



**REPORT OF THE COMMITTEE  
FOR FORMULATION OF POLICY AND RULES FOR OPENING  
FIXED-LINE COMMUNICATIONS TO COMPETITION**

submitted to  
The Minister of Communications

Jerusalem, Elul 5762  
August 2002

**The Committee for Formulation of Policy and Rules for Opening  
Fixed-Line Communications to Competition**

August 8, 2002  
30 Av 5762

Mr. Reuven (Rubi) Rivlin

The Minister of Communications

**Jerusalem**

Sir,

We are honored to submit to you the Report of the Committee for Formulation of Policy and Rules for Opening Fixed-Line Communications to Competition.

The Committee thanks all the bodies and individuals who made the effort to submit their positions to the Committee and also the staff of the Ministry of Communications who spared no effort to assist the Committee in its work.

**Yours sincerely,**

Mr. Ron Kroll – chair

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Mr. Ami Gilo, Committee convenor

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## **THE MAIN POINTS IN THE RECOMMENDATIONS**

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### **A. The Proposed Policy**

#### **Main Goals of the Committee**

1. The Committee sees as a central goal of its work the need to aspire to an improvement in the welfare of the consumers of the inland communications industry through an increase in the range of services, improvement in service quality and maintenance of a low level of charges, through an industrial structure that will result in greater efficiency of the industry in the long term, with increased competition and reduced regulation.
2. The Committee attributes importance to removal of barriers to competition in all areas of activity of the inland communications industry. A consistent policy of this sort, together with a reduction in regulatory intervention and the determination of fair and transparent rules of competition for the long term will contribute to growth of the industry and creation of a business environment that will encourage investments and development of technological innovation.

#### **Competition on the basis of Independent Infrastructures**

3. The Committee is of the opinion, subsequent to the policy of the Ministry of Communications in recent years, that the structure of the competition in the communications industry has to be based on competition between operators with their own infrastructures rather than competition in the framework of which operators with existing infrastructure are required to make their infrastructures available (mainly access to customer infrastructures) for the use of competing operators.
4. At the same time, if no competition develops in the proposed structure, the possibility should not be ruled out that the Government might decide in the future to determine rules for competition on existing infrastructures of Bezeq Co. and the cable company. The Committee proposes that the Ministry of

Communications act for preparation of the infrastructure necessary for operation of Local Loop Unbundling (LLU)<sup>1</sup> and Carrier Pre Selection (CPS)<sup>2</sup> on the infrastructure of Bezeq Co., including determination of the necessary rules of engagement and examination of the pricing of various network components and the technical and operational subjects required for implementation of these methods in Israel.

### **Entry of the cable companies into competition**

5. The merging of the cable companies and the merged cable company's joining the market for telephony, infrastructure, relay and data communications, as a central player with a national deployment, create an opportunity for opening up the inland fixed-line communications market to competition. The cable network constitutes a universal alternative of real competitive potential vis-à-vis Bezeq Co. both in the domestic sector and in the business sector.

### **Supervision over rates**

6. The policy of supervision over the rates of Bezeq Co. fills a central function in the transition period of opening up the industry to competition. Determination of the rates, including those for reciprocal connections, should be based on accepted principles of cost, efficiency demands and a reasonable yield to be determined by the Committee for Determination and Updating of Bezeq Rates. Easing the supervision over rates will be possible in sectors in which effective competition has developed vis-à-vis the Bezeq Co.
7. High reciprocal connection rates between networks of different operators constitute a substantive barrier to opening the market to competition and have an impact on the structure of the competition. The Committee recommends that the reciprocal connection rates between the various operators in fixed-line and mobile areas be examined so that they will be based on their economic cost.

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<sup>1</sup> See Note 8 in Chapter 3 b.

<sup>2</sup> See Note 9 in Chapter 3 b.

### **Distinction between telephony services and data services**

8. The Committee recommends distinguishing between infrastructure, relay and data communications services only, without a dialing code, and telephony (voice) services, for which a dialing code is allocated.

