

# 1 Telecommunications Trade Liberalisation and Individual Privacy 2 in Jordan: Some Perspectives and Evolving Concerns

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## 7 Abstract

8 During the past few years, the Jordanian economy has been transformed. Economic reform in  
9 Jordan covered several areas, including the deregulation of business sectors, the privatisation  
10 of public services, and the elimination of trade barriers. These reforms may be interlocked.  
11 For example, the rapid development of ICTs made it necessary for the telecommunications  
12 sector in Jordan to become the first public enterprise to be privatised. Currently, this sector  
13 provides customers with variety of services and products that were unavailable to them before  
14 the start of privatisation process.

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16 *Index terms—*

## 17 1 Introduction

18 uring the past few years, the Jordanian economy has been transformed. Economic reform in Jordan covered several  
19 areas, including the deregulation of business sectors, the privatisation of public services, and the elimination of  
20 trade barriers. These reforms may be interlocked. For example, the rapid development of ICTs made it necessary  
21 for the telecommunications sector in Jordan to become the first public enterprise to be privatised. Currently, this  
22 sector provides customers with variety of services and products that were unavailable to them before the start of  
23 privatisation process.

24 Further, the recent economic reform has made Jordan an active actor in the 'globalised' world. Jordan's  
25 accession to the World Trade Organisation (WTO) and signing of trade agreements with important partners  
26 including the US and the EU has signalled its broader participation. These agreements are strong factors in  
27 making Jordan's economy accessible to multinational institutions. Multinational and foreign companies are  
28 engaging in the Jordanian markets to provide customers with a range of products and services, particularly in  
29 the area of telecommunications. Because of its international trade commitments, Jordan has introduced new  
30 laws and regulations to reform its ICT industry. The significant laws adopted include: the Telecommunications  
31 Law No 13 of 1995, ?? the Electronic Transactions Law No 85 of 2001, 2 and the Information Systems Crime  
32 Law No 30 of 2010. 3 This paper examines the issue of individual privacy in one important sector in Jordan that  
33 was subject to reform and liberalisation: the telecommunications sector. The method adopted in this paper to  
34 address individual privacy issues is based on ?? Telecommunications Law No 13 of 1995 an empirical analysis of  
35 the information privacy practices of the above mentioned sector in Jordan.

36 The study of these practices is undertaken to determine whether it provides adequate protection for individual  
37 privacy. To achieve this goal, the study relies on one source: the privacy 'policies or statements' which are available  
38 on the websites of telecommunications companies in Jordan. These privacy 'policies/statements' directly address  
39 a company's obligations and responsibilities regarding the protection of the personal information they obtain.

40 The first section (below) examines the telecommunications sector in Jordan. It gives a brief overview of the  
41 developments of this sector in Jordan. Then in a case study, the paper goes to examine individual privacy  
42 implications in this sector.

