



**Asia-Pacific
Economic Cooperation**

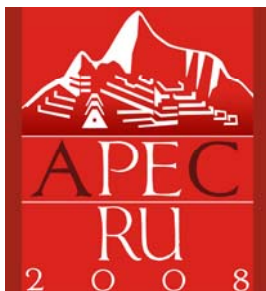
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Agenda Item: 7

Policies and Regulatory Update

Peru Report - 2008

Purpose: Information
Submitted by: Peru



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POLICIES AND REGULATORY UPDATE
PERU REPORT - 2008

1. Granted licenses for public telecommunication services

The Single Concession Law and its bylaw were approved in May and December 2006, respectively, fostering the convergence of services and easing the entrance procedures for new competitors in the telecommunications market. Under this new regime, operators willing to operate several services need to follow only one concession procedure, in contrast to obtaining a concession per each service. The first single concession was obtained in October 2007.

The number of current licensed operators per service is as follows¹:

- **60** long distance carriers (services are provided by prepaid cards, carrier preselection, and the call by call system),
- **24** local carriers (that provide local access as well as private leased circuits, both wireless and wireline),
- **23** for fixed telephony²,
- **2** mobile operators,
- **4** satellite mobile operators,
- **245** TV cable service providers (a great majority are small operators outside the capital).

Moreover, about **253** value added service operators have been registered.

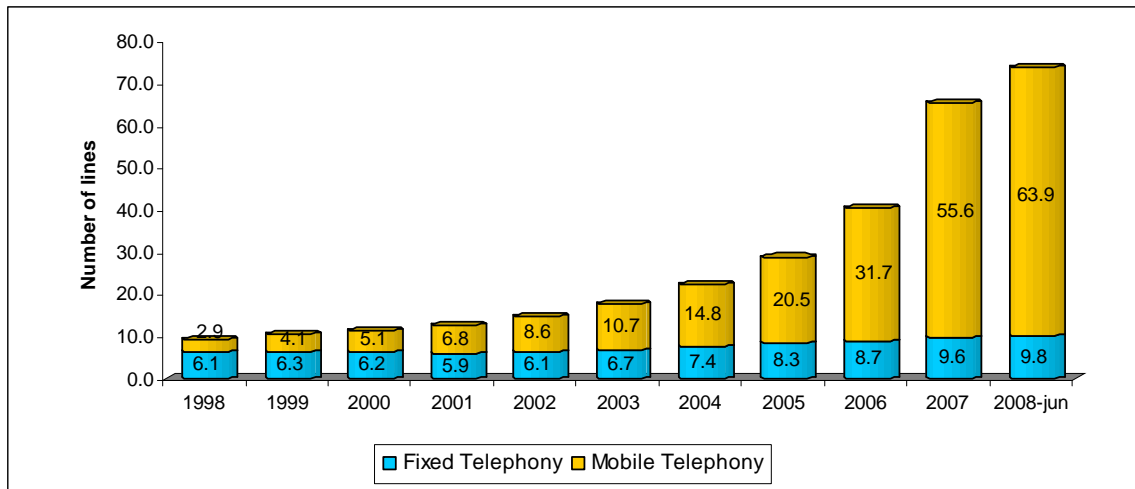
2. Fixed and mobile telephony services teledensity

By June 2008 the fixed teledensity was 9.7% while the mobile service teledensity was 60.8%. It should be noticed that, during the first half of 2008 the mobile teledensity increased by 8.3%. This increase is based on the current economic stability of the country as well as a clear regulatory framework.

¹ Includes only operators with effective concessions up to June 2008; it does not include operators that are in the process of resolving their concessions contracts.

² Include fixed telephony and payphones.

**Total Fixed-line and Mobile Teledensity
(1998-2008 June)**



3. Guidelines for fostering competition

In February 2007 the “Guidelines for Developing and Consolidating Competition and Expansion of Telecommunications Services in Peru” was approved. This document established nationwide goals for the year 2011, regarding mobile and fixed line services, such as to further develop the Internet wideband access, getting a million of connections.

Due to the teledensity growth experienced during 2007 and the projections for 2008, the document was modified in February 2008, establishing new nationwide goals for year 2011: 1) to reach a 15 fixed lines teledensity, and 2) to reach a 80 mobile lines teledensity.

