The Palestinian National Authority
Statement of National Telecommunications Policy

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Definitions:
MTIT: Ministry of Telecommunications & Information Technology
PTRA: Palestinian Telecommunications Regulatory Authority.
Regulator: is the current regulatory body. Pending agreement on PTRA, MTIT will perform all the duties given to the PTRA under the 2009 Law, and using MTIT’s powers under the 1996 Law.

1. Vision on the development of the sector

Vibrant and modern telecommunications services are the right of every Palestinian and essential for education, to develop its full economic and social potential, and to draw together the Palestine community worldwide. Modern and affordable telecommunications services should be made available to every Palestinian resident, business and organisation. In the exceptional circumstances of Palestine today, where citizens remain subject to externally imposed restrictions on their movement, there is an even greater social and business need for advanced communications. The sector policy will help to direct Telecommunications in support of establishing an independent and autonomous Palestinian state and support the political objective.

With their high educational skills, their natural talents and abilities, Palestinian people can become significant regional players in communications and technology and create an advanced information society. And these hopes do not stop at the borders of Palestine; more Palestinians live outside Palestine than live within. The development of world class and economical communications within the country will help reconnect Palestinian skills, talents and connections in Palestine and other lands.

Telecommunications services do not just bring benefits to their users. They enable businesses to reduce their costs, to introduce new services, to reach into new markets, and become more competitive, especially in other countries. These benefits have wider implications for the national economy. A recent study by the World Bank of 120 countries shows that for every increase of 10% in broadband penetration, the country’s gross domestic product (GDP) grows by around 1.3%, and that this impact is stronger in developing countries than in developed countries. Increases in fixed and mobile penetration have a similar, but smaller, impact on the growth of GDP.

The development of the telecommunications sector, and the curbing of unlicensed operations in and into Palestine, will also generate short term gains to the Palestinian Authority from fees related to issuing new competitive licences and longer term fiscal gains, through growth in GDP, VAT and other taxes paid by the sector and the economy as a whole.

While important steps have already been taken towards the above vision, there are many restrictions and challenges ahead. Hence this policy document charts a path over the next few years for removing obstacles, encouraging new investment and promoting greater competition in the sector.

2. **Current Challenges in the Palestine telecommunications sector**

   Our first challenge is the establishment of an empowered, independent, fair and respected regulatory regime and a Regulator. This is essential to provide a stable environment for investment in the telecommunications sector, and to ensure that consumers obtain the quality and value of services they need.

   Broadband availability, over wire line and wireless and fixed or mobile networks, is another key challenge for telecommunications policy. Broadband services provide the foundation for fast access to the Internet and modern Information Society Services. PalTel, the only significant fixed operator, provides broadband (ADSL) services only to about 93,000 retail customers. PalTel permits internet service providers (ISPs) to resell this service to their own customers. Wireless operators cannot provide 3G or WiMAX services because the Israeli authorities have not released the needed frequencies. Without these services, Palestine's economic and social development will continue to be held back.

   Most of the West Bank is covered by Israeli mobile operators not licensed in Palestine. SIM cards and recharge cards of Israeli operators are widely available at sub-distributors and most shops in Palestinian cities and villages of the West Bank. Even awaiting final political resolution of boundary issues, this unlicensed competition from Israeli operators needs to be brought under greater control. There is also spillage from Egyptian and Jordanian operators which needs to be resolved through interference coordination.

   It should be outlined how Israeli actions limit the Palestinian National Authority's ability to support a robust and productive ICT sector. The radio frequencies allocated for Palestine are still not released for the usage of the Palestinian operators. Access to wireless broadband services is becoming critically important. The mobile operators in Palestine need additional spectrum in the 2.1GHz spectrum and the WiMAX spectrum ranges so that they can launch third generation and mobile internet services. Palestinian operators lose market share to unlicensed Israeli operators of 3G networks while this situation continues, and customers in Palestine lose the opportunity to use wireless broadband services.

   Despite all the restrictions imposed by Israel, a policy should be stated in order to help demonstrate how to develop the sector.

3. **Main policy objectives**

   In the pursuit of achieving the vision, the following policy objectives should take priority. The regulator authority should be implemented with a completed comprehensive legal framework. A primary objective of the regulatory framework is to secure fair and non-discriminatory terms for interconnection with the networks of dominant operators so a sound interconnection and access pricing regime is needed. In order to enable competing operators to provide broadband services over the incumbent’s network, wholesale broadband access services should be introduced. In order that the incumbent operator not to abuse its control over network access in order to protect its own interests in the services market, accounting separation and cost accounting should be implemented.