### 2 II. The Telecommunications Sector in Jordan

Globally, there is no sector that has undergone more rapid change in the past two decades, in terms of new technologies and policies, than the telecommunications sector. ?? This is the result of a number of phenomena, including the rapid evolution of technology, the introduction of many new services, the liberalisation of the market and the privatisation of many government owned networks. ?? At the national level, the Jordanian telecommunications sector has witnessed significant changes in many aspects including: the adoption of regulatory policies, a government commitment to liberalise the telecommunications market (Jordan was the first Arab country to fully liberalise this sector), the adoption of a deregulation process, and the readiness of the Jordanian market to introduce new and advanced services to meet the needs of businesses and consumers in this sector. ?? infrastructure, ?? the telecommunications sector is set to become a key industry for the Jordanian economy with 10 per cent contribution to GDP in 2006. ?? In the telecommunications sector, Jordan incurred significant trade liberalisation and competition obligations under GATS, in relation to both basic and value added services. Under its general GATS obligations, Jordan is obliged to extend most favoured nation (MFN) status to other WTO member countries and 'ensure transparency of local' regulations. 9 Those obligations and more specific ones spelt out in under the WTO Basic Telecommunications Agreement (the relevant sector specific agreement) involve basic telecommunications service provision (including voice telephone services, telegraph services, facsimile services, private leased circuit services, packet-switched data transmission services (internet), and circuitswitched data transmission services); and value added service provision (including e-mail, voice mail, online information and data base-retrieval, electronic data interchange and code and protocol conversion). 10 Jordan was obliged to terminate the state's monopoly over telecommunications, with the exclusive rights of the Jordan Telecommunications Company (JTC) to be withdrawn by 2004. Also to be considered were the prevention of anti-competitive practices in the sector, and security of regulatory independence. 11 Further, Jordan is committed to meet the obligations included in the 1996 Reference Paper for the WTO Agreement on Basic Telecommunications Services that was later integrated into GATS. 12 1. Implement laws and regulations to prevent major suppliers from engaging in anti-competitive practices in telecommunications (for example, engaging in anti-competitive cross-subsidisation, Therefore, Jordan must: and the use sensitive information from competitors with anti-competitive results). 2. Administer universal service obligations (USO) in a transparent, non-discriminatory, and competitively neutral manner. The 1996 Reference Paper specifies that USOs will not as regarded as anticompetitive per se.

3. Ensure public liability of licensing criteria. 4. Establish an independent regulator to monitor the telecommunications market. The regulatory body could be a government ministry or an independent commission with the power to issue decisions, instructions and procedures which must be impartial with regard to telecommunications actors. 5. Allocate and use of scarce resources, which may include: radio spectrum, numbers and rights of way. This must be carried out in an objective, timely, transparent and non-discriminatory manner.

Jordan's commitments to the above in the telecommunications sector entail a number of legal obligations in regarding to: (1) market access, (2) foreign ownership and national treatment, (3) anticompetitive laws and regulations, (4) establishment of an independent regulator; (5) market liberalisation; and finally, (6) measures enacted in order to effect such commitments. 13 Liberalisation of the telecommunications sector is one of the most noticeable changes that have occurred and has led to many positive impacts on Jordan's economy, particularly on the ICT sector. Prices of services in this sector have decreased, the number of internet services (ISPs) and communication product suppliers has increased, and foreign telecommunications products are now freely imported into Jordan. Further, consumer demand for telecommunications services in key services sectors such as financial and banking services has increased. 14 Figure 1 below shows that in year 2009 there were 6.01million mobile phone customers in Jordan, which is equivalent to a penetration rate of 101 per cent, representing an increase of 44 per cent since year 2005. Business Monitor International predicted that over 8.45 million mobile users by the end of 2013, giving a penetration rate of almost 120 per cent. The ongoing growing number of mobile users in Jordan as reflected in Figure 1 is a clear evidence of the impact of the liberalisation program on the telecommunications sector in Jordan. Liberalisation facilitated strong competition between local and foreign telecommunications companies which resulted in a significant drop in mobile prices, thus making them more accessible to a more people and resulting in an increased uptake of the technology. 16 16 With respect to the internet users in Jordan, Figure 2 below shows a slight increase of the number of internet users. In 2009, the number of internet users was 1,742 million with an increase of 15.8 per cent since year 2005. Although, this is still below desired levels due to on-going affordability issues, the number of internet users is expected to reach 3.066 million by the end of 2013. This would give a penetration rate for Internet usage of 43 per cent. 17 A number of factors have been identified as obstacles to growing number of internet users including the high cost of internet access and of personal computers (PC) themselves and of related equipment (for example, software) and for repairs. Mobile for fixed substitution and the use of Voice Internet Protocol (VoIP) as well as the high cost of a fixed line has caused fixed line telephone services to drop. Figure ?? shows the number of fixed line subscribers has reached 614,000 customers which is equivalent to a penetration rate of 10 per cent. 20 The law has ended state monopoly of the above services. The legislation was designed to create a fair and competitive regulatory framework, to address the issuance of licences, to separate regulatory and operating sectors, and to facilitate the privatisation process. The law has established two regulatory bodies to regulate and monitor the telecommunications services: the MoICT and the Telecommunications Regulatory Commission (TRC), Jordan's national telecommunications authority, 21

