

**Umniah Mobile Company**  
**Response Document to the**  
**Public Consultation issued by the TRC**  
**Review of Mobile Markets in Jordan**

**December 2019**

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## **1. Introduction**

Umniah Mobile Company (Umniah) welcomes the opportunity to participate in responding to the TRC's Public consultation for the Market Review on Mobile Markets issued by the TRC on 29 July 2019 hereinafter referred to as the (Consultation Document). Umniah has made general comments in each chapter of the Consultation Document, where specific questions have been posed and responses provided.

Umniah appreciates the TRC's efforts and its thorough analysis on the wholesale and retail level. Umniah finds that the TRC, while conducting this market review, has to take into consideration and focus on ensuring that a fair competitive environment is created in the mobile market. TRC is recommended to thoroughly identify the bottlenecks and focus the regulation on these with focus on wholesale markets since regulation of wholesale markets are sufficient for the establishment of competition in downstream retail markets. TRC is also recommended to conduct market analyses on a regular basis to consider the changing technologies, new market entrants and service innovation.

Zain continues to enjoy a strong presence on the retail market not only as a result of having the largest subscribers share and its position on the post-paid segment of the retail market but also due to the fact that other facilitators of competition are not fully in place in Jordan. For instance, number portability is a very important facilitator of competition, particularly in the post-paid segment of the market, but unfortunately the mechanisms to ensure that competitive operators can allow subscribers to effectively retain their numbers when switching networks are not in place in Jordan today. There are many reasons why the facilitators of competition such as mobile number portability need to be facilitated both in the direct interests of end-users (choice) but also in terms of facilitating the competitive process between operators for those customers.

Looking at the spectrum allocations made in Jordan, it is clear that Umniah has a major cost disadvantage, which is crucially beyond its control.

Umniah notes that the data upon which the TRC has relied, such market shares and market concentration have not been disclosed and therefore full comment and response is not possible. Therefore, Umniah must reserve its position with respect to its comments and responses contained in this document.

## **2. Responses to Consultation Questions**

This chapter lists each question, describes and summarizes Umniah's response.

### **1. Do you agree with the TRC's preliminary conclusions regarding the relevant product and geographic market definitions for retail mobile services?**

Umniah generally accepted the TRC's preliminary conclusion regarding the scope of the respective product and geographic market definitions for retail mobile services. The TRC concluded that the relevant product market is made up of a cluster of voice and data-related services (in both their post-paid and pre-paid forms), including the provision of access, national, international and roaming calls, SMS and other value added services. Umniah agrees that there is no convincing evidence from either a demand or supply side that would suggest that the TRC's conclusions on substitutability regarding business and residential services are unfounded, nor that these services need to be considered as separate product markets. It is also agreed that both post-paid and pre-paid services fall within the same relevant product market.

There is also agreement with the TRC's conclusion that the relevant market is national in scope; however, Umniah believes that emphasis should be placed on actions and conduct outside of Jordan which affect competition on the national market like Over the Top (OTT) services that will be discussed in details in the third part of our response.

### **2. Do you agree with the TRC's preliminary conclusions regarding the relevant product and geographic market definitions for wholesale mobile voice call termination services?**

Umniah agrees with the TRC's preliminary conclusion that the relevant market is that for the termination of voice calls on individual mobile networks covering the entire territory of Jordan.

### **3. Do you agree with the TRC's preliminary conclusions regarding the relevant product and geographic market definitions for wholesale mobile SMS termination services?**

Umniah agrees with the TRC's preliminary conclusion that the relevant market should consist of the termination of SMS on each individual mobile networks. There is also an agreement with the TRC's conclusion that A2P and P2P termination belong to the

same market that is a national market defined by the coverage of each mobile operator's network.

**4. Do you agree with the TRC's preliminary conclusions regarding the relevant product and geographic market definitions for wholesale mobile access and call origination services?**

Umniah supports the TRC in its arguments and views concluded regarding the inclusion of self-supplied mobile access and call origination services by all three of the vertically integrated MNOs currently operating in Jordan in the relevant market. This is in line with international best practice and reflects the true market reality. We agree with the TRC conclusion that the relevant product market should consist of all wholesale access and call origination into a single notional market.

**5. Do you agree with the TRC's preliminary conclusions regarding the mobile markets found to be susceptible to ex ante regulation?**

The TRC indicates that the decision to make an intervention on a market will be first based on the three criteria (high entry barriers, dynamic of market behind any entry barriers, and the insufficiency of competition law) being met. These criteria then have to be applied in a forward-looking way in order to assess whether or not a market should be considered for regulation. Umniah disagrees with TRC's conclusion that the wholesale market for MACO services does not meet all of the criteria test and is not susceptible to ex-ante regulation. Umniah believes that appropriate carrier selection and carrier pre-selection remedies (together with ancillary services such as consolidated billing) need to be enforced in the MACO market.