   **3.1. To implement the new regulatory authority**

   Most importantly, in June 2009, the President has issued a decree to enact a new Law on Telecommunications which is fully consistent with best international practice. In particular, this Law provides for:

   - the establishment of a separate and strong national regulatory authority, the Palestinian Telecommunications Regulatory Authority (PTRA) to provide professional, fair, transparent and independent regulation of the telecommunications industry.
Telecom Policy of Ministry of Telecommunications & Information Technology

- the split of responsibility for the sector between the MTIT, which will establish the overall sector policy, and the PTRA which will implement these policies and regulate the telecommunications industry.

There are compelling reasons for Palestine to implement the Law and create this independent regulatory authority:

a. to comply with international best practice, since the PNA is now reactivating its pursuit of WTO membership;

b. to separate the role of referee in the market from politics, and make telecommunications regulation a-political, ensuring that decisions can be taken on a professional basis even if sometimes unpopular.

c. to enhance the attractiveness of Palestine to national and international investors seeking predictability, legal certainty and the rule of law; and

d. last but not least, creating a long term capacity building of local staff for developing the regulatory framework of Palestine.

The new Law requires PTRA to act in an open, transparent, impartial, fair and reasonable manner. PTRA is legally obliged to deliver timely, objective regulation of the telecommunications sector, and must develop its own ethos and methods. In its work, PTRA must promote consumer interests and advance competition. It may not prefer one service provider over another: in other words, it must not discriminate between them.

After an initial period from the public treasury, financing of PTRA will be from a fee levied from all market players in relation to their turnover. The system for this fee will be developed in 2010 and submitted to public consultation.

3.2. To create a comprehensive legal framework

In addition to setting up the institutional framework, the legal and regulatory framework must be completed. The new Law calls for the drafting of a number of bylaws and also other crucial regulations, which must be put in place or revised in order to provide a legal basis for the decisions of the MTIT and the PTRA, and to create legal certainty for stakeholders.

In addition, Jawwal will be issued a separate license and the Wataniya license will be reviewed and updated, all to the new legal framework if necessary.

In the Work Program listed below, an overview is presented of the bylaws and regulations that are needed, and their expected timing. Each draft will be subjected to a process of consultations before being finalised.

As part of the completion of the legal framework, the Government will also review the best legal solution to providing a relatively fast procedure for appeals against decisions of the PTRA and the MTIT through either an existing court or by a dedicated independent tribunal.

3.3. To establish a sound interconnection and access pricing regime

The MTIT has made progress in creating some competition in the marketplace and by establishing a fair regime for the interconnection of networks through its publication of the Interconnection Instructions and recent decisions on interconnection pricing.

To establish interconnection price regulation, it is international best practice to use the methodology of Long Run Incremental Cost (LRIC). On the preliminary basis, the MTIT has established interconnection rates on the basis of international benchmarking. It now aims to move to LRIC pricing as a basis for a new decision on interconnection pricing planned for early April 2010.

LRIC pricing is used because it enables new operators to make an economically efficient decision between using the network of the incumbent operator and building their own facilities. Also, LRIC aims to remove any historical inefficiencies of the incumbent operator from its interconnection prices.
If the LRIC system uses cost data from the incumbent operator (known as “Top-Down LRIC”), the data must be validated by an independent auditor according to guidelines given by the regulator. Alternatively, the costs of an efficient new network, theoretically designed and built today, can be calculated, this being called “Bottom-Up LRIC”. In practice both calculations are typically made and reconciled; and if large inefficiencies are found, a regulator may determine a glide path for the interconnection rates to come down to the level of an efficient network over time.

PalTel/Jawal has submitted Top-Down LRIC data to the MTIT and preparations are ongoing for the data to be validated. Also, the World Bank has agreed to provide a generic Bottom-Up LRIC model. These activities will take place in the near future.

The interconnection pricing methodology will be described in detail in a consultative document. The document will also raise the question of the possible impact of special costs related to the occupation by Israel, and how to assess them.

3.4. To introduce wholesale broadband access services

In view of the growing importance of broadband internet for the economy and for social development in general, it is essential that there is competition in the market for broadband internet access. Currently the Internet Service Providers are resellers of the same basic services that Paltel provides, and there is no room for product or price differentiation. Competition should be introduced in order to bring prices down and quality up.

