower consumer service charges. For a period of three years from the issuance of this Policy, the MoC will adopt a period of limited competition for facilities-based network services. The Government's objective is to create a stable market for initial infrastructure projects and protect consumer interest through aggressive management of operator service quality.

Currently, there are two private operators of Mobile Services Providers (MSP) that have been awarded National GSM Mobile Licenses: Afghan Wireless Communications Company (AWCC) and Telecom Development Company Afghanistan (TDCA), commonly known as *Roshan*. No other providers of GSM mobile telephony services will be authorized before January 10, 2006.

Local network services are subject to the issuance of a Fixed Service Provider (FSP) license. The TRAA will issue two additional nationwide FSP licenses via international competitive tender, in addition to the nationwide FSP license that is already held by Afghan Telecom. The tender for the National FSP licenses will be announced within six months of the publication of this Policy.

In addition, private investment in local communications networks is encouraged. Local Fixed Service Provider (LFSP) licenses will be issued to community-based operators in small cities, towns and villages seeking to rapidly expand communications services through private investment.

After a period of 3 years, full competition will be allowed between national FSPs and MSPs. At that time, FSPs and MSPs shall be entitled to provide any facilities-based network service subject to obtaining the appropriate service licenses. The TRAA may also consider issuing licenses to additional new entrants.

7.0 Licensed Spectrum

Radio frequency spectrum is an essential aspect of modern telecommunications systems and a limited natural resource that must be monitored and managed for the benefit of all. Afghanistan's spectrum policy is intended to maximize public benefits for spectrum use by fostering competition, controlling harmful interference, and stimulating the deployment of innovative services and technologies.

No entity is permitted to utilize licensed radio spectrum without first obtaining a Spectrum License from the Spectrum Management Office. The only exception is for the use of Unlicensed Radio Spectrum as specifically defined in this Policy and by regulations that may be adopted and published from time to time by the TRAA.

The MoC's Spectrum Management Office will work closely with other government agencies and the TRAA to specify frequency allocation and monitor spectrum usage and compliance with license requirements. It has published a Spectrum Allocation Table according to standards promulgated by the International Telecommunications Union (ITU). The Table specifies the radio spectrum band plan for acceptable use of frequencies within Afghanistan. Additional radio frequencies may be made available for market participants as technology and market conditions warrant. The spectrum plan shall be reviewed from time to time with a view toward optimal utilization of spectrum, the emergence of new technologies, market forces, the public interest, national security and other factors.

An annual frequency usage fee will be charged for licensed spectrum. Award of radio frequencies will be subject to an open, transparent and competitive tendering process. The terms for the competitive tenders and spectrum license fees will be published.

Providers and end-users of radio systems must ensure that they do not create radio interference with licensed spectrum operators. Financial or legal penalties may be levied for violating published spectrum usage performance guidelines.

8.0 Unlicensed Spectrum

Afghanistan will follow international best practices and make available unlicensed spectrum to encourage rapid adoption of innovative wireless services. Services based on unlicensed spectrum will stimulate build-out of low-cost data access at the local level, extend local services networks for data applications and stimulate broader dissemination of the Internet in Afghanistan.

Licensed network operators and Internet Service Providers (ISPs) utilizing unlicensed spectrum for outdoor, retail or commercial use are required to register with the MoC. Registration will not be required for individual users and customers of services utilizing unlicensed spectrum. Devices deployed in unlicensed bands will be expected to protect licensed spectrum operators by meeting technical rules to prevent interference.

The unlicensed spectrum approved for usage in Afghanistan is the so-called ISM band in the 2.4 GHz and 5 GHz ranges. All users of these bands are required to operate at moderate power consistent with ITU usage recommendations. Additional frequencies for unlicensed spectrum applications may be considered by TRAA from time to time.

9.0 Telecommunications Services Licenses

Providers of facilities-based network services are required to obtain a license. When the TRAA assumes regulatory responsibilities, licenses will be issued by the TRAA. Until that time, the MoC will issue licenses.

9.1 Ownership of Licensed Operators

In accordance with the *Law on Investments* and the forthcoming *Telecommunications Law of 1382*, full private ownership of telecommunications services providers is allowed. Foreign private sector investors may own network services providers in their entirety. Afghan equity participation in service operators will be encouraged and welcome. While no specific minimum domestic ownership regulations will be imposed, the government seeks to engage the participation of Afghan entrepreneurs and the repatriation of Afghan investors from abroad.

