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### **Background Information**

National Telecommunications in Cyprus were provided on a monopoly basis by the Cyprus Telecommunications Authority (CYTA) a public corporation established by Law CAP302 from 1954 until 01.01.2003. Such monopoly was extended to international services in 1962. CYTA was both the Regulator of the sector and the service provider being subject to controls imposed by law and regulation approved by the legislature. The only exceptions to this monopoly was the terminal equipment market which was liberalized by regulations adopted by CYTA in 1989, and later in 1996, internet service provision which was liberalized by CYTA through contractual arrangements with prospective internet service providers.

Laws enacted in 2002, provided for the establishment of a Corporation sole the Commissioner of Telecommunications and Postal Regulation/ (later renamed the Commissioner of Electronic Communications and Postal Regulation) (hereafter "the Commissioner") and for the gradual transfer of CYTA's powers to him as from 1<sup>st</sup> January 2003 and the abolishment of the monopoly in service provision by the issuing of licenses to other service providers.

By the 1<sup>st</sup> of May 2004 date on which Cyprus joined the European Community the electronic Communications sector was fully liberalised the Commissioner being the National Regulatory Authority.

CYTA remains a public corporation but its activities are limited to service provision.

### **Legal Framework**

Since the 1<sup>st</sup> of May 2004 Cyprus has been following the EU legal framework. Law 112(I)/04 enacted on the 30<sup>th</sup> April 2004 as later amended implements the EU primary legislation, consisting of EC Directives 88/301/EC (repealed by Directive 2008/63/EC), 98/34EC, 1999/5/EC, 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC, 2002/58/EC, 2002/77/EC, 97/67/EC, 2002/39/EC, Regulation 733/2002, 2887/2002 (repealed by Directive 2009/140/EC), 874/2004, 1211/2009, Directives 2009/140/EC and 2009/136/EC. Directive 2006/24/EC was implemented, by Law 183(I)/2007.

The Electronic Communications market is supervised/regulated by three independent authorities namely the Commissioner, the Commissioner for the Protection of Personal Data and the Radiotelevision Authority . Naturally the activities of service providers are subject to ex-post control of the Competition Authority.

### **Secondary Legislation-Specific Matters**

A large number of Regulations adopted by the Commissioner in the exercise of powers delegated to him by Law 112(I)/04 provide for specific matters in more detail.

Interconnection: Organisations with significant Market Power (SMP) are obliged to interconnect their networks with the networks of new providers. To this purpose they are obliged to publish a Reference Interconnection Offer (RIO). The minimum content and rate of charges are regulated by the Commissioner who has extensive powers to impose amendments to the published RIO's. The content and procedure for amendment is provided by regulations and includes public hearings, costing systems and methods for determining rates as well as the framework of charges.

Unbundling the local loop and sub loop: The Law provides for an obligation of the SMP's to provide fully unbundled access to the local loop and sub loop to new entrant enterprises in this particular field of activity, under the same terms, with the same quality and at the same time frames as those applicable to them. SMP's are obliged to publish a Reference Unbundling Offer (RUO) and LLU costs and the Commissioner has the power to impose amendments in a similar manner as with the RIO's.

Leased Lines: Their availability by SMP's and the charges for leased lines up to 2Mbs both wholesale and retail and the wholesale provision of and charges of terminal segments and trunk segments of leased lines is regulated and SMP's are obliged to publish Reference Offers for wholesale services.

Co-location: Co-location is obligatory subject to feasibility and regulations provide for methodology of determining compensation as well as for the reservation of space available for co-location purposes.

Rights of Way Trespassing Rights: The Law provides that operators may lay pipes along public streets and roads pavements and public land subject to the Commissioners prior approval. Regulations provide for a procedure to be followed when approval is required which includes co ordination with other

authorities such as the water board, electricity authorities and of course the public works department of the Ministry of Works. The rights granted are subject to restoration of all damage caused. Regulations also provide for the laying of pipes along roads under construction or reconstruction. Entry on and use of private land is allowed only in cases of emergency or with the owners consent. In exceptional cases when it is absolutely necessary to use private land and the owner is not co-operating the Commissioner may approve or adopt the compulsory acquisition of the required land.

Market Analysis: The imposition of regulatory obligations on providers of electronic communication networks and/or services is subject to the prior definition of markets, analysis of the competition in each market, and if the market is not sufficiently competitive the designation of one or more operators as SMP's. The regulatory obligations imposed must be proportionate. The methodology procedure and powers of the Commissioner in defining and analyzing markets and selecting the regulatory obligations are provided in Regulations in detail. Often obligations described above are included in Orders or Decisions issued as a result of market analysis. The Law requires a market analysis to take place at least every three years.

Regulations also provide for a National Numbering Plan and number allocation, universal service (content and cost), terminal equipment, terrestrial digital tv and other matters.

Antenna construction: Antenna Construction is subject to a building permit. An Order of the Minister of Interior Affairs exempts certain antennas from the requirement and lays rules as to the issue of a permit for the rest which take into account their height, the direction of their radio coverage, and existing surrounding structures or potential structures.