### **Alternatives as between the fixed-line and mobile service**

9. The Committee is of the opinion that the conditions are not yet ripe for the mobile radio telephone service to replace the fixed-line service, hence the need to open the fixed-line service to competition. At the same time, the Ministry of Communications and the Director of Trade Restrictions should re-examine at a later date whether the mobile radio telephone service has become a clear alternative to the fixed-line Bezeq services as well as the consequent need for a change in the regulatory restrictions imposed on Bezeq as a monopoly in the communications market.

## **B. Principles for Opening Fixed-Line Inland Communications to Competition**

The Committee recommends basing the policy for opening the fixed-line inland communications market to competition on the following principles:

1. Competition between communications operators shall be on the basis of self-owned infrastructures (in which a leased infrastructure (IRU)<sup>3</sup> will be deemed as a self-owned infrastructure).
2. The regulatory entry barriers for new operators will be significantly reduced in all fields of fixed-line inland communications.
3. Infrastructure, relay and data communications services will be opened to immediate competition wherever the operators choose, without any demand areas requirement and without a service for everyone obligation.
4. New communications operators will be able to supply telephony services wherever they choose, without any demand areas requirement and without a

service for everyone obligation, subject to restrictions such as: allocation of frequencies, allocation of numbers and capital threshold conditions (minimal equity capital, licensing fee and financial guarantee for compliance with the terms of the license) which will ensure that significant operators enter the market. The change will come into effect in two years' time (August 1, 2004).

Wherever, for any reason, fixed-line inland operator licenses not be given at the end of two years without a demand areas requirement and without a service for everyone obligation, the Committee proposes that the Ministry reduce the number of demand areas required of new communications operators, to 4 or 5 areas, and that the period in which full cover of service to those areas is required be extended by a number of years (up to 6).

5. The obligation of structural separation shall apply only to a body operating as a monopoly in the sphere of communications, with this obligation being required to ensure the existence of competition. According to this principle, no obligation of structural separation will be required of new operators. In the future, reduction of the obligation of structural separation applying to the Bezeq Co. will be considered in accordance with the development of competition in the various strata of the communications market.
6. Concessions in the supervision over the rates of Bezeq Co. will be given in those sections in which effective competition has developed against Bezeq Co. Determination of the rates, including those for reciprocal connections, should be based on accepted principles (cost, efficiency requirements and a reasonable yield) to be determined by the Committee for Examination and Updating of the Structure of Bezeq Co.'s Rates'.
7. Bezeq Co. and the merged cable company will be required to supply a defined universal basket of services, to be determined by the Minister of Communications in the license of each of them. The basket will be offered to all residents of the State at every location and venue.

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<sup>3</sup> IRU = Indefeasible Right of Use

8. Open access to the networks of the inland operators, including Bezeq Co., the cable company and the mobile radio telephone operators on an equal and non-discriminatory basis will be guaranteed to suppliers of added value services and to suppliers of content.
9. The regulator will concentrate on arrangements that will guarantee the necessary conditions for there to be fair competition for the good of the public, while preserving essential interests of the State in the communications industry.

### **C. Recommendations of the Committee for the Removal of Barriers**

As a consequence of the policy principles proposed above, the Committee recommends removal of barriers to the entry of new operators who wish to operate in the sphere of fixed-line inland communications services, as specified below:

#### **Demand Areas**

1. The Committee recommends that the infrastructure, relay and data communications services be opened up for immediate competition by granting special licenses to new operators and expansion of the existing special relay licenses, to the extent possible (inter alia, by expansion of the definition of customer in such a way that it will include end users). In this way, operators of these services will be exempt from the requirement to provide their services in defined demand areas. The Committee recommends that the Ministry of Communications act for amendment of the legislation, to the extent required, so as to ensure that these services be opened up to competition.
2. The Committee recommends canceling the obligation to provide a service in defined demand areas. The cancellation shall apply to new inland fixed-line operators (including existing operators, mobile radio telephone operators and others) who seek to act in the field of fixed-line communications services. The operators may provide infrastructure, relay, data communications and telephony services anywhere and without a service for all requirement, subject to

restrictions, such as: allocation of frequencies, allocation of numbers and capital threshold conditions (example: a minimal equity capital, licensing fee and financial guarantee for compliance with the terms of the license) which will ensure that significant operators enter the market.