9.2 Mobile Services Provider Licenses

Two Mobile Services Provider (MSP) licenses utilizing the GSM standard have been awarded to provide full mobility network services in Afghanistan. The MoC has agreed to a duopoly for GSM Mobile Services for a period of three years, or until January 10, 2006. No other providers of GSM mobile telephony services will be allowed before this time. It is envisioned that when the duopoly period expires, MSPs will be entitled to expand their businesses to include the provision of any network service. At the same time, Fixed Services Providers will also be allowed to provide mobile services. Additional licenses may also be awarded, based on the TRAA's assessment of evolving market conditions, before January 10, 2006 in order for service to begin on that date.

The MSPs are permitted to provide mobile telephony services and have permission to carry long distance and international traffic originating on their own networks, based on the terms and conditions of their licenses. A single, 15-year MSP license applies nationwide and does not require separate licenses from local or regional authorities.

MSPs are required to pay an annual spectrum usage fee as specified in their license agreement. They will also pay license fees in the form of a revenue share equivalent to 10% of gross revenues as defined in the license agreements and will contribute 2.5% of gross revenues to the Telecommunications Development Fund as defined in this Policy.

9.3 Fixed Services Provider Licenses

Fixed Services Providers (FSP) shall be licensed to build local and domestic long distance service networks. In the current planning year, 1382, the MoC will issue a tender for two additional national FSP licenses with the rights and opportunity to build networks nationwide. The licenses will be for 15 years with an option for renewal; specific terms will be outlined in the appropriate tender documentation. The new FSP licenses will be issued via international competitive tender that will be announced within six months of the publication of this Policy. The tender may include provisions that stipulate specific build obligations. Afghan Telecom already has a national FSP license. No additional requests for nationwide FSP licenses will be considered for the next three years.

The MoC is embracing a technology-neutral approach to network development. FSPs will be freely permitted to utilize technology solutions of their choosing within the broad type approval and spectrum licensing parameters outlined in this Policy. FSPs will be required to file binding network rollout development plans with the TRAA as a condition of their license.

FSPs are not required but are encouraged to consider wireless local loop (WLL) technology that can be deployed quickly to establish “last mile” connectivity to end subscribers. If WLL technology is deployed, FSPs must configure the systems for Limited Mobility Services until 2006. FSPs are prohibited from offering full mobility services at this time. In the event they deploy WLL, FSPs are required to pay annual spectrum usage fees as specified in their license agreement.

The FSPs will also pay license fees in the form of a revenue share. The TRAA will determine a minimum revenue share participation level that will be determined by competitive market forces. Additionally, the FSPs will contribute 2.5% of gross revenues to the Telecommunications Development Fund as defined in this Policy.

9.4 Exceptions to FSP Licenses

The Government seeks to support wide dissemination of telecommunications services throughout the country but recognizes that licensed operators cannot practically serve all local communities in the near term. Small cities, towns and rural communities will thus be encouraged to develop and invest in cooperative communications services infrastructure as determined by local market conditions. Local investors will be granted exemptions to the national service operator licensing rules on a case-by-case basis. Local operators shall be issued Local Fixed Service Provider (LFSP) licenses for local operations that comply with national technology, spectrum and competition standards.

9.5 International Gateway Services

The Government recognizes that introducing competition in international network services will lower calling charges for customers, stimulate trade activity, and help Afghanistan reclaim its place in the world community. Establishing robust competition in international services is thus an important policy goal to serve development objectives and consumer needs. However, the new regulatory framework needs to be firmly established before the international services sector can be further liberalized. The Government believes that the TRAA must be operating effectively to transparently manage competition and interconnection issues and to ensure orderly market reform. Similarly, the initial phases of the domestic network reconstruction efforts need to be completed before opening the international market segment to competition. The government will undertake an annual internal review of its approach to international services with a target of opening the international services sector to competition in 2006.

An International Gateway Services (IGS) license is required to provide commercial, wholesale or retail international connectivity services. In addition to Afghan Telecom, the two existing MSPs are allowed to provide international connectivity services. Additional International Gateway Services licenses may be considered as part of the upcoming tender for FSPs and for International Transit ISPs

as licenses are issued. All licenses for International Gateway Services will be made according to clearly stated policies to be published by the MoC or TRAA.

Owners of private VSAT systems are not permitted to transit or interconnect international traffic to licensed operators' networks.

9.6 VSAT

The use of very small aperture terminal (VSAT) satellite equipment to access domestic or international satellite systems is allowed for private use, following registration of the equipment. All existing VSAT owners must register with the Spectrum Management Office, and new users must register and obtain type approval and certification for the equipment. This registration requirement applies equally to governments, multi-lateral organizations, non-governmental organizations and private enterprises. Failure to register could lead to the revocation of usage rights. A license for spectrum use is also required.

VSAT users are not allowed to utilize equipment or software that directly or indirectly enables access or egress to operators of licensed telecommunications or Internet services. Additionally, the resale of capacity accessed via VSAT is not allowed.

