



Draft proposed amendments to the Telecommunications (Fees) Regulations, 2006

Maintenance History		
Date	Change details	Version
July 2014	Proposed Amendments	1.0
September 2017	Revisions to proposals post consultation	2.0

REPUBLIC OF TRINIDAD AND TOBAGO

THE TELECOMMUNICATIONS ACT, CHAP. 47:31

REGULATIONS

Made by the Minister with the recommendation of the Authority under section 78(1) of the Telecommunications Act and subject to negative resolution of Parliament

THE TELECOMMUNICATIONS (FEES) (AMENDMENT) REGULATIONS, 2017

PART I	
PRELIMINARY	
Citation	1. These Regulations may be cited as the Telecommunications (Fees) (Amendment) Regulations.
Interpretation	2. (1) In these Regulations: “the Act” means the Telecommunications Act; “ administrative charge ” means that component of the regulatory charge levied by the Authority to recover its administrative expenses resulting from the regulation of authorisations and licences; “ application fee ” means the amount to be paid to the Authority when applying or notifying for an authorisation or licence; “ authorised provider ” means a person authorised pursuant to section 21 of the Act to operate public telecommunications networks or provide public telecommunications or broadcasting services; “concessionaire” means the holder of a concession granted by the Minister under section 21 of the Act; “concession fee payment date” means the date determined pursuant to regulation 3 for payment of fees due under a concession; “concession period” “ authorisation period ” and “ licence period ” means

the period from the grant of ~~an~~ **authorisation** or licence to the end of the term of the last renewal of the ~~concession~~, **authorisation** or licence, respectively;

“financial year” means the financial year of the Authority as set out in section 58 of the Act;

“licensee” means the holder of a licence granted by the Authority under section 36 of the Act;

“licence fee” shall comprise of the regulatory charge;

“licence fee payment date” means the date determined pursuant to ~~these~~ Regulations ~~10~~ for payment of fees **and charges** due under a licence, **including usage charges where applicable;**

“major territorial” in relation to ~~a concession~~ **an authorisation** means the entitlement of the ~~concessionaire~~ **authorised provider** to operate a public telecommunications network or provide public telecommunications or broadcasting services within the island of Trinidad only;

“minor territorial” in relation to ~~a concession~~ **an authorisation** means the entitlement of the ~~concessionaire~~ **authorised provider** to operate a public telecommunications network or provide public telecommunications or broadcasting services within the island of Tobago only;

“national” in relation to ~~a concession~~ **an authorisation** means the ~~entitlement of the concessionaire~~ **ability** to operate a public telecommunications network or provide public telecommunications or broadcasting services throughout Trinidad and Tobago;

~~“niche” in relation to a concession means an authorisation means the entitlement of the concessionaire to operate a public telecommunications network or provide public telecommunications or broadcasting services in only that part of Trinidad and Tobago defined by the Authority and specified in the authorisation;~~

“numbers usage charge” means the amount levied by the Authority for the efficient use of numbers;

“operating charge” means that component of the regulatory charge which is a percentage of the total operating costs of the Authority in the relevant fiscal year and excludes any costs which are directly attributable to the administration of any single authorisation or licence;

“regulatory charge” shall comprise the administrative charge and

	<p>the operating charge;</p> <p>“spectrum usage charge” means the amount levied by the Authority derived from the estimated market value of the spectrum so as to ensure the optimal efficient use of frequency bands;</p> <p>“usage charge” means the amount levied by the Authority for the use of a number or spectrum resource.</p>
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**PART II
AUTHORISATIONS**

