

REGULATORY PROCEEDINGS AND CURRENT TELECOMMUNICATIONS MARKET SITUATION IN TURKEY

General Information About Authorization Regulations

Capital stock companies that request providing telecommunications services and/or establishing and operating telecommunications infrastructure have to be authorized by Telecommunications Authority in accordance with the Law no. 406 and the “Authorization Ordinance on Telecommunications Services and Infrastructure” which was enacted in 26.08.2004. However, a need for transition to the general authorization regime has risen with the drafted Electronic Communications Law, which was prepared by taking into account, among other considerations, the intention to be in line with the EU acquis. Accordingly, a new authorization ordinance has been drafted in accordance with the draft Electronic Communication Law. The Authority continues conducting necessary official works on the new authorization regime.

Numbering Regulations

Management and administration of national numbering resources are carried out by Telecommunications Authority in accordance with the rules and procedure defined in the Numbering Ordinance which can be accessible in the web site of Telecommunications Authority (www.tk.gov.tr). The procedure for application of number assignment is defined in this regulation. Following the receipt of complete application, decision on assignment can be made within 3 (three) weeks on a first come first served basis.

With respect to number portability, rules and procedures are drafted in the number portability ordinance. Draft ordinance covers both fixed and mobile number portability.

Call by call carrier selection and carrier pre-selection are also defined in the legislation.

Regulatory Framework Regarding VoIP

In Turkey, the undertakings that have Long Distance Telephony Service (LDTS) License can provide national and international long distance telephony services using any kind of technology including VoIP, which implies technological neutrality. The licenses for LDTS were first given on 17 May 2004. Although this authorization is not distinct to VoIP, it's seen that the undertakings that have LDTS generally prefer VoIP technology to carry the voice.

With LDTS license, it is also possible for subscribers to make on net calls without using E.164 numbers within the scope of the Communiqué on Principles and Procedures for Long Distance Telephony Services which has been published on 10.06.2006.

On the other hand, at present, it is not possible for those VoIP subscribers to receive incoming calls from other networks as the respective license does not allow the assignment of E.164 numbers.

Being aware of the importance of creating competitive regulatory environment for provision of all kinds of VoIP services, Telecommunications Authority (TA) included in its 2006 Work Plan the study named “Fixed Telecommunications Service” which will cover all kinds of voice services including VoIP. Under this work, it is planned to assign E.164 numbers to the operators. In parallel with the work plan, the studies are ongoing regarding the numbering plan for such kind of services. Apart from that, currently the regulatory rules to be applied for VoIP services are not defined yet. It can be said that, TA observes the regulatory development in the world on this issue

Market Analyses, Competition and Significant Market Power

Since the acceptance of Common Regulatory Framework for Electronic Communications Networks and Services (Framework Directive), European Union’s approach related with the ex-ante regulations in telecommunications sector has changed and brought the requirement of market analyses concept which was performed in the ex-post regulations in the scope of Competition Laws before.

The Commission obliged the member states to adopt the Framework Directive into their national legal base and to complete the analyses related with the projected markets until 24 July 2003 to sustain a reliable competition in the predefined markets. There are three basic methodological steps in this process which are:

1. Definition of related markets,
2. Definition of operators which have Significant Market Power (SMP) in the related markets,
3. Remedies to be applied on operators having SMP to increase the level of competition.

With the new regulatory framework, the concepts of significant market power and dominant position are joined and they started to be used interchangeable. While analyzing the competition level and defining the operators having SMP, some criteria like market share, total size of operator, control of infrastructures that can not be duplicated easily, technological advantages, technological superiority, low or zero countervailing buying power, easy and privileged access to financial resources and capital markets, product/service differentiation (e.g. combined products and services), economies of scale and scope, vertical integration, an advanced distribution and sale network, lack of potential competition, obstacles in front of expansion and etc. are taken into consideration.

In Turkey, according to the Communiqué Related with Methods and Basis on Defining the Operators Having Significant Market Power which was adopted by TA, Telecommunications Board decides whether the operators performing business in the related market have SMP or not by using the criteria below:

- a) Market share,
- b) Power to influence market conditions,
- c) Relationship between sales and market share,
- d) Power to control access devices to last consumer,
- e) Power to access financial resources,
- f) Experience on its products and services in the market,

In the process of defining operator(s) having Significant Market Power, it is targeted to impose predefined obligations on operators. It is expected to prevent operators having SMP to use their sectoral powers on potential or real new entrants by using this approach.

In this context, with the Board Decision published in 28.12.2005 at the Official Gazette which is based on Article 6 and 7 of Communiqué; Turkcell, Telsim and Avea are defined as having SMP in Mobile Call Termination Market while Turkcell is also defined as having SMP in Mobile Access and Call Origination market.

