



Authorisation Framework for the Telecommunications and Broadcasting Sectors of Trinidad and Tobago

Table of Contents

Table of Contents	2
Maintenance History	4
1 Introduction.....	5
1.1 The Authorisation Regime as prescribed by the Act	5
1.2 Framework Objectives	7
1.3 Modification to Document.....	8
1.4 The Consultation Process.....	8
1.5 Other Relevant Documents.....	8
2 Partial Analysis of Trinidad and Tobago’s Telecommunications and Broadcasting Industries	10
2.1 The Licensing Regime of Trinidad and Tobago Prior to the Act	10
2.2 Telecommunications and Broadcasting Networks and Services in Trinidad and Tobago	12
3 Considerations for the Role of an Authorisation Regime in an Era of Industry Change.....	14
3.1 Traditional Approaches.....	14
3.1.1 Individual Licences	14
3.1.2 Class Licences.....	14
3.1.3 Open Entry	15
3.2 Convergence and its Regulatory Effects.....	15
3.3 Technology and Service Neutrality	17
4 The Authority’s Classification of Concessions and Licences for the New Regime	18
4.1 Classification of Concessions	18
4.1.1 Concession Classifications.....	19
4.1.2 Application of Service-Neutrality to Concessions.....	21
4.1.3 Domestic Fixed Telecommunications Networks	21
4.1.4 Domestic Mobile Telecommunications Networks.....	22
4.1.5 International Telecommunications Networks	23
4.1.6 Provision of Broadcasting Services	24
4.1.7 Provision of Public Telecommunications Services.....	24
4.2 Classification of Licences	26
4.3 Geographic and Coverage Considerations.....	29
5 The Authorisation Process.....	32
5.1 Methods of Authorisation	33
5.1.1 Review and Modification of Authorisation Methods	38
5.1.2 Evaluation of Applications for Concessions and Licences.....	39
5.1.3 Renewals and Treatment of Existing Network Operators and Service Providers	40
5.2 The Application Process for Concessions and Licences.....	42
5.3 Methods of Application for Concessions/ Licences	43
5.3.1 General Application	43
5.3.2 Response to an Invitation by the Authority to Participate in a Competitive Selection Process	43

5.4	Treatment of Class Licences	44
6	Equipment Certification and Standardisation	45
7	Terms and Conditions	47
7.1	Fees for Concessions and Licences	49
7.1.1	Concession Fees	49
7.1.2	Licence Fees	50
7.2	Periods for Concessions and Licences	51
7.2.1	'Use or Lose' Periods	51
7.3	Renewals	52
7.4	Amendments, Additional Authorisations and Surrender of Existing Authorisations	53
7.5	Trading of Concessions and Licences, Change of Control, Disposal of Assets	54
7.6	Transmitter Sites	56
7.7	Rights of Way	58
7.8	Dominant Providers	59
7.9	Structure of Concession Document	60
7.10	Structure of Licence Document	61
	Bibliography	62
	Legal References	63
	ANNEX I: Decisions on Recommendations	64

Maintenance History		
Date	Change Details	Version
April 30, 2005	Initial Draft	0.1
May 27, 2005	McCarthy Tétrault commentary	0.2
June 14, 2005	Minor changes	0.3
September 26 th , 2005	Modifications made as a result of comments and recommendations made during the first consultation stage.	0.4
November 21 st , 2005	Modifications made as a result of comments and recommendations made during the second consultation stage. Decisions on Recommendations (DOR) included at Annex I.	0.5

1 Introduction

As the Government of Trinidad & Tobago continues in its drive to liberalise the telecommunications sector, it is important that a proper regulatory framework is established to facilitate both the transition to and maintenance of a market driven sector. Prior to July 1st 2004, the regulatory framework for the telecommunications sector was established by the **Wireless Telegraphy Ordinance 1936**, the **Telephone Act 1968** and the **Regulated Industries Commission Act (RIC) 1998**. The Government recognised that the existing legislation did not adequately deal with the regulatory needs of a rapidly evolving telecommunications sector, and established the **Telecommunications Authority of Trinidad and Tobago** ('the Authority') by the **Telecommunications Act, 2001** (as amended – 'the Act') as the independent regulatory body of the telecommunications and broadcasting sectors. The Act was fully promulgated on July 1st 2004.

One of the Authority's mandates is to develop a comprehensive regulatory framework to effectively transform and govern a competitive telecommunications sector. An authorisation framework is an important part of this comprehensive regulatory framework. A coherent framework of authorisation is needed to enable the Authority to perform its duties and to oversee circumstances such as: market structure, the number and types of network operators or service providers, the extent of competition, the pace of infrastructure expansion, and the affordability and range of telecommunications and broadcasting services available to consumers.