<p>Fees and charges to be levied by the Authority</p> <p>First invoice for authorisation fees and charges</p> <p>First Schedule</p>	<p>3. (1) The Authority shall levy an application fee upon all persons who submit a notification or make an application for an authorisation.</p> <p>(2) The Authority shall levy an annual regulatory charge upon all authorised providers to recover the administrative and operating costs of regulating authorised providers and such charge shall be comprised of an administrative charge and an operating charge, as determined by the Authority.</p> <p>(1) (3) Where the Minister grants the term of an authorisation for a term exceeds one year, the Authority shall issue to the relevant concessionaire authorised provider an invoice for the fees and charges set out in the fourth column of the First Schedule to these Regulations, based on the type and sub-type of authorisation set out in the first and second columns, respectively, of the said Schedule calculated in accordance with the formula set out in the third column.</p> <p>(2) (4) The applicable fee shall be for such period, not exceeding one year, as the Authority considers appropriate.</p> <p>(3) (5) The fee payment shall be made no later than twenty-eight days of the date of the invoice and prescribe the concession fee payment date.</p> <p>(4) (6)</p>
<p>Authorisation granted for less than one year</p>	<p>4. (1) Where an authorisation is granted or renewed the Minister grants or renews an for a term of one year or less, the concession fee charged shall be the annual fee set out in the fourth column of the First Schedule based on the type and sub-type of concession authorisation set out in the first and second columns, respectively, of the said Schedule, adjusted on a <i>pro rata</i> basis for the term of the concession authorisation.</p>

	<p>(2) The fee shall be payable in full on the date of the grant or renewal of the concession authorisation as the case may require.</p>
Requirement to submit details of revenues	<p>5. (1) Every concessionaire authorised provider shall, within thirty days of the grant of an concession-authorisation, and thereafter no later than 15th November in each year, submit to the Authority details of its gross revenues in each month for the twelve-month period (or such part thereof for which the authorised provider concessionaire was in operation) ending on 30th September immediately preceding, arising from each telecommunications network, telecommunications service or broadcasting service which the authorised concessionaire-provider operates or provides.</p> <p>(2) The details shall be submitted in the form specified by the Authority by publication on its website or notification to any or all relevant authorised concessionaires providers, and shall be verified by the authorised concessionaire's provider's chief financial officer.</p>
Publication by Authority of information for calculation of authorisation fees and charges	<p>6. (1) The Authority shall no later than 1st March in each year publish on its website—</p> <p>(a) the total of the revenues for each part of the telecommunications and broadcasting sectors in Trinidad and Tobago in the financial year immediately preceding;</p> <p>(b) the total costs of the Authority in respect of concessions authorisations calculated on the basis of the Authority's expenditure budget for the then current financial year, approved in accordance with section 55 of the Act.</p>
Invoices for authorisation fees and charges	<p>7. (1) No earlier than the concession-fee payment date in each year, the Authority shall issue and serve on the authorised provider concessionaire in respect of whose concession the concession fee payment date pertains, an invoice setting out the fee payable by that authorised provider for the twelve-month period commencing on the concession-fee payment date or the period from the payment date to the end of the authorisation period, whichever is shorter.</p> <p>(2) The fee shall be calculated as set out in Regulation 3(1) and shall become due and payable within twenty-eight days of the date of the invoice.</p>

<p>Use of projected revenues to calculate authorisation fees and charges</p>	<p>8. The Authority shall—</p> <p>(a) where the authorised concessionaire provider did not operate at any time during the twelve-month period, utilise the authorised concessionaire's provider's projected revenues for its first full twelve-month period of operation as notified to the Authority in the concessionaire's its application or notification for an authorisation for the concession; or</p> <p>(b) where the authorised provider concessionaire has operated for a period less than the twelve-month period, utilise—</p> <p>(i) the concessionaire's authorised provider's gross revenues for the months of the year that it has been in operation, as submitted to the Authority pursuant to Regulation 5; and</p> <p>(ii) the authorised concessionaire's provider's projected revenues for its first full twelve-month period of operation as notified to the Authority in the concessionaire's its application or the notification for an authorisation, adjusted <i>pro rata</i> for the remainder of the twelve-month period, to calculate the applicable concession-fee for the relevant financial year.</p>
<p>Recalculation of authorisation fees and charges</p>	<p>9. (1) The Authority shall, at the end of each financial year, recalculate the concession fees payable by each authorised provider concessionaire on the basis of the total revenues of the telecommunications and broadcasting sectors in that financial year inclusive of any projected revenues taken into account under Regulation 8.</p> <p>(2) Any difference between the concession fee so calculated and the concession fee actually paid by the authorised provider concessionaire for the relevant year will be refunded or recovered as the case may require in the next invoice issued to that authorised provider concessionaire.</p>