4. Fund of Investment in Telecommunications, FITEL projects

FITEL is the government fund that finances projects for providing universal service to communities and rural areas where there are no essential telecommunications services.

The most recent project was assigned on August 12th 2008, by the Private Investment Promotion Agency – PRO INVERSION, to a joint venture integrated by Canadian and Peruvian private enterprises. The objective of this project, called “Rural Internet” is to implement Internet telecenters in 1050 rural villages nationwide and to benefit more than 1

million people. The total funding for this project is US\$ 11.5 million, which includes US\$ 9.4 million from the Ministry of Transportation and Communications.

Additionally, PROINVERSION, is currently undertaking four important bidding process regarding FITEL projects:

a) "Broadband for Remote Rural Areas" Project: The objective of this project is to implement telephony and Internet in 3852 remote rural villages nationwide providing these services to approximately 1.5 million people. The funding for this project is around US\$ 55.5 million. PROINVERSION will announce the results on October.

b) "Rural Broadband" Project: The objective of this project is to implement telephony and Internet in 2120 remote rural villages nationwide providing these services to approximately 1.4 million people. The funding for this project is around US\$ 13.7 million.

c) "Rural Broadband Service San Gaban – Puerto Maldonado" Project: The objective of this project is to implement telephony and Internet in 89 remote rural villages of Madre de Dios Region. The funding for this project is around US\$ 3.7 million.

d) "ICT for Rio Apurimac and Ene Valleys – VRAE" Project: The objective of this project is to implement telephony and Internet in 311 remote rural villages of Ayacucho, Cusco and Junin Regions. The funding for this project is around US\$ 4.6 million.

5. Number portability for mobile services

In April 2007, the "Number Portability for mobile services Law" was approved and will be in force on January 2010. This law establishes that the users have the right to keep their mobile number, even if they change their service provider.

In November 2007, the MTC by means of a Supreme Decree determined the conditions for implementing the number portability for mobile services in the country. This document sets three stages, the first one determines a deadline in order to select the technical solution for implementing number portability (June 30th 2008), the second, determines a timeframe in order to determine the necessary specifications for implementing number portability (July 1st 2008 - 31st December 2008), and a third stage for implementing and testing (January 1st 2009 – September 30th 2009).

In February, mobile operators agreed on the best technical solution to implement the Law, which is the procedure that uses databases.

In May 2008, by means of Ministerial Resolution, the Number Portability's technical solution named "All Call Query" was approved, concluding the first stage.

Currently, the Ministry is evaluating the changes that will have to be done, according to the information provided by the different mobile providers and it is making an execution schedule.

6. Addition of new digits for mobile services

In May 2007, the MTC approved changes regarding mobile services numbering. The idea behind these changes was to increase the number of digits in order to increase the capacity for mobile numbers and therefore, satisfy the growing market demand and facilitate the implementation of the Number Portability Law previously mentioned. This measure made the amount of digits equal nationwide to nine in total from April 5, 2008.

7. Telecommunications public services development's promotion in rural areas.

In August 2008, as part of the government policy on reducing the digital divide on infrastructure, the Supreme Decree N° 024-2008-MTC, established the framework for the promotion of public telecommunications services in rural areas and locations of social interest. Likewise it establishes a special regime for reselling, dialing parity, infrastructure sharing, directory assistant service, interconnection regime and tariffs, applicable to operators that provide services in rural areas and places of special social interest

8. Measures for installing optical fiber into pipes and vaults

In July 2007, the Supreme Decree N° 024-2007-MTC, established that all the new highways should be built containing pipes and vaults that allow the installation of telecommunications infrastructure. Later, in April 2008, the Ministry of Transportation and Communications approved the specific technical conditions for implementing such Supreme Decree.

This norm seeks to regulate and promote the expansion of the telecommunications services, optimizing the use of transportation and communications infrastructure, avoiding unnecessary expenditure.

9. Expansion of telecommunications infrastructure

In May 2007, the “Expansion of telecommunications infrastructure Law” was approved and, its bylaw was also approved later in November 2007. This law establishes a nationwide special and temporal regime (4 years), for installing and deploying the necessary infrastructure for telecommunications services. This Law is aimed especially but not exclusively for, rural areas, preferential social interest places and border areas.