Competition in broadband access can be boosted by mandating the unbundling of the local loop (LLU). This entails giving competitors the opportunity to use the 'last mile' of the access network of the incumbent for selling broadband access services under their own name and brand. 'Bitstream service' is one form of wholesale broadband access that enables competing operators to provide broadband services over the incumbent’s network at a speed and quality defined by the incumbent operator, but not requiring the competing operators to install equipment in the incumbent operator’s local exchanges. By contrast, under local loop unbundling competing operators rent the access line to the customer, and so have more freedom over the speeds and quality of services, but have to install their own equipment in the local exchanges.

LLU/bitstream will be introduced in Palestine as soon as possible, starting with bitstream access in the first half of 2010. Experiences show that after introducing LLU, new competitors tend to 'climb the ladder of investment'; they start to resell services using bitstream access to generate cash flow and then gradually invest in infrastructure roll-out of their own.

Alongside the development of improved broadband access via the fixed network, it is also essential to offer alternative broadband access using wireless to bypass the 'last mile'. Therefore there are preparations for the competitive award of a WIMAX license offering wireless broadband access.

3.5. To implement accounting separation and cost accounting

A vertically integrated company consists of business divisions that operate the network and business divisions that provide services to end users. In a liberalized market, dominant integrated companies must provide competitors with access to their networks in order to deliver services to end users. In this situation the dominant company may abuse its control over network access in order to protect its own interests in the services market. For example, the company may try to allocate costs only, or predominantly to products for which there is no competition, such as network access for competitors, and lower the cost base for services that are subject to competition, like voice telephony or Internet Services. Revenues too can be misallocated.
For this reason it is essential that dominant operators are required to produce regulatory accounts that separate regulated and unregulated services. These accounts are developed on the basis of Regulations or guidelines given by the regulator. Allocation of costs and revenues in the company must take place according to these regulations, which will enable cost-oriented tariffs to be calculated and prevent unfair cross subsidies.

Compliance by the company with the rules must be verified by an independent audit performed by or on behalf of the regulator, and any necessary corrections must be implemented before the system can be approved by the regulator. The approved system will be the basis for the reports that the company is periodically obliged to issue, for decision making of the regulator on regulated prices, and on preventing anticompetitive cross-subsidizing. It is the policy of the MTIT to develop an updated set of guidelines on regulatory accounting and an independent verification of compliance with these guidelines in the first half of 2010.

The regulatory framework in the European Union includes, as a back-stop, the possibility of imposing functional separation on companies that consistently fail to comply to the regulations ensuring an equal playing field for competition. It is the policy of the MTIT to follow this approach, and future functional or even structural separation will only be as an ultimate remedy in case accounting separation is an insufficient remedy or the licensee fails to co-operate with the regulator.

3.6. To regulate cost-oriented retail prices of dominant operators
In a competitive sector, retail prices are ideally controlled by competition. In strongly competitive markets, prices will tend to reflect the underlying costs. If competition is lacking, the preferred regulatory approach is to improve wholesale regulations levelling the playing field for new entrants so that competition takes root. However, as long as competitive forces are not strong enough, there is a risk of excessive pricing. The remedy for this is to regulate price levels on the basis of cost orientation. This can only be done using the results of approved regulatory accounts. If these indicate that profit margins are unreasonably high in relation to the risk taken in that specific services market, a multi-year price cap is usually applied to protect consumers. Such retail price regulations will be put in place in 2011 after the regulatory accounts have been approved.

Experiences in other countries indicate that at the outset of a competitive market there is often a need for price rebalancing, i.e. the removal of historically grown cross subsidies from call prices to line rental prices. In a competitive environment such cross subsidies can not last. If they turn out to exist, a policy will be developed for the rebalancing including the addressing of affordability issues that may arise from this for low user groups, if any. In another way, retail prices may need to be regulated, namely in prevention of pricing that is anti-competitively low either generically or in special offers for large customers. The transparency of cost levels will enable regulation of this aspect on the basis of cost orientation as well. However, 'Competition Guidelines' will be introduced that will be used to address any anticompetitive pricing behaviour, and will act on the basis of these Guidelines if necessary.

4. Other pressing matters
The six main policy objectives are key to the development of the sector, but they are not the only work that needs to be done. Many other pressing matters call for attention, including but not limited to:

1. Palestine needs to control national frequencies and the national numbering plan, that are at present under the control of the Israeli authorities. Developing a frequency allocation planning mechanism will be started that enables Palestine to articulate its frequency needs to the international community, and is the instrument for deciding on frequency allocation
within the boundaries of frequencies under its jurisdiction. Also, a Palestinian National Numbering Plan will be developed.