1.1 The Authorisation Regime as prescribed by the Act

The authorisation process, or the licensing process as it has been traditionally known, provides the means of managing both entry into the telecommunications and broadcasting markets and the behaviour of telecommunications and broadcasting service providers once they have entered the market. In the context of regulation, "licence" is the term generally used to refer to a legal instrument granted or approved by a regulator or another government

authority that defines the rights and obligations of licensees. Sections 21 and 36 of the Act prescribe two types of instruments for authorising telecommunications and broadcasting operators to provide networks and/ or services under the new regime in Trinidad and Tobago:

1. A *concession* is granted by the Minister to authorise the operation of a *public telecommunications network* (Section 21) and/or the provision of any *public telecommunications service* or *broadcasting service*. An application for a concession must be submitted to, and evaluated by, the Authority before a recommendation is made to the Minister to grant the concession.
2. A *licence* is granted by the Authority to authorise the operation or use of any *radiocommunication service* or any *radiotransmitting equipment*, including that on board any ship, aircraft or other vessel in the territorial waters or airspace of Trinidad and Tobago, (Section 36)¹. Where the operation of a public telecommunications network or the provision of a public telecommunications or broadcasting service requires use of spectrum, the required licence applications will be processed as part of the concession application. Where radio transmitting equipment is used for a private or “closed-user group”² communication service, licences are required for the radio transmitting equipment employed. A concession however is not required.

The requirements under the Act for concessions and licences can be summarised at Table 1:

Table 1

Concessions	Licences
Required for the operation of any public network or provision of any public service.	Required when networks, services or equipment use radiocommunication.
Not required for the operation/ provision of any private/ closed user group network/ service.	Issued with concession where radiocommunication is part of any public network or service.

¹ A licence is not required for any radio-communication service on board any ship of war, or military aircraft or satellite registered in Trinidad and Tobago.

² Defined in the Act as “a group of persons, who have a common business or other economic interest other than the provision of a telecommunications service”.

1.2 Framework Objectives

The primary purpose of this framework is to set out the guidelines and processes in respect of the authorisation of telecommunications networks, telecommunications services and broadcasting services. “Authorisation” in this context refers to the granting of concessions or licences as defined by the Act. In addition, this document will guide the preparation of any legal instrument that will govern the authorisation process.

Specifically, the framework is intended to ensure that:

- ◆ there is fair and efficient allocation of resources in the provision of telecommunications services, and that these resources are efficiently utilised;
- ◆ competition is effectively introduced in the provision of services, taking into consideration the convergence of technologies, services and networks;
- ◆ the Government’s objectives with respect to universality and the increase of the country’s Digital Access Index (DAI) are met;
- ◆ a “level playing field” exists for new and existing service providers in a competitive environment, being one that is fair, non-discriminatory and transparent;
- ◆ regulation of the sector is effective and supports the development of a competitive telecommunications market;
- ◆ all concessionaires and licensees exercise their rights and obligations in a manner which is consistent with Government’s obligations under any international convention, agreement, arrangement or treaty to which the Government is party from time to time;
- ◆ the benefits of a competitive market are enjoyed by consumers; and
- ◆ there is regulatory certainty in liberalising the market so that new operators and investors have confidence in entering the market to expand the national telecommunications infrastructure.

1.3 Modification to Document

As the country's telecommunications industry matures, the authorisation framework and regulatory practices will evolve. The Authorisation Framework will be reviewed and modified as necessary and in consultation with stakeholders and the public, to ensure that regulatory practices and processes continue to be guided by appropriate policy guidelines and objectives.

Questions or concerns regarding this document may be directed to the Policy, Pricing and Research Department of the Authority (policy@tatt.org.tt).

1.4 The Consultation Process

The Authority sought, in accordance with its "Procedures for Consultation in the Telecommunications Sector of Trinidad and Tobago" (<http://www.tatt.org.tt/pfc-m.html>), the views of the general public and industry stakeholders on the first and second drafts of this document. The document has been revised with considerations to the comments and recommendations made in the second consultation phase (Refer to Annex I for the Decisions on Recommendations matrix (DOR)).