The Ministry of Communications will act for change to the legislation and regulations as required. It will be determined in these changes that cancellation of the said demand areas requirement will come into effect on August 1, 2004.

3. If, for any reason, the said legislation not be changed, the Committee recommends that the Ministry of Communications act, pursuant to its power in the framework of the current regulations, to reduce the obligation to supply a service in defined demand areas to 4 or 5 areas, to be chosen by the license recipient, and also to extend by a number of years (up to 6) the period in which full cover of a service shall be required for all those areas, such being not later than August 1, 2004.

### **Universal Service**

1. A defined basic basket of communications services (hereinafter: the Basket) is to be determined to which all residents of the State, at every location and venue, will be entitled at a reasonable and uniform tariff as a universal service. This Basket will contain all the services with respect to which the universal service obligation currently applies to Bezeq Co. and to the cable company (with respect to which telephony services and internet access services have recently been added).
2. The universal service obligation in fixed-line communications services shall apply only to existing operators with a nationally deployed network (Bezeq Co. and the cable company). New operators will not be required to provide a universal service.
3. It will be decided whether new services to be offered in the future by Bezeq Co. and by the cable company are to be included in the said Basket of services, according to criteria that the Ministry of Communications shall determine, such

as: the nature of the service, the costs involved in its provision, the prognosis for revenues from the service and the benefit that will grow out of it on a universal basis.

4. A new exceptions committee will be appointed for all matters of new services to be added to the Basket. The Ministry will prepare an economic paper that will recommend criteria for the grant of an exemption from the universal service obligation for broad band services.
5. It is proposed that a reduction of the universal service obligation be looked into in the future, for every location and every service in which significant competition has developed between a number of suppliers who offer fixed-line inland communications services.

### **Allocation of frequencies**

1. The Committee recommends changing the current policy in everything to do with the allocation of LMDS<sup>4</sup> and WLL<sup>5</sup> which were earmarked for distribution in the frequencies tender for supply for fixed-line communications services with wireless access, in such a way as will permit allocation of frequency strips in small units (2 – 28 MHz in the range of 26 Giga Hertz), for most of the operators active in the communications industry and for new operators.
2. The allocation will be without tender in return for an amount to be determined in advance by the Ministry of Communications in consultation with the Ministry of Finance. In addition, each operator will be required by law to pay an annual fee.
3. The frequencies will be given for the use of the operators for a period of 3 years. Extension of the period thereafter will be for set periods of 5 years each, subject to compliance with the conditions to be determined in the license (such as, frequency loading requirements).

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<sup>4</sup> LMDS = Local Multipoint Distribution System

<sup>5</sup> WLL = Wireless Local Loop

## **Numbers**

1. The Committee recommends that the Ministry of Communications ensure the existence of a stock of numbers and prefixes such that each fixed-line inland operator supplying telephony services will be able to obtain an allocation of prefixes and numbers of which it has need.
2. The Ministry of Communications will act for implementation of the principle of mobility of numbers, enabling customers to transfer between operators without changing a telephone number. This principle will be implemented with retention of tariff transparency for the user.

## **Structural separation**

1. The obligation of (corporate and managerial) structural separation shall apply only to a body that operates as a monopoly in the sphere of telecommunications, this obligation being required in order to ensure the existence of competition.
2. The obligation of structural separation shall not apply to new operators in the inland fixed-line communications market. Nevertheless, the Ministry of Communications may demand corporate separation or accounting separation from a substantive operator whose activity could prejudice competition.
3. At this time, the obligation of structural separation which is imposed on Bezeq Co. should continue to be upheld, excepting cancellation of the restrictions associated with participation of office-holders on the boards of directors of companies in the Bezeq Group.
4. The Ministry of Communications will consider in the future granting further concessions in the obligation of structural separation applying to companies in the Bezeq Group, in accordance with development of the competition at the various levels of the communications market. For example, it is proposed that, when significant competition develops in fixed-line telephony services in the business sector, cancellation of the obligation of structural separation between Bezeq and Bezeqkal be considered,. As to Bezeq International, it is proposed that the obligation of structural separation be removed with the entry of