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### 106 3 Ministry of Information and Communications

#### 107 4 a) The Ministry of Information and Communications

108 Technology (MoICT) which has the responsibility to implement Jordan's obligations in accordance with GATS.  
109 (The role of the TRC is discussed in a separate section, further below). The next two sections provide a brief  
110 account of these governmental regulators and their roles.

111 Established in April 2002, the MoICT is the governmental entity responsible for articulating policy in the  
112 areas of IT, telecommunications, and post in Jordan. The Ministry's policy calls for market liberalisation,  
113 public-private partnership (PPP), and an end to government monopoly, which would include the government  
114 disposing of its majority shareholding in the telecom and postal sectors. ??2 The MoICT is charged with  
115 the developing, incubating, and supporting ICT initiatives at the national level, stimulating local and foreign  
116 technology investments, as well as promoting awareness of the significance of ICT and encouraging its use by  
117 all segments of the population. ??3 Furthermore, the MoICT is also responsible (in collaboration with other  
118 government agencies and to present them to the Council of Ministers) for the preparation of draft laws on  
119 telecommunications and information technology. ??4 Its role is to ensure that the ICT resources are exploited  
120 by 20 Government entities in the most efficient way possible, consistent with best practices and free market  
121 principles. ??5 However, day-to-day regulation of Jordan's telecommunications and postal markets is delegated  
122 to the Telecommunications Regulatory Commission (TRC). The role of TRC in regulating the telecommunications  
123 market is now examined in detail.

#### 124 5 b) Telecommunications Regulatory Commission (TRC)

125 Established in 1995 under the Telecommunications Law No 13 of 1995, the TRC is an independent agency. It is  
126 not responsible to the MoICT, but rather reports to the Prime Minister. The TRC's primary responsibilities are  
127 included within Article 6 of ??5 the Telecommunications Law No 13 of 1995. 26 a. To regulate telecommunications  
128 and information technology services in the kingdom in accordance with the established general policy so as to  
129 ensure the provision of high quality telecommunications and information technology services to beneficiaries at  
130 reasonable prices; and, by doing so, to make possible the optimal performance of the telecommunications and  
131 information technology sectors.

132 Among those responsibilities are: b. To protect the interests of Beneficiaries and monitor the actions of  
133 persons and licensed parties to ensure that the conditions of Licenses are observed, including specified services  
134 standards, service quality, and prices and to take necessary actions in this regard and to penalise those who violate  
135 these conditions. c. To stimulate competition in the telecommunications and information technology sectors,  
136 relying on market forces and so regulating them as to ensure the effective provision of telecommunications and  
137 information technology services and to ensure that its regulation is sufficient and effective to forbid or curtail  
138 illegal competitive practices pr prevent any person with a dominant position in the market form abusing his  
139 position, and to take all necessary actions in this regard. As of the end of 2009, Jordan had a total of 78  
140 telecommunications service providers. An individual licence issued for 24 public telecommunications service  
141 providers who require the use of scarce resources (radio frequency spectrum, public rights of way, and telephone  
142 numbers). A class licence issued for 54 public telecommunications service providers who do not use those scarce  
143 resources. ??9 With regards to market competition, the TRC has been influential in allowing multinational  
144 (local and foreign) telecommunications service providers to operate in Jordan and provide a variety of services  
145 and products such as: mobile telephone services, land line telephone services, internet, paging services, data  
146 networks, prepaid telephone cards and public pay phones.

