COMMUNICATIONS COMMISSION OF KENYA

DETERMINATION ON RETAIL AND INTERCONNECTION RATES AMONG THE FIXED AND MOBILE TELECOMMUNICATIONS NETWORKS IN KENYA

INTERCONNECTION DETERMINATION NO.1 OF 2007

1. INTRODUCTION

This Determination is made under the Kenya Communications Act of 1998 (hereinafter referred to as the Act) and the Kenya Communications Regulations, 2001 (hereinafter referred to as Regulations).

This Determination shall be known as the Determination No.1 of 2007 on Cost based Interconnection Rates for Fixed and Mobile Telecommunication Networks in the Republic of Kenya. The Determination is effective on the 1st day of March 2007 and is binding to all the fixed and mobile telecommunications network operators operating in the Republic of Kenya and supersedes the previous Rulings made by the Communications Commission of Kenya on mobile and fixed interconnection rates in 2006.

2. CONFORMITY WITH THE LAW

Factors Considered

The Determination was guided by the results of the Network Cost Study conducted by the Communications Commission of Kenya in 2006.

It is made taking into consideration all the factors stipulated under sections 23 (2) (a), (b) & (c) and 25 (3) (b) of the Act and the Regulations (Interconnection and Provision of Fixed Links, Access and Facilities).

Preliminary Objectives of the study

The study had a number of tasks, including the development of market, cost and price models in collaboration with the main telecoms operators in Kenya.

The overall objective of the study was to determine, through review of the available institutional, regulatory and financial information and through a costing exercise, the appropriate costs and prices of various telecommunications services. It covered mobile and fixed telecommunications services in the country and the interconnection envisaged therein.

The Due Process

The study adopted a participatory methodology, wherein all telecommunications operators and other stakeholders were involved in a transparent manner.

At the preliminary stage, the study involved literature review, benchmarking, consultations, and written submissions to get views from the operators.

A draft final report was presented to the stakeholders on 12th January 2007, upon which the operators were given time to make written submissions.

The Final Report of the study was submitted to Communications Commission of Kenya on 16th February 2007.

3. SUBMISSIONS BY OPERATORS AND OTHER STAKEHOLDERS

As stated above, the study involved consultations with all operators at every stage. The consultants were able to visit all relevant operators for discussions and elaborations on all matters pertaining to the study and the use of data that was submitted by the operators. The operators were also given opportunities to comment on the consultant's work.

Throughout the project, operators have had input to the process, specifically through:

- a stakeholder workshop to introduce the project;
- individual meetings with the consultants to discuss *inter alia* data availability;
- review of the inception report;
- submission of data for market model;
- review of the market report;
- submission of data for cost models;
- review of the cost models;
- review of the draft final report for stakeholders, draft interconnection technical guidelines, draft costing guidelines, and draft price cap guidelines.

All operators were afforded adequate opportunity to make their submissions and contribute to the study in all stages.

4. CONSIDERATION OF THE FINDINGS OF THE STUDY

After reviewing the Study Report on cost based interconnection rates, the Commission concurs with the results of the study that:

Involvement of Stakeholders

The Commission is satisfied that all stakeholders were involved in the process of carrying out the study in a transparent manner. The Commission received written submissions from the operators and oral contributions were made during the stakeholders' workshop held on 12th January 2007, where a number of comments were received.

The LRIC Methodology

The Commission is satisfied that the LRIC methodology which was used in the study is the appropriate basis for determining interconnection rates as it: reflects Modern Equivalent Costs of networks; is Forward Looking; encourages economic efficiency; and encourages new entrants to enter the market.

Other Methodologies Considered

The Commission noted that the study considered other methodologies particularly benchmarking. The countries used for benchmarking were selected on the basis of regional proximity and a number of economic and geographical factors. In weighting the factors, a scoring system is used that assigns a higher weighting to economic factors (i.e. similar GDP per capita and GINI coefficient to Kenya), as these tend to be particularly important factors in determining the level of penetration and usage of telephony services.

Desire to Promote Competitive Rates and Attract the Market

The Commission notes that the study results indicate that all operators, fixed or mobile, have a monopoly on terminating calls into their networks. In order to promote fair competition on retail tariffs, the Commission is of the opinion that there is need for regulating interconnection rates when the market fails.

The Commission has noted that lowering interconnection charges will provide the impetus for lowering retail prices, expanding the market and subscriber base. Lower retail prices will result from competition which is likely to emanate from a well regulated interconnection regime preventing operators with Significant Market power (SMP) in the interconnection service market from abusing their dominance.

Financial Implications

The Commission notes that in the short run there will be less revenue realized from interconnection by operators who are currently net receivers. However, net payers will experience a reduction in costs by paying less interconnection charges to other operators and that traffic patterns will change through increase of subscribers and talk time.

Other Factors Considered

Network Externalities

The Commission notes that in the study, no surcharge was applied to account for the network externality. This is mainly because of the lack of an accepted method for evaluating it with any certainty, and mainly because of the lack of a practical mechanism to ensure that any such surcharge would be used to support the acquisition and retention of marginal subscribers.

Definition of Active Mobile Subscribers

The Commission notes the market dynamics and the indication in the report that there is increasing competition evidenced by new products and services. The Commission notes that despite the impressive growth, the penetration rate is still low.

The Commission directs that mobile operators shall now report active subscribers, defined as subscribers who have used a revenue generating service within the preceding 90-day period.

5. THE DETERMINATION

The Commission hereby determines the Interconnection rates to be applied among the fixed and mobile telecommunication operators in the Republic of Kenya.

The appropriate cost-based interconnection rates shall be as per table below:

Cost-based Interconnection rates with effect from 1st March 2007 in KES.

Real 2006 KES	*1 March 2007*	*1 January 2008*	*1 January 2009*
Mobile Termination	6.28	5.27	4.42

Fixed Termination				
Real 2006 KES	*1 March 2007*	*1 January 2008*	*1 January 2009*	*1 January 2010*
Local termination	1.74	1.65	1.61	1.67
Single tandem termination from tandem exchange	3.23 (KES3.50 in nominal terms)	3.03	2.90	3.01
Double tandem termination from tandem exchange	4.82 (KES5.23 in nominal terms)	4.35	3.61	3.76
Single tandem termination from local exchange*	5.48	4.98	4.89	5.08
Double tandem termination from local exchange*	6.27	5.71	5.59	5.81

* These rates will be effective 1st July 2007

Fixed Transit				
Real 2006 KES	*1 March 2007*	*1 January 2008*	*1 January 2009*	*1 January 2010*
Transit local exchange to tandem (single tandem)	2.57	2.31	2.27	2.30
Transit local exchange to tandem (double tandem)	3.37	3.05	2.99	3.06
Tandem to tandem transit	1.08	0.98	0.96	1.01
Local to local transit (single tandem)	4.86	4.38	4.30	4.35
Local to local transit (double tandem)	5.66	5.12	5.02	5.10

5.2. The glide path as shown in the table above shall be used for the implementation of the interconnection rates. A review shall be carried out at the end of 2007 before introducing new interconnection rates for January 2008.

5.3. Mobile off-net voice service rates will not exceed Kshs.30 (inclusive of taxes) with effect from 1st July 2007.

5.4. All operators are required to enter into new Interconnection Agreements and submit the same to the Commission by 15th March 2007.

5.5. All operators are at liberty to negotiate lower interconnection rates subject to the capped rates provided herein.

ENG. JOHN WAWERU
DIRECTOR GENERAL
COMMUNICATIONS COMMISSION OF KENYA

22nd February 2007