additional operators from the sphere of fixed-line or mobile telephony, after expansion of the competition in the field of international communications, at the beginning of 2004 (as stated in the recommendation of the Committee on this matter, below). It is also proposed that cancellation of the obligation of structural separation applying to Bezeq and to the cable company in the sphere of Internet services (ISP) be considered at the beginning of 2004.

5. Should it be decided, as stated, to make concessions to Bezeq Co., the obligation of structural separation will be converted into an obligation of corporative or accounting separation that will ensure complete transparency in the reports on separate activity sectors in the various fields.
6. Should it be decided to remove the structural separation applying to Bezeq Co. in the international arena, the Ministry will examine the need for setting up rules that will ensure that confidential commercial information regarding other competing customers in the international market, which is available to Bezeq Co. by virtue of its activity in the fixed-line inland market, not reach those dealing with the field of international calls in the Bezeq Group.
7. The Committee recommends that the Ministry be able to grant concessions in the future in the obligation of structural or corporative separation in order to promote innovative services, for which there is no justification to setting up a separate corporation, if it is found that there is no fear of prejudice to competition.

#### **Threshold conditions for receipt of fixed-line inland operator licenses**

The Committee recommends that, in the context of removal of entry barriers for new fixed-line inland operators, commencing August 1, 2004, the threshold conditions for receipt of fixed-line inland operator licenses be reduced, as specified below:

1. The minimal equity capital required of a recipient of a fixed-line inland operator license be reduced to NIS 25 million.
2. The fixed licensing fee be reduced in the Regulations to NIS 1 million.

3. The bank guarantee required to ensure the terms of the license be reduced to NIS 10 million.
4. The Ministry will reduce the extent of the details required of applicants for fixed-line inland operator licenses and will make do with basic information, such as: particulars of the license applicant and interested parties therein, experience of the applicant in supplying telecommunications services, a general engineering program of the network through which the applicant proposes to offer communications services and a general business outline.
5. The requirement for experience in the field of communications be cancelled.

#### **Rights of way**

1. The Committee is of the opinion that local authorities should be allowed to lease rights of way to communications operators, while prohibiting the sale of communications services by the local authorities.
2. The Committee proposes that the Ministry of Communications act to arrange the matter of rights of way for communications operators in the areas of the local authorities, as part of which it should examine ways to supervise the rates for rights of way that the authorities determine. The Ministry will also examine rules according to which the authorities may offer rights of way in a bid for the laying of communications infrastructures, with the winner of the tender, being the holder of a Ministry of Communications license, building communications infrastructures for his use and for the use of other operators.

#### **Use of infrastructures of bodies owning infrastructures**

1. Bodies owning infrastructures, such as the Electricity Corporation, Israel Rail, Mekorot, Cross-Israel Road, Oil Infrastructures and others will be allowed to supply communications services or to lease some of their infrastructures to license holders in the communications industry.
2. If the infrastructure-owning body is a monopoly in another sphere (other than communications), it will be required to maintain (corporative and managerial)

structural separation between its activity in the sphere of communications and its other activities.

### **Royalties**

1. The Committee recommends continuation of the policy of reducing the rate of the royalties applying to communications license holders to the point of their cancellation in the future.
2. This recommendation is to be applied gradually in accordance with fiscal considerations of the State budget.

### **Exclusivity of the International Communications Companies**

1. The Committee recommends extending the period of exclusivity of the international communications companies to January 1, 2004, subject to the rates for international communications not being raised in real terms during the extension period.
2. The Ministry of Communications will prepare for the granting of additional licenses by the end of the third quarter of 2003, such that provision of the service by new operators will be possible as of January 1, 2004.