**6. Do you agree with the TRC's preliminary competition assessment and SMP designations on the market for wholesale mobile voice call termination?**

Umniah agrees with the methodology adopted by the TRC to assess whether these markets are characterized by dominance and the conclusion reached by the TRC that each mobile operator is considered 100% dominant for calls terminating on its own network.

Nonetheless, Umniah would like to raise its concerns regarding an important fact considering the proposed remedies on mobile operators as a result of designating them as dominant.

The TRC did not study nor determine throughout the Consultation Document the effect on the market from Zain being dominant for voice call termination on its own network compared with each mobile operator on its own network. Surely, a mobile operator having more than ~3.3 million subscribers will have significantly more impact on competition as a result of its dominance for calls terminated on its network than a mobile operator having much less subscribers.

**7. Do you agree with the TRC's preliminary competition assessment and SMP designations on the market for wholesale mobile SMS termination?**

Umniah agrees with the methodology adopted by the TRC to assess whether these markets are characterized by dominance and the conclusion reached by the TRC that each mobile operator is considered 100% dominant for the termination of SMS on its own network. There is also an agreement with the TRC conclusion that under the current bill and keep regime no operator can abuse its power and if mobile operators starts to charge for SMS termination the structure of the market will become similar to that for mobile voice call termination.

**8. Do you agree with the TRC's preliminary assessment of competition problems and appropriate remedies in the market for wholesale mobile voice call termination?**

While analyzing the TRC's current and proposed remedies, Umniah stresses that the need for ex ante regulations is essential to the promotion of competition at the retail level. Therefore, we would like to site the following comments on the proposed remedies:

**Non- Discrimination: removing board decision No (9/1-2004)**

Umniah has little confidence that such asymmetrical remedy imposed on Zain was enforced in a timely manner that diminish the impact of on-net/off-net pricing on the mobile retail market. Another example is the provision of Carrier Selection/Carrier Pre-Selection as a remedy imposed on Zain. The TRC till this moment did not describe the current market status and the clear behavior of Zain that has still not implemented the TRC's instructions regarding Carrier Selection and Carrier pre Selection.

### **Accounting Separation: Relevant accounting information to be provided by all mobile operators**

Umniah believes that the need for accounting separation is a must to ensure fairness of price and the establishment of the non-discrimination principle. Accounting separation is also required to expose issues such as unfair cross subsidization. The TRC proposal that each operator provide **relevant accounting information as specified by TRC** is not clear to us considering that the detailed specification of the relevant accounting will follow in further TRC documentation, after the adoption of the TRC's decision. Therefore, Umniah reserve its position with respect the provision of comments and responses regarding relevant accounting information.

### **Cost accounting and price control: glide path for termination**

Umniah has the following concerns regarding TRC position of glide path implementation, "Given the TRC has already (and fairly recently) set the glide path and imposed the reduction of MTRs down to modelled cost over a four year period, it considers that it would be detrimental to operators to change this glide path, for risk of undermining regulatory certainty in the market" :

- The glide path is implemented on termination service only for both mobile termination and fixed termination. The interconnection charges for all other interconnection services for both Mobile and Fixed services are equal for the period 2018-2021 at the average cost calculated by TSLRIC+ model.
- Glide path is frequently used to reduce asymmetry in MTRs. In 2011 TRC decided to use the glide path to reduce disruptive impact on mobile operators because the TSLRIC+ symmetrical calculated rates were sufficiently different from the asymmetrical applied rates. We do believe that the immediate implementation of the new TSLRIC+ rates will reduce the disruption to industry caused by on-net and off-net mobile offering and will deliver more effective competition and ultimately be to the benefit of end consumers. Keeping in mind that the TRC extended the validity of the approved 2014 TSLRIC+ interconnection rates until the finalization of the new models review resulting in having the same interconnection rates applied for more than 3 years without giving any benefits to competition and ultimately consumers.
- High MTR & glide path will have lower effect on competition if all mobile operators have similar market share. Similar market share concept was adopted by TRC when determining the efficient mobile operator traffic used in MCT cost model as 1/3 of market share of all mobile operator traffic, which will theoretically

lead to equal traffic used for outgoing calls to another mobile operator and incoming calls from another mobile operator. We do believe that Zain will generate excess profit from MTR set above cost for the period 2018-2020 which will leverage Zain dominant position in retail mobile market.

- Umniah cost of interconnection: Umniah will suffer from additional interconnection cost which will further weaken Umniah's position in the market in comparison to Zain and Orange.