9.7 Digital Trunk Radio Services

Digital Trunk Radio Services (DTRS) and analog trunk mobile radio systems are allowed for private use. A spectrum license is required and the assignment of radio frequency shall be made via competitive tender. There will be no limitation to the number of trunk radio operators allowed. Trunk mobile radio systems will not be permitted to establish interconnection to other licensed operators or international gateway services. DTRSs are required to pay annual spectrum usage fee as specified in their license agreement.

9.8 Radio Paging Service Providers

Radio Paging Services (RPSP) licenses will be issued without limitation. Direct interconnectivity between licensed RPSPs and other service providers (for instance, for text messaging) will be permitted. Licenses will be awarded for an initial period of 15 years and will be extended by additional periods of 10 years thereafter. Radio paging licensees shall pay a spectrum fee plus a revenue share. The basis for determining fee structure will be recommended by the TRAA.

9.9 Value-Added Network Services

Applications-oriented value-added services (VAS) that utilize leased facilities from licensed operators are allowed and are subject to open competition. Value-added services providers shall be required to obtain a generalized class license from the TRAA.

9.10 Global Mobile Satellite Services

Global Mobile Satellite Service Providers (GMSSPs) are required to obtain a license to provide services over the territory of Afghanistan. The GMSSPs are required to pay a license fee in the form of revenue share and/or a fixed fee per registered user per month.

Satellite phones shall be distributed only through authorized distributors. Each authorized distributor shall have signed an agreement with the TRAA for selling and distributing satellite phones.

For each phone sold, the authorized distributor shall pay a fixed one-time fee to be determined by the TRAA. End users shall be issued a Satellite Phone User License permitting personal use or resale as a Public Call Office.

9.11 Cable Television Services

To provide Cable Television services, a license is required from the Ministry of Information and Culture. Any cable services operator that seeks to provide two-way or interactive telecommunications or Internet services must apply for the appropriate licenses from the TRAA.

9.12 Private Networks

Commercial enterprises, government departments and other organizations shall be allowed to establish private wide area networks for internal use, subject to compliance with TRAA licensing and operational requirements and in accordance with appropriate laws. Owners and operators of private networks are not allowed to offer telecommunications services commercially nor to resale services to third parties.

9.13 Resale

FSPs, MSPs and ISPs are allowed to provide network services on a wholesale basis to third parties for resale to retail customers.

9.14 Interconnection

The Government endorses a policy of full and fair network access. All licensed service providers shall have the right to negotiate interconnection arrangements among themselves. However, the MoC has published a standard Interconnection Agreement that is to be used as a baseline framework for interconnection between licensed operators. This agreement may be amended from time to time by TRAA, and companies may introduce appendixes that articulate specific additional commercial terms.

When requested by another licensed operator, a licensed operator offering public services shall be obliged to negotiate interconnection arrangements. The TRAA may also prescribe fair terms and conditions that are to be applied universally to all market participants for different types of services. TRAA may intervene in commercial disputes if the concerned operators are unable to agree on the scope and financial terms for interconnection.

9.15 National Technology Standards

The TRAA will seek to promote a wide range of technologies as it sets standards for acceptable use of telecommunications equipment and services in Afghanistan. The Government's policy is not to impose restrictions that unduly limit market forces that can benefit consumers. The TRAA will thus seek to develop an enlightened technology policy that encourages innovation while preserving the integrity of existing infrastructure. All licensed operators will be required to adopt standards and capabilities that allow law enforcement and other relevant security agencies to perform their duties within the context of the law.

9.16 Customer Premises Equipment

Private ownership and procurement of customer premises equipment (CPE) is allowed. CPE authorized for use in Afghanistan requires type approval from the TRAA. The TRAA will issue Type Approval guidelines that are based on international standards set by organizations such as the ITU and IEEE. Equipment that does not meet TRAA type approval can be confiscated. Existing CPE attached

to MSP and the Afghan Telecom networks may continue to be used, if they meet the TRAA's standards.

9.17 Telecommunications Development Fund

A Telecommunications Development Fund administered by the MoC has been established to which all licensed network service providers must contribute. This Fund will be only used for re-investment in telecommunications infrastructure projects of strategic importance, including for public safety, or to provide basic access services in communities not adequately addressed by licensed operators. The MoC shall develop criteria for such investment.

The amount of operators' contribution will be determined according to a published and transparent rate that applies equally to all service providers without favor or prejudice. Payments must be made according to terms to be established by TRAA. Failure to comply with scheduled payments in a timely manner could lead to fines or the revoking of an operating license. For MSPs and FSPs, the amount of the contribution to the TDF shall be equal to 2.5% of the gross revenues of the licensee for each year of its License. Funds will be collected on a quarterly basis in arrears from the licensee.