Under this new regime, fees related to authorizations for telecommunications infrastructure deployment, have been restricted to the real costs the local government incurs. Likewise, the uses of public places, ground and underground are not subject to charges of any kind. Also, any associated procedure for using public sidewalks, pavements and roadways, is subject to “administrative positive silence”. This is a legal instrument by which, the petitioner of an authorization can consider it approved if the administration in charge (be it Municipal or Regional Government) does not give an answer before the deadline established by law.

10 Access to the infrastructure of major suppliers

In June 2008, the Legislative Decree which regulates the access by the telecommunications suppliers to the major suppliers’ infrastructure was enacted.

This Law seeks to guarantee that major suppliers i) allow other public telecommunications services providers, the physical or virtual co-location of their infrastructure ii) provide access to their, pipes and step rights under nondiscriminatory conditions and reasonable rates.

11. Bidding Process to assign radioelectric spectrum

a) 25 MHz in the C band of 1900 MHz

In May 2008, Ministry of Transportation and Communications approved the bidding process to assign nationwide 25 MHz in the C band of 1900 MHz for providing telecommunications public services. This process is in charge of the Private Investment Promotion Agency- PROINVERSION.

b) 24 MHz and 22 MHz in 2,5 GHz band

Ministry of Transportation and Communications approved the bidding process to assign 2 668 - 2 692 MHz band in the provinces of Lima, Callao, Trujillo and in the department of Lambayeque to provide public telecommunications services. Also it approved the bidding

process to assign the 2 668 – 2690 MHz band in the rest of the country. These processes are in charge of the Private Investment Promotion Agency -PROINVERSION.

The objective of the process is to select an operator that will provide broadband wireless services nationwide. The Request for Proposals was published on June 2008

c) 821-824 MHz and 866-869 MHz bands

In August 2008, Ministry of Transportation and Communications approved the bidding process to assign 821 – 824 MHz and 866 – 869 MHz bands for providing telecommunications services. This process is in charge of Private Investment Promotion Agency-PROINVERSION.

12. Digital Terrestrial Television (DTT) standard evaluation

In February 2007 the Multisectorial Commission in charge of recommending the **Digital Terrestrial Television** (DTT) standard to be adopted by Peru, was created. The Ministry of Transportation and Communications leads the Commission with the participation of the Prime Minister Office, the Ministry of Production, the Ministry of Foreign Affairs and the Consultant Committee of Radio and Television.

The process for selecting which DTTB standard will be adopted by Peru is currently underway. As part of this process, the Commission carried out field tests in Lima, Cusco and Iquitos in order to assess the DTTB standards. The purpose was to evaluate the performance of each one of them, by comparing their main technical parameters related to service availability, robustness, capacity of transmitting programs in high definition, mobility, among others.

The Commission will present its report at the end of the year.

13. Communications System for Emergency Situations

After last year's earthquake, which seriously affected Pisco, Ica, and other southern cities in Peru, the Ministry of Transportation and Communications issued a Supreme Decree adopting several measures to prevent and perform during emergency situations. These measures include:

- 1) Special Communications Network for emergency situations

- 2) Prevention guidelines
- 3) Action guidelines for emergency situations
- 4) Action guidelines in the affected area

The Special Communications Network for emergency situations is a nationwide network whose main purpose is to establish prioritized communications between authorities when an emergency situation occurs. In order to guarantee its adequate performance, fixed telephony and mobile service operators will reserve permanently an amount of capacity in their networks. The referred network should be immediately activated upon the occurrence of an emergency situation. Ministry of Transportation and Communications approved the network specifications in December 2007.

14. Regulation that promotes competition on the Internet Market

On March 2008, OSIPTEL approved the Resolution N° 039-2008-PD/OSIPTEL that intends to promote the growth of access, improve quality of service and reduce costs to the end-users through measures that encourage competition in the provision of services. By mean of this measure the total monthly fixed cost that competitors have to pay for the access to nationwide ATM virtual circuits to provide ADSL service has reduced by more than 90%.

15. Price Regulation of Local Fixed Line Telephone Service

The tariff for land-line telephone services decreased 20.8% between March 2005 and March 2007. Regarding residential fixed line telephone service, there were improvements in the implementation of a regulatory mechanism of price caps. As a consequence of bringing forward the productivity factor, which resulted from the negotiation carried out at the end of 2006 between the Peruvian government and Telefónica del Perú S.A.A, there were some rate reductions in plans involving social interest and because it has a large number of users.