**9. Do you agree with the TRC's preliminary assessment of competition problems and appropriate remedies in the market for wholesale mobile SMS termination?**

Umniah urges the TRC to carefully study the proposed cost to be charged for SMS termination considering the following factor:

- Inefficient cost proposed if compared to voice minute cost, we believe that SMS termination cost shall not exceed 50% of the voice minute termination cost:

<b>Rate ( Fills)</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Wholesale termination SMS	4.68	6.09	N/A
Wholesale termination Minute	8.4	5.2	2.0

- The cost were based on in TSLRIC model with declining volume assumptions for the period 2016-2020.
- No cost proposed for 2021 that might create market uncertainty.



### 3. Retail Mobile Market

#### 3.1 Current Market Structure

A firm may be dominant for a variety of reasons. In particular it may be more efficient than rival firms, it may have grown larger as a result of economies of scale or its products may be regarded as superior to that of its competitors. Zain in particular enjoys considerable advantages not only through its economies of scale achieved in the Jordanian market but also as a well established regional operators. Orange Mobile, as part of the Orange group is also able to leverage other economic advantages which may become observable in both mobile and fixed markets. These advantages can be used to thwart competition in the retail market.

Umniah is also able to leverage other economic advantages and managed to maintain its customer base observably in mobile markets. However, Umniah believes that the retail mobile market are facing challenges that affect the competition like:

- **Zain market share:** Although TRC treated each operator as 100% dominant for calls terminating on their own network, the fact is that the market is characterized by dominance and for Zain's favour. This is strongly boosted by having more than ~3.3 million subscribers on its network, and accordingly it has a significant impact on competition as a result of its dominance leading to major changes on cost structure that will make Umniah suffer from additional interconnection cost which will further weaken Umniah's position in the market in comparison to Zain and Orange.
- **The exclusivity of telecom service provision:** a new model of controlling infrastructure has been introduced resulting in paying extra interconnection charges to ensure Umniah's availability/coverage in areas characterized with exclusive provision of telecom services such as the airport zone being dominated by Zain, the Boulevard's dominated by Orange, and other mega projects.
- **Retail Offerings:** Umniah's believe that the immediate implementation of MTR at cost calculated by TSLRIC model will reduce the disruption to industry caused by on-net and off-net mobile offering and will deliver more effective competition and ultimately be to the benefit of end consumers. On-net/off-net price differential will make Umniah less attractive to consumers as a great portion of calls from Umniah will go off-net.
- **Absence of mobile number portability:** This will be covered in the following section of the document.

### **3.2 Mobile Number Portability**

Mobile Number Portability is a very important facilitator of competition, particularly in the post-paid segment of the market, but unfortunately the mechanisms to ensure that competitive operators can allow subscribers to effectively retain their numbers when switching networks are not in place in Jordan today. Umniah urges the TRC to take the necessary regulation that will enable the provision of MNP in Jordan by 2020 and would like to draw the TRC attention to article 31 and article 32 of the statement of 2018 ICT policy:

“31. Government requires without delay the removal of barriers to consumer switching between operators by enabling Fixed and Mobile Number Portability. This action conforms to international best practice. Barriers to switching between operators reduce market competitiveness and causes operators to compete in other ways, for example, through price competition. The ability of beneficiaries to retain their phone numbers will also contribute to the vision of all citizens and businesses having a digital identity by enabling them to use their phone numbers as a de facto means of identification in many digital services”.

“(32) Government therefore requires the Commission to revise as necessary the regulation on Mobile Number Portability and implement by 2020 enabling beneficiaries to port their mobile numbers to another operator by the end of that year”.

### **3.3 OTT impact**

Umniah agrees with TRC conclusion that OTT voice and messaging are not part of the same product market as mobile services and that the customer of mobile services could choose to use OTT voice or messaging applications instead of a traditional mobile voice call or SMS. The customer’s ability to do this would depend on having the appropriate handset, data plan and software, and on the called party also being appropriately connected. A specific issue to be covered is that services provided over the Internet by service providers lying outside the domain of the current telecommunications law and by foreign companies that are difficult to regulate. Government requires the TRC to consider, amongst other factors determined by the Commission, whether particular regulation of licensees places them at a disadvantage in comparison with such service providers in particular product markets as per the following article of 2018 ICT policy:

“(36) Government requires market reviews to be undertaken by the Commission in a timely manner to ensure that the telecommunications market remains competitive. Market reviews have not been carried out for a considerable period of time yet market conditions have changed significantly. Government therefore requires the Commission, as a matter of great urgency, to carry out such market reviews. Specifically, Government requires that these market reviews identify relevant product markets, determine the market power of individual operators within

those markets, and specify remedies to mitigate the effects of dominance or significant market power”.

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