<p>Fee minimum for certain authorisations</p>	<p>10. Notwithstanding the provisions of the First Schedule to these Regulations, the total annual concession fee for any authorised provider concessionaire that holds a national territorial or major territorial authorisation shall not be less than ten thousand dollars and the annual concession fee for any other other authorised provider shall not be less than one thousand dollars.</p>
<p>PART III SPECTRUM FEES AND CHARGES</p>	
<p>Fees and charges for spectrum</p>	<p>11. The Authority shall require the payment of:</p> <p>(a) an application fee for applications for licences for spectrum; (b) an annual licence fee for use of spectrum; (c) an annual spectrum usage charge.</p>
<p>First Invoice for licence fees and charges</p> <p>Second Schedule</p>	<p>11. 12. (1) Where the Authority grants a licence for a term exceeding one year, the Authority shall issue to the licensee, a first invoice for the fees and charges set out in the third column of the Second Schedule to these Regulations, based on the spectrum and the type of service set out in the first and second columns, respectively, of the said Schedule.</p> <p>(2) The applicable fee or charge shall be for the period from the date of grant for such period, not exceeding one year, as the Authority considers appropriate.</p> <p>(3) The invoice shall be payable within twenty-eight days of its date and prescribe the licence fee payment date.</p> <p>(4) The licence fee payment date shall be the day immediately following the last day of the period for which the fees and/or charge are payable under the invoice.</p>
<p>Authority to serve invoice</p>	<p>12. 13. (1) No earlier than the licence fee payment date or the date for payment of the spectrum usage charge where applicable in each year, the Authority shall issue and serve on the licensee in respect of whose</p>

	<p>licence fee payment date pertains, an invoice setting out the fees and charges payable for the twelve-month period commencing on the licence fee payment date or the period from the payment date to the end of the licence term, whichever is shorter.</p> <p>(2) The fees and charges shall be calculated in accordance with Regulation 12(1) and (2) and shall become due and payable within twenty-eight days of the date of the invoice.</p>
Licence granted for a term of less than one year	<p>13. 14. Where the Authority grants or renews a licence for a term which is one year or less, the licence fee or spectrum usage charge shall be the applicable annual fee or charge for the relevant type of licence adjusted on a <i>pro rata</i> basis for the term of the licence and shall be payable in full upon the date of grant or renewal of the licence.</p>
<p>PART IV NUMBERING FEES AND CHARGES</p>	
Numbering fees and charges	<p>15. The Authority shall require the payment of:</p> <p>(a) an application fee for applications for licences for numbers; (b) an annual licence fee for use of numbers; (c) an annual numbers usage charge.</p>
Third Schedule	<p>14. 16. An concessionaire authorised provider authorized to provide of a domestic public telecommunications service which includes the right to provide a public telephone service shall, in relation to each number assigned to that authorised provider concessionaire, pay to the Authority the annual numbering fee specified in the Third Schedule to these Regulations.</p>
Payment of numbering fees and charges	<p>15. 17. (1) The first payment of fees for each number shall be payable on assignment and on a <i>pro rata</i> basis from the date of assignment until the 30th September next following, and payment of such fees thereafter shall be in respect of each financial year and made annually in advance on the first day of the relevant financial year.</p> <p>(2) No later than 15th September in each year the Authority shall provide every authorised provider concessionaire to whom numbers have been assigned, with a statement setting out the numbers assigned to that concessionaire authorised provider and the corresponding numbering licence fees due for the coming financial year.</p>