147 Currently, there are three major telecommunication companies providing such services and products: Zain  
148 (with its parent company based in Kuwait), MobileCom (a subsidiary of Jordan Telecom), and Ummiah (a  
149 subsidiary of Batelco Bahrain). In The role of the TRC is to draft laws and issue instructions to address any  
150 arising matters. This is an important role. For example, in response to public pressure, the TRC has issued a  
151 set of instructions to addition, there is the New Generation Telecommunications Company, Xpress, a company  
152 licensed to provide radio trunking services, SMS and other information services.

153 prevent the sending of bulk SMS (Short Message Service) to individuals (mobile phone users). These  
154 instructions provide individual with the following protections: 30 1. Telecommunications service providers must  
155 provide individuals, free of charge, with an easy and accessible mechanism to request a stoppage on receiving  
156 SMS. 2. Telecommunications service providers must not send SMS to individuals who wish to opt out.

157 3. Telecommunications service providers must not send SMS to individuals who opted out which has been  
158 originated from a third party. 4. Telecommunications service providers must not send SMS to individuals on a  
159 public holiday and on weekdays between 9am-7pm. Although these instructions are a step in the right direction  
160 in the area of privacy protection in the telecommunications sector in Jordan, the author believes that they suffer  
161 from a number of shortcomings that make them insufficient to protect individual privacy in this sector. These  
162 shortcomings are: 1) They are only applicable to one type of telecommunications services, namely telemarketing  
163 via SMS, and do not extend their application to telemarketing via telephone calls or e-mails.

164 2) The current instructions give individuals the right to opt out rather than opt in. As discussed  
165 earlier in Chapter Four, an effective opt-out method relies upon individuals being able to understand how

166 telecommunications service providers are using their personal information. It also relies upon individuals being  
167 informed that they have the right to opt-out of this information practice (that is, receiving SMS).

168 3) The application of these instructions does not extend to government agencies, which means that  
169 governmental departments and their affiliates (private entities) can still send unwanted SMS to individuals.

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## 171 6 B

172 The author believes that the above instructions adopted by the TRC are insufficient to protect individual privacy  
173 in the whole telecommunications sector in Jordan. In order to propose an alternative comprehensive and adequate  
174 regulatory framework for privacy protection, a number of telecommunications service providers in Jordan were  
175 subject to investigation to identify individual privacy concerns within this sector in relation to its adoption and  
176 use of ICTs.

177 IV.

## 178 7 The Privacy Implications in the Telecommunications Sector 179 in Jordan

180 As stated above, the TRC in Jordan has issued licences to 78 telecommunications service providers as at 31  
181 December 2009. ??1 These companies handle personal information about their customers in order to supply them  
182 with services and products, including landline telephone services, mobile telephone services, internet services, and  
183 pre-paid telephone cards. 32

## 184 8 a) Methodology: An Online Case Study

185 Jordan has no law regulating privacy in this sector and online privacy is self-regulated. However, in order to  
186 determine whether self-regulation is adequate, the study will look into the privacy policies/statements of nine  
187 telecommunications service providers in the country. The study adopts the following method.

188 An online method was utilised in a survey conducted during 10 to 25 September 2009 to examine privacy  
189 policies/statements on a sample of 9 telecommunications service providers listed in Table ?? below. ??3 The  
190 remaining companies with an online presence in Jordan were excluded from this study because their websites  
191 either could not be accessed via online (for example, due to technical difficulties) or because these companies  
192 do not have privacy policies/statements on their websites. The purpose of this study is to measure whether or  
193 not these privacy policies/statements implemented by telecommunications companies in Jordan provide adequate  
194 protection to individual privacy. The privacy policies/statements are the only available provisions concerning  
195 individual personal information that can be assessed in this context. Jordan's lack of privacy legislation or  
196 regulation to deal with the privacy issue, and particularly, in the telecommunications sector is the driving force  
197 behind this study.