Furthermore, within the fixed line telephone service market, an Annual Productivity Factor it was stated at 6.42%, in July 2007 by Resolution of the Board of Directors N° 042-2007-CD/OSIPTEL. This is applicable to the Scheme System of Price Caps for the term 2007-2010 which represents a quarter decrease of 1.645% of the C, D and E baskets which Concession Agreements refer to, and that were approved by Supreme Decree N°114-94-TCC. Basket C includes installation charges, basket D monthly rent and local calls, whereas basket E includes national and international long distance calls. The new value of such factor will be applicable as of September 2007

16. Communication from Public Telephones to Cell Phones

In January 2008, by Resolution of Presidency N° 008-2008-PD/OSIPTEL, the price caps for calls from payphones was set at S/ 0.50 to mobile service networks for 43 and 42 seconds of communication for local and national long distance calls, respectively. Before said regulation, such calls rate was of S/. 1.00 for 55 seconds, and there were specific promotions of S/. 0.50 per 30 seconds. Likewise, national long distance from a payphone to a cell phone cost S/. 2.00 per 65 seconds. Rates have decreased 36% and 61% respectively.

The aim of this procedure was to pass on benefits of efficiency and cost reduction resulting from the most important components of the tariff, to users. Such components represent the payment of several interconnection charges, which are being revised by OSIPTEL in order to orient them to costs through the implementation of several regulatory procedures. For that purpose, in the first place, objectives have been to determine the value of the price caps of calls from public telephones to mobile networks charged by Telefónica, and secondly, to establish a methodology which allows price caps to be automatically updated as a consequence of cost changes (charges that make up said rate

17. Interconnection Charges Regulation and Essential Facilities

Regulation of interconnection charges and wholesale prices consists of fixing prices in such a way that they become cost-based, thus obtaining economic efficiency and recovering the investment carried out by the supplying operating company. Reduction of those prices stimulates and promotes competition, by reducing access cost to basic features of main operator for competitors. During 2007, the following regulations were carried out:

- Revision of Interconnection Charge Cap for Local Switched Transport
- Revision of Interconnection Charge Cap for National Long Distance (NLD)
- Interconnection Charge Cap for Interconnections Links
- Revision of Interconnection Charge Cap for Call Termination in Local Fixed Line Telephone Service.

18. Promoting Long Distance Competition

In February 2007, the Ministry of Transportation and Communication decided to eliminate the default pre-selection, in order to encourage free and loyal competition in the long

distance market. This was due to the fact that up until then, it represented a competitive advantage for the main operator, since it reduced the commercialization costs of the service, by automatically retaining the users that did not expressly choose a given Long Distance Carrier.

In order to consolidate this provision, OSIPTEL issued in April 2007 the Resolution of the Board of Directors N° 016-2007-CD/OSIPTEL, which eliminated the default pre-selection in the long distance service in order to guarantee competition encouragement. One of the first and main measures taken was to establish a suspension of the selection processes until July 11, 2007. This was aimed at assuring that all long distance operators were under equal conditions at the beginning of the pre-selection process established by OSIPTEL. Thus, in October 2, 2007 the default pre-selection was eliminated, which benefited and still benefits thousands of users that already have the opportunity to choose.

On the other hand, regarding the process of encouraging competition, OSIPTEL started to eliminate the price cap regulation in long distance calls through Telefonica prepaid cards, and enacted laws to establish the revision of wholesale rates and fixing/revision of ceiling interconnection charges for different essential facilities

19. Ruling Amendments – Conditions of Use

In 2008, a proposal has been drafted in order to offer additional protection users' rights tools. For that purpose, amendments to the Conditions of Use of the public telecommunications services are under revision. The features which are considered for revision are in relation to:

- Termination of the service supply contract due to a unilateral subscriber decision, which grants subscribers certain opportunities to decrease the transaction costs when notifying their decision to terminate a contract.
- Information on the exchange rate used in currency conversion, thus establishing a standard criterion to calculate the exchange rate that will be used in currency conversions carried out by the operating company in order to guarantee the right of subscribers and users to receive precise information regarding this type of operations, so that more transparent transactions are assured

Further information can be found at:

- **Ministry of Transportation and Communications (MTC):**
<http://www.mtc.gob.pe>
- **OSIPTEL:**
<http://www.osiptel.gob.pe>

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