Any Licensed Operator may apply to the MoC to receive funds to support specific infrastructure expansion projects.

10.0 Internet Services Licenses

Providers of Internet services are required to obtain a license. When the TRAA assumes regulatory responsibilities, licenses will be issued by the TRAA. Until that time, the MoC will issue licenses.

Afghanistan will implement a two-class system of licenses for Internet Service Providers (ISPs) that distinguishes between providers of *international* Internet Protocol connectivity (International Transit ISPs) and *domestic* Internet service providers (National ISPs). In defining clear and distinct roles for the two types of ISPs, the licensing plan allows Afghanistan to channel international traffic through licensed gateways while promoting robust competition at all levels of the market. Similarly, by providing a simple, streamlined and inexpensive licensing mechanism for National ISPs, the MoC encourages the proliferation of private nationwide, regional, and local ISPs. Modest limits on the number of international Internet traffic gateways will promote both a competitive market and a stable investment climate for international Internet Protocol connectivity.

10.1 International Transit ISP Licenses

An International Transit ISP license will be required for any commercial provider of Internet services that relays Internet traffic from any point inside Afghanistan to any point outside Afghanistan, whether through its own network facilities or via transit or peering relationships with non-Afghan ISPs.

The TRAA will issue International Transit ISP licenses, taking into account an assessment of national security requirements and an assessment of market conditions. Each of the International Transit ISP licenses will apply nationwide.

International Transit ISP license holders will compete for the business of domestic ISPs on the basis of price and quality of service. In order to assure that domestic ISPs can compete on a level playing field, International Transit ISPs will be required to offer their international IP connectivity services to any National ISP on a non-discriminatory basis. International Transit ISPs are permitted to sell international transit services only to National ISP license holders. That is, an International Transit ISP must also have a National ISP license to provide retail services to end customers.

To encourage rapid deployment of Internet networks in Afghanistan, International Transit ISP license holders will be allowed to obtain National ISP licenses, but only through a distinct and separately incorporated subsidiary or affiliate. Even where commonly owned, the International Transit ISP entity will be required to provide its international IP connectivity services to its retail ISP entity at the same prices it offers other National ISPs. The TRAA is authorized to conduct periodic audits to ensure that International Transit ISPs do not undercut competition by offering favorable pricing to a National ISP subsidiary or commonly owned affiliate.

When establishing separately incorporated National ISP units, the International Transit ISPs are not required but are encouraged to consider creating joint ventures with experienced Internet service providers that have built and run Internet Protocol networks in analogous developing country environments.

10.2 National ISP Licenses

National ISP licenses are required for any provider of Internet Protocol connectivity and services, except those providing international transit. National ISPs may only obtain international transit from licensed International Transit ISPs.

Afghan Internet users – businesses, individuals, and organizations – will obtain Internet services from National ISPs, which, as a practical matter, must obtain transit from International Transit ISPs and/or interconnect with other National ISPs. National ISP license holders are authorized to offer any permitted Internet service, including but not limited to dial-up connectivity, leased lines, Internet cafes, transit connectivity, domestic backhaul and wireless local area networks. National ISPs are prohibited only from providing international IP connectivity, which can only be offered by, and must be obtained from, an International Transit ISP.

National ISP licenses will be issued according to a simple, standardized form, without burdensome requirements or lengthy commercial negotiation. The application process will be transparent: applications that meet the stated criteria will be granted in a non-discriminatory fashion, and reasons will be given for any denial. There will be no limit to the number of National ISP licenses that can be issued. National ISP licenses will be presumptively renewed, provided that the holder has not violated the terms and conditions of the license or other applicable laws. National ISP license holders are required to notify TRAA of the regions in which it is offering or intends to offer services and update the TRAA of its expansion plans annually.

10.3 License Fee

The TRAA will determine licensing fees for ISPs. The Government believes that license fees should be uniform, transparent, and modest in order to encourage investment in network infrastructure.

10.4 ISP Liability

Consistent with emerging international best practices, licensed ISPs will be afforded the standard protections from liability: (a) for the activities of their customers, when acting as a mere conduit or intermediary, (b) for temporary caching of information requested by customers, (c) for hosting content provided by a customers, and (d) when blocking or intercepting traffic according to the lawful instructions of the Government.

All licensed ISPs will be required to adopt standards and capabilities that allow law enforcement and other relevant security agencies to perform their duties within the context of the law.

11.0 Taxation

Telecommunications operators will be subject to taxation as set out in the relevant taxation statutes of Afghanistan, including but not limited to employee taxes, company taxes, sales taxes and import duties.

Source: <http://www.moc.gov.af/> 2003