198 The adequacy of these privacy policies/statements is measured against the principles ??1 of the Information  
199 Practice Privacy Principles (FIPs). These principles are: (1) Notice, (2) Choice, (3) Access, (4) Security, and (5)  
200 Enforcement. The reason for using the FIPs as the benchmark for this study is because they were developed to  
201 become a cornerstone of the selfregulation regime. As claimed above, the telecommunications sector in Jordan  
202 chose the selfregulation approach to protect personal information. This is documented in the Jordan-US Joint  
203 The online study examines the following issues:

- 204 1. Do telecommunications companies in Jordan collect use, store, and transfer customers' personal information?
- 205 2. Do telecommunications companies in Jordan have one standard privacy policy/statement? 3. Do these
- 206 privacy policies/statements meet the standards of the FIPs? And, 4. How do telecommunications companies in
- 207 Jordan attend to customer complaints in regard to their privacy? b) Results

208 Table ?? above reveals that all 9 or 100 per cent of the telecommunications companies whose online presence has  
209 been here surveyed have the ability through their websites to collect customers' (visitors) personal information.  
210 This practice can occur when customers use hyperlinks such as 'Contact us', 'Sign Up', 'Register', or 'Suggestions  
& Complaints'. The use of these hyperlinks enables companies to collect personal information including: name,  
212 postal address and contact details (telephone number and email addresses).

213 The survey also shows that some companies placed information regarding their information privacy practices  
214 under the name of 'privacy policy' while other companies preferred the term 'privacy statement'. The difference  
215 between privacy 'policy' and privacy 'statement' is that a privacy statement communicates company's information  
216 practices to the public while privacy 'policy' describes company's standards for the collection of personal  
217 information and this information is used and managed by the company. ??4 This difference may lead to the  
218 conclusion that these privacy policies/statements may have been obtained from different sources.

219 Table ?? above also shows that privacy policies/statements placed on the home page of the telecommunications  
220 companies surveyed do not have standard provisions to address the issues included in the FIPs. These issues are:

221 The online study shows that 7 of the 9 websites surveyed (or 77.7 per cent) have information related to the  
222 'notice' dimension. As chapter, this dimension is considered by the US FTC as the most fundamental dimension

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223 of the privacy policy/statement. Without a notice, an individual cannot make an informed decision as to whether  
224 or not and to what extent personal information is to be disclosed. ??5

## 225 **9 ii. Choice**

226 With regard to the dimension of choice, the above study shows that only 5 of the 9 companies assessed (or 55.55  
227 per cent) provide individuals with choices regarding the use of their personal information. The availability of this  
228 offers individuals the option to whether or not their information can be used or collected personal information  
229 disclosed to third parties.

## 230 **10 iii. Access**

231 With regard to the principle of access, the study also shows that the same number of companies, that is 5 of the  
232 9 surveyed (or 55.55 per cent) give individuals a right to access to their information. These companies provide  
233 individual with information on how to correct or amend their personal information.

## 234 **11 iv. Security**

235 With regard to the principle of security, 5 of the 9 telecommunications companies listed in Table ?? above (or  
236 55.55 per cent) have made reference to the issue of data security. Such a reference informs individuals as to  
237 how the security of personal information is maintained by the company concerned. It also urges individuals to  
238 take all necessary actions to ensure the safety of their personal information when such information is transmitted  
239 through company websites (with such actions including, for example, regularly changing their password, the use  
240 of a secure browser).

## 241 **12 v. Enforcement**

242 One of the most surprising findings is that none of the 9 companies examined included in their privacy policies any  
243 information (for example, contact details) to individuals regarding access to an independent agency that could  
244 enforce their privacy rights. Only general information was available, namely that for individuals who wished  
245 to contact the company if they had any complaints concerning their personal information. Individuals must  
246 have access to an independent enforcement mechanism that is free of charge, fast and effective -and preferably  
247 via the website of the communications companies themselves rather than rely on consumer knowledge of their  
248 rights and of independent avenues of complaint. 4. A company should obtain prior consent before transferring  
249 personal information to another company as a result of dissolving, merging with a new company, or changing its  
250 legal status. 5. In addition to having an enforcement mechanism, a telecommunications company should make  
251 available specific information relating to the management of personal information. It is recommended that a  
252 telecommunications company establish a specific position, namely a privacy officer, who is responsible for the  
253 company's compliance with its privacy policy/statement. ??4 V.