2. As prescribed in the new Telecom Law, regulation must be focused on markets where there is no or limited competition. A first market assessment will be implemented for this purpose in the first half of 2010, and issue a declaration designating dominant operators as appropriate.

3. New operators and service providers must, under the new Law, be licensed. The Law provides for both individual and general licences. A new form of general licence authorising a broad range of services, including Voice over IP to Internet Service provision to replace existing licences which have a narrower scope. Proposals will be brought forward for the basis for imposing fees on licensees to cover the costs of the PTRA and other related charges such as Universal Service fund contributions if applicable. Dominant operators will not use anti-competitive behaviour to impede market entry or the sustainability of competition.

4. Several regulatory requirements that enhance competition, such as carrier selection and number portability, have yet to be implemented in Palestine, and the desirability of these measures will be subject to public consultation.

5. **Work Programme and Development Targets:**

MTIT will adopt the work programme set out below, working in close co-operation with the telecommunications industry, consumers and other stakeholders. As soon as the PTRA has been formally established, the action points falling within the competence of the PTRA will be taken over by the PTRA.

**Timescales:**

**In 2010:**

- An Awareness Workshop to explain and discuss this policy and its implications to as wide an audience as possible.
- Setup of the Palestinian Telecommunications Regulatory Authority (PTRA),
- Consultation Principles and rules on the treatment of Confidential Information, followed by issue of regulations.
- Replacement of the current interconnection pricing methodology based on benchmarking by a new methodology based on LRIC (long run incremental cost), after a consultation on the methodology used and its future development, and after a verification audit of the LRIC model data provided by Paltel/Jawwal.
- Development of an updated set of guidelines on regulatory accounting and then implementing an independent verification of compliance with these guidelines.
- Consultation on the adoption of Dispute Resolution Guidelines and Sanctions Guide.
- Consultation on the adoption of Competition Guidelines.
- Review whether any company has a dominant position in any market and issue a Declaration to that effect if it considers that this is the case.
- Review the existing Interconnection Guidelines and the Reference Interconnection Offer produced by Paltel/Jawwal.
- Consultation on fees payable by Licensees, followed by issue of Regulations on this.
- Issue a new Mobile Licence to Jawwal, and review and re-issue the Wataniya Licence in a form compatible with the new Law.
- Review the award of a general authorisation for provision of a broad range of services, including Internet and VoIP.
- Establishment of Pricing Principles for Non-competitive.
- Consultation on Guidelines for the introduction of accounting separation for the Palestinian Telecomm. Group, Jawal and all Paltel group companies, and follow this by issuing Regulations.
- Consultation on the introduction of bitstream access and LLU, followed by the formation of a working group to discuss and agree the detailed arrangements for local loop unbundling, especially for co-location matters, ordering, provisioning and repairing unbundled lines, and technical standards and the preparation of Regulations. The national backbone (fibre optic lines) will stay an exclusivity for Paltel till 2012 for the review of the national backbone policy
- Consultation on the competitive award of a new WIMAX licence, followed by Invitation to Tender and the publication of a new draft Licence.
- Consultation on numbering policy and the introduction of new IPv6 addresses
- Consultation on ways in which consumer interests may be met and consumer protection may be improved.
- Develop plans for national backbone network
- Plan e-government and educational initiatives

After 2010 the MTIT plans to carry out the following development targets:

2011  Implement local loop unbundling/bitstream services
  Implement carrier selection
  Implement cost oriented retail price regulation for dominant operators and develop a view on rebalancing
  Implement other consumer protection measures
  Develop spectrum and numbering plan powers
  Develop plan for direct access to international connectivity
  Object and work with Israeli authorities over unlicensed mobile operators in Palestine and spillage from Israeli transmitters
  Negotiations with Israel on restrictions on constructing network facilities
  Consult on universal access/service
  Consult on non-discrimination in wholesale and retail service provision
  Implement further e-government and educational initiatives
  Consult on mobile virtual network operators
  Consult on facility sharing measures

2012  Initiate third mobile licence competition
  Consult on mobile number portability
  Review access to rights of way and municipal consents for operators
  Implement universal access/service scheme
  Review of the national backbone policy

2013  Issue third mobile licence
  Implement mobile number portability
  Consult on fixed number portability
  Review requirement for a converged regulatory authority

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