18 Related markets envisaged by European Commission are taken as a base for the “Market Definition and Market Analyses Studies” which started in 2005 to define operators having SMP in telecommunications infrastructure and services. Currently all the markets except “The wholesale national market for international roaming on public mobile networks” and “Broadcasting transmission services, to deliver broadcast content to end users.” are in the stage of public consultation.

Work on Quality of Service in Telecommunications Sector:

With the introduction of competition in the various telecommunications services, consumers have been able to benefit from lower prices and increasing alternatives. Quality of service criteria is also important for the consumers in the competitive markets. In other words, operators should try to increase their quality of service criteria in these markets. On the other hand, to protect the rights of consumers, some kind of quality of service regulation would be necessary in these sectors. Additionally, even in competitive markets quality of service regulation is still necessary for the consumers to get proper knowledge related to technical issues before selecting operators.

The purpose of the work on quality of service is to define the procedures and principles related to providing telecommunications services and/or operating telecommunications infrastructure in a way that is in compliance with national and international standards. To achieve this aim, the Ordinance on Quality of Service in the Telecommunications Sector has been prepared and published in the Official Gazette of 03.03.2005.

The related international literature and standards -especially EU 2002 Regulatory Framework and related standards and regulations of ETSI- had been taken into account during the preparation of the Ordinance based on amended Article 2 of Telegram and Telephone Law No: 406 of 4/2/1924 and amended (h) and (j) paragraphs of Article 7 of Wireless Law No: 2813 of 15/4/1983 which are available on TA’s website, www.tk.gov.tr

The Ordinance includes articles concerning publishing information and reporting, service level agreements and provision of data such as supply time for initial connection, faults rate per access line, fault repair time, unsuccessful call ratio, call set up time, response time for operator services, response time for directory enquiry services, public pay-telephones and bill-complaints.

Another work on the quality of service is related to the service level agreements of Türk Telekom to sustain certain level of quality in leased lines services. In this context, service level agreement of Turk Telekom has been approved by the Authority and published in website of the operator. With this service level agreement, it is aimed to get quality of service improvements in various categories such as supply time and fault repair times of this operator in two years time period

Universal Service Regulation and Universal Service Obligations

The general framework of the Universal Service regulation is set with the Law on Universal Service (Law on Providing Universal Services and Amending some Laws, Law No: 5369 which is available on TA's website, www.tk.gov.tr) published and came into force in July 2005. The Law defines the scope of the Universal Services as;

- a) Fixed telephone services,
- b) Public payphones,
- c) Directory enquiry services; printed or in electronics environment,
- d) Emergency call services,
- e) Basic internet services,
- f) Transportation services to the regions in which the transportation could only be made by navigation and communication services related to emergency and safety in the sea,
- g) Services targeting promotion of information technologies including computer training,
- h) Digital broadcasting services (DVB-T, DVB-S, DVB-C) -using different broadcast environments- over terrestrial digital transmitters covering all residential areas in the country.

The Law defines "Universal Service Provider" as "operator designated to provide the services within the scope of the 'Law' in accordance with an authorization agreement, concession agreement, and license or general authorization in electronic communications sector."

The studies for the Draft Ordinance on Terms and Conditions related with the provision of Universal Service that will define "Designation of Universal Service Provider" and "Responsibilities of Universal Service Provider" have been carried out by the Ministry of Transport.

Market Shares**GSM Market**

Operators	2000	2001	2002	2003	2004	2005
Turkcell	0,58	0,67	0,67	0,68	0,67	0,64
Telsim	0,42	0,33	0,26	0,18	0,19	0,22
(Aycel/Aria) Avea	--	--	0,07	0,14	0,14	0,14

Internet Market

Operators	2002	2003	2004	2005
ISPs	0,95	0,60	0,48	0,24
Türk Telekom	0,05	0,40	0,52	0,76

Penetration Development

	PSTN	GSM	Internet
Years	Penetration (%)	Penetration (%)	Penetration (%)
2000	27,30	22,25	3,71
2001	27,63	26,61	5,12
2002	27,24	33,58	6,20
2003	26,86	39,65	8,53
2004	26,78	48,65	14,30
2005	26,28	60,31	15,5*

*State Institute of Statistics (SIS)

Telco Revenues

(Billion \$)	2000	2001	2002	2003	2004	2005
Fixed Revenue	4,63	3,86	3,31	4,53	6,15	5,54
Mobile Revenue	3,89	1,99	2,43	3,06	4,77	6,43
LDTS Revenue	-	-	-	-	-	0,07
Other	-	-	-	0,43	0,57	0,33