## 254 **13 Conclusion**

255 The paper has focused on the issue of privacy for the telecommunications sector in Jordan. The telecommuni-  
256 cations sector was selected for empirical examination in relation to privacy protection policies. The paper has  
257 concluded that the protection of individual privacy is inadequate and insufficient for the current As the empirical  
258 studies showed, most of the telecommunications companies in Jordan have the ability to collect, use, access  
259 and transfer personal information without the knowledge of the individuals supplying that information. It also  
260 showed that Jordan's telecommunication companies are under no legal obligations to inform individuals that  
261 their personal information may be transferred to other countries.

262 The absence of applicable privacy laws on the telecommunications sector in Jordan and the right given to  
263 formulate their own policies has allowed companies in this sector to adopt privacy policies/statement of their own  
264 devising and to place them on company's websites. However, this paper has shown that these policies/statements  
265 are inadequate and are unable address privacy concerns. And where they do exist, it is difficult for the average  
266 person to read them as they are often written in legal jargon. Even if customers could understand them, the  
267 amount of time required to read privacy policies is too great. 36

## 268 **14 References Références Referencias**

269 As the study also revealed, where they do exist such statements are often separated from the document or  
270 transaction page the user is accessing. Without an independent body (for example an ombudsman or authority)  
271 to which to appeal in regard to perceived privacy abuses (they cannot be breaches if legislation is non-existent),



Figure 1: 15

[Note: <sup>1</sup> (4072), 1 October 1995. <sup>2</sup> Electronic Transaction Law No 85 of 2001, (Jordan) Official Gazette, No 4524, 31 December 2001, at 6010. <sup>3</sup> Information Systems Crime Law No 30 of 2010, (Jordan) [Arabic] Official Gazette, No 5056, 16 September 2010, at 5334.]

Figure 2:

[Note: <sup>21</sup> Karla J Cunningham, 'Factors Influencing Jordan's Information Revolution: Implications for Democracy' (2002) 56(2) Middle East Journal 240, 242. <sup>22</sup> Moict, <sup>23</sup> Business Monitor International, 'Jordan Telecommunications Report Q2 2009: Including 5-year industry forecasts' (2009) 41. <sup>24</sup> Telecommunications Law No 13 of 1995, art 3(k).]

Figure 3:

[Note: <sup>33</sup> See Appendix B, Exhibits 1-9.]

Figure 4:

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	Yes	No		No	No	No	No
9. Al-Raeh Li Khadamat Al-Lttisalat	Yes	Yes		Yes	Yes	Yes	No
<a href="http://www.aa-telecom.com/dev/privacy.php">http://www.aa-telecom.com/dev/privacy.php</a>							
Percentage of Telecommunications Company with FIP Principles	100%	77.7%	55.55%	55.55%	55.55%	0.00%	

Figure 5:

Figure 6:

272 statistical evidence other than that presented above is difficult to assemble. But that here presented clearly  
 273 reveals a lack of privacy provisions and therefore the possibility of abuses. <sup>1 2</sup>

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<sup>1</sup>Kelley Lee, *Global Telecommunications Regulation: A Political Economy Perspective* (1996) 1. <sup>5</sup> Natasha Finlen, *Consumer Protection in the Australian Telecommunications Market-Post July 1997* (Legal Research Project Thesis, Macquarie University, 1997) 3. <sup>6</sup> Telecommunications Regulatory Commission (TRC), 'Annual Report 2007' (2007) 12 avail <[www.trc.gov.jo](http://www.trc.gov.jo)>. Further, with private sector help to build a dynamic, sophisticated communications

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321 **terms/terms-policies.asp****YesYesNoNoNoNo** *Yes Yes Yes Yes Yes No 2. New Generation*  
322 *Telecommunication Company*, Jordan Mobile Telephone Services Company