## Starting provision of Electronic Communication Services in Cyprus

When the use of scarce resources such as spectrum is not required it is fairly easy to start offering electronic communications. A General Authorisation is required for the offering of all kinds of electronic communication services. In fact anyone intending to provide electronic communication network or publicly available electronic communication services including special radio networks has to complete and submit to the Commissioner a Registration Declaration under a General Authorisation Regime. This Declaration is required also for the provision of electronic communication services through the infrastructure of other operators.

When the intended activity requires the use of numbers or spectrum the operator has to apply to the Commissioner for the allocation of numbers at a fee and secure the required frequencies prior to submitting the declaration.

The fees payable are calculated as a percentage of the gross income or expected income from the provision of public communication network or services excluding any VAT or national or EU subsidy.

The current fees are as follows:

Zone (Euro in million ) GI: Gross annual income	% Percentage per Zone
GI ≤10	0,0637
10≤GI≤40	0,1274
40<GI≤80	0,1617
80<GI≤200	0,1960
200<GI≤300	0,2450
300<GI≤400	0,3185
400<GI	0,3920

## **Spectrum**

Spectrum being a scarce national recourse has been retained by the state. Frequencies are allocated by the Ministry of Communications and Works pursuant to a frequency plan in place. Operators requiring frequencies for the offering of their services have to first apply and secure the frequencies from the Ministry and then start service provision. Once frequencies are allocated the service provision is subject to the Commissioner's powers and regulation.

## **Are the relevant markets mature or congested. Is there space for newcomers?**

The Cyprus market has a lot of maturity signs. There is not yet full coverage for broadband services but the gap is fastly closing. The double play market is growing and triple and quatro play is emerging. MVNOs are now active in the market but only to a small extent.

## **Mobile Communications**

There are currently two licensed operators providing mobile services. CYTA being the incumbent operator has been offering mobile GSM services since the mid 90s MTN (formerly Areeba) was licensed in 2003 and started operations in 2004.

Both offer 2G and 3G services and CYTA's network effectively covers the whole of island (excluding only parts of the Turkish occupied area). MTN was slow in acquiring a market share but now holds over 27% of the market.

CYTA has a cooperation arrangement with Vodafone and is able to offer Vodafone services and international roaming at attractive prices.

The size of the market (approximately 800.000 population) have so far frustrated thoughts of a third license being awarded although that was the original intention which has not yet been abandoned.

### **Fixed Communications**

CYTA is the incumbent operator. It is still a public corporation established by law and therefore fully controlled by the state. Despite the limitations inherent in its public nature (obligations to purchase equipment through public tenders and inelastic procedures, limitations in personnel organization and budgetary approvals and controls) it manages to remain efficient and adaptive and provide services in accordance with international standards and public demand. Despite the liberalization of the sector since January 2003 CYTA holds about 87% of the market of fixed connections.

CYTA is heavily regulated since all fixed alternative operators still depend on its copper network leased lines for offering their services. The prices and terms of Interconnection, LLU services and leased lines are the subject of reference offers approved by the Commissioner. The same applies to retail prices.

In fact regulatory obligations imposed by the Commissioner aimed at affording space for newcomers in effect prevent the development of triple play and quatro play offerings by Cyta.

The other major operators namely Primetel and Cablenet are seeking to deploy their own fixed network especially in urban areas. Rural areas are not yet targeted due to the high cost and the small size of the market.

The price controls imposed on CYTA are designed to allow some room for competition however these controls have to be balanced so as not to operate to the detriment of the consumers.

All three major operators now offer content (TV) and are able and do offer double play services. Synergies are emerging for the combination of fixed and mobile service offerings.

The fixed telephony market is declining as customers turn to mobile services and the cost of monthly subscription for a fixed line is high. Households which had two or three lines now retain only one mainly for internet access and iptv.

Some smaller operators who were offering services on a number selection/ pre selection basis or exclusively internet access or international services have ceased their activities or have been taken over or merged with others.

Market forces rather than legal barriers seem to prevent newcomers from entering the market as a high investment is required to deploy a network and/or to compete with the existing operators in a small market.

### **Is on line gambling allowed**

Gambling is generally illegal in Cyprus. Online gambling was illegal in Cyprus until very recently when a new law enacted in 2012 which has not yet been implemented fully, makes online gambling legal subject to the control of licenses. The law has not yet been implemented so the details and procedures of how licenses are obtained are not yet clearly defined.

### **What about iptv**



As stated above all three major fixed service providers now provide content and tv. The tv content provided over fixed lines had for a long period of time escaped regulation as the Radio Television Authority had powers only over wireless radio or tv operators. New laws enacted in 2011 have included terrestrial cable tv offerings in its powers. Therefore a license from the Radio Television authority is required for the provision of iptv or any transmission of tv programs over cables or otherwise.

There are still pending amendments to these laws which aim to regulate the nature of the organizations providing these tv services and a definition of the programs to be included in each license. This is due to the fact that the original provisions relevant to wireless radio and tv broadcasts were designed to control the classic programs and included provisions for limiting the direct or indirect control any one person could exercise on the content of the program. It is expected that these provisions will be limited to the classic programs but the provision of iptv will still be the subject of a license from the Radio Television authority which will impose conditions.