**PART V
APPLICATIONS AND NOTIFICATIONS**

Application fees	<p>16. 18. Every applicant for a concession, an authorisation or licence or any other authorisation to be granted or renewed by or upon the recommendation of the Authority shall pay to the Authority upon submission of the application or notification, as the case may be, the relevant application fee as specified in the fourth column of the First, or Second, or Third Schedule to these Regulations, as the case may require.</p>
Refund of application fees	<p>17. Application fees shall only be refunded where—</p> <p>(a) the Authority does not accept the submission of the application or notification and informs the applicant to that effect, in writing; or</p> <p>(b) the Authority, in its sole discretion deems that the particular circumstances warrant the refund of the application or notification fee.</p> <p>19. The fee for processing an application or notification by the Authority is not refundable processes; provided however that a fee paid for a related licence shall be refunded if the underlying application or notification is not obtained by the applicant or notifying party.</p>
Service Fees Fourth Schedule	<p>18. 20. The fees set out in the Fourth-Schedule to these Regulations shall be payable to the Authority in respect of the services referred to therein.</p>
Fees determined by auction or competitive process	<p>19. 21. (1) The Authority may select persons for the grant of licences for spectrum or frequency within certain bands through an auction or other competitive process.</p> <p>(2) Where such a process is utilised, the procedures set out in the Telecommunications Tenders Rules shall apply, and the fees and charges to be paid shall be determined in the competitive process as follows:</p> <p style="padding-left: 40px;">(a) fees and charges shall be applied in accordance with the relevant Schedules;</p> <p style="padding-left: 40px;">(b) usage charges shall be based on the outcome of the competition process in the case of an auction;</p> <p style="padding-left: 40px;">(c) usage charges shall be based on the applicable schedule in the absence of an auction.</p> <p>(3) The use of a competitive process to grant a licence shall not</p>

	<p>affect any regulatory charge payable for any concession fee payable for any authorisation in respect of which that licence is granted.</p>
Submission of financial statements	<p>20. 22. Each concessionaire authorised provider shall, within twenty weeks of the end of its the concessionaire's annual accounting period, submit to the Authority, its full audited accounts, including but not limited to—</p> <ul style="list-style-type: none"> (a) balance sheet; (b) income and expenditure statements; and (c) related notes to the accounts.
Submission of unaudited accounts	<p>21. 23. Notwithstanding Regulation 202, the Authority may:</p> <ul style="list-style-type: none"> (a) where an concessionaire authorised provider is not required by law or its internal procedures to produce annual audited accounts; and (b) upon written application to the Authority prior to the end of the relevant accounting period, by written notice to the relevant concessionaire authorised provider, permit the authorised provider concessionaire to submit information in compliance with relation to the requirements of Regulations 5 and 202, and in respect of a particular accounting period, accounts or financial statements which have not been audited. Such accounts or financial statements shall however be certified by the authorised provider's Chief Financial Officer who shall be a member of an accountancy body recognized by the Institute of Chartered Accountants of Trinidad and Tobago.
Verification of Information	<p>22-24. The Authority may, upon the giving of seven days' notice to an concessionaire authorised provider, inspect any records of the concessionaire authorised provider to verify the accuracy of any information provided to the Authority pursuant to these Regulations.</p>
Authority may estimate information	<p>23. 25. Where an concessionaire authorised provider fails to submit information or any part of the information required under Regulation 5 or 202 by the date on which such information is due, the Authority may for the purposes of these Regulations and fulfilling its functions, estimate the information based on its assessment of the market or industry benchmarks or any other reasonable method.</p>

Offences	24. 26. An concessionaire authorised provider who knowingly submits false information to the Authority under these Regulations commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.
Manner of payment of fees and charges	25. 27. Fees and charges payable under these Regulations shall be paid at such place and by such methods as the Authority may from time to time publish on its website.