1.5 Other Relevant Documents

The following documents are under development by the Authority, to address specific issues relevant to concessionaires and licensees:

- Spectrum Management Policy and Regulations
- Concession and Licence Application Procedures
- Standards and Equipment Certification Regulations
- Interconnection Policy and Regulations
- Access to Facilities Regulations
- Universality Policy and Regulations

- Quality of Service Policy and Regulations
- Consumer Rights and Obligations Policy and Regulations
- Enforcement and Compliance Policy and Regulations
- Pricing Policy and Regulations
- Competition Policy
- National Numbering Plan
- National Frequency Allocation Table
- National Broadcasting Code

Drafts of some of these documents have already been published by the Authority for consultation with the public and stakeholders. Others are currently being drafted by the Authority.

2 Partial Analysis of Trinidad and Tobago's Telecommunications and Broadcasting Industries

2.1 The Licensing Regime of Trinidad and Tobago Prior to the Act

Prior to the promulgation of the Act, the regulatory framework for the telecommunications sector was guided by the **Wireless Telegraphy Ordinance 1936**, the **Telephone Act 1968** and the **Regulated Industries Commission Act (RIC) 1998**.

The Telephone Act 1968 empowered the Trinidad and Tobago Telephone Company (now the Telecommunications Services of Trinidad and Tobago (TSTT)) with the exclusive right to operate a telephone system and to provide a telephone service to the public. However, where TSTT used radio transmitting equipment in providing their telephone service (e.g. mobile cellular services), the company was required to apply for the relevant licence under the Wireless Telegraphy Ordinance. The rate structure of the company was also regulated as a public utilities company under the RIC Act.

Under the Wireless Telegraphy Ordinance of 1936 (the Ordinance), a licence was required to install, operate, sell or deal in, wireless apparatus. A special licence was also required to provide a public telecommunications or broadcasting service. The special licence detailed the terms and conditions applicable to the equipment and spectrum used in the provision of the services specified. The Minister responsible for telecommunications, through the Telecommunications Division, was also responsible for granting licences and for the management of spectrum resources.

The licence classifications under the Ordinance included the following:

1. An *Apparatus Licence* to authorise equipment operating in all bands for the following purposes:
 - Commercial Radio (Point to Point Microwave, Point to Multipoint Microwave, Trunked and Conventional Radio Systems etc.)

- Aeronautical Radio
- Maritime Radio
- VSAT
- Satellite Earth and Space Stations
- Broadcast Stations

Apparatus licences were renewable annually.

2. *An Operator Licence* to operate:

- Maritime Radio

3. *An Experimental Wireless Telegraphy Transmitting Licence* to permit the operations in respect of amateur radio systems. Amateur radio operators were also examined and certified to qualify for an amateur radio licence.

4. *A Wireless Dealers Licence* to authorise anyone importing, selling or dealing in wireless apparatus.

5. *A Special Licence* to authorise the provision of certain services e.g. “Free to Air” Radio and TV, Cable TV and Satellite Broadcasting Services.

The Ordinance was applicable to the limited services of its era, and became obsolete with the evolution of technology and the introduction of new services over time.

The management of the sector was seriously challenged by a lack of human and physical resources in the Telecommunications Division which were fundamental for thorough evaluation of licence applications and efficient assignment and monitoring of spectrum.

These constraints resulted in:

- misallocation of valuable spectrum resources consequent upon the application of a first-come first-served award process;
- abuse of licences, including non-use and unauthorised transfers;

- the emergence of anticompetitive behaviour in the wired cable TV sector with the formation of a post licensing monopoly;
- a long and uncertain technical evaluation of application process;
- poor financial management of spectrum fees as evidenced by widespread delinquency in payment of license fees and sub-valuation of commercial spectrum; and
- some broadcast licensees disregarding their obligations to provide 100% national coverage or not confining to the geographical service areas of their licences.

2.2 Telecommunications and Broadcasting Networks and Services in Trinidad and Tobago

In determining the most appropriate approach to classifying networks and services in Trinidad and Tobago for the purposes of granting concessions and licences, the Authority gathered information from various stakeholders on the different types of telecommunications and broadcasting networks, and the types of services that can be offered on those networks. In particular, the Authority has considered the emergence of new and often unlicensed service providers who use alternative means to provide competing services to consumers, often at more affordable rates than those provided by established service providers. Although this framework seeks to minimise market entry barriers for entrepreneurs, and encourages the introduction of a variety of competing services to consumers, it is also intended to ensure that all services are provided in a fair manner and are subject to comparable and fair regulation.

Figure 1 illustrates examples of the types of networks and services that may exist in the evolving telecommunications and broadcasting sectors, which will require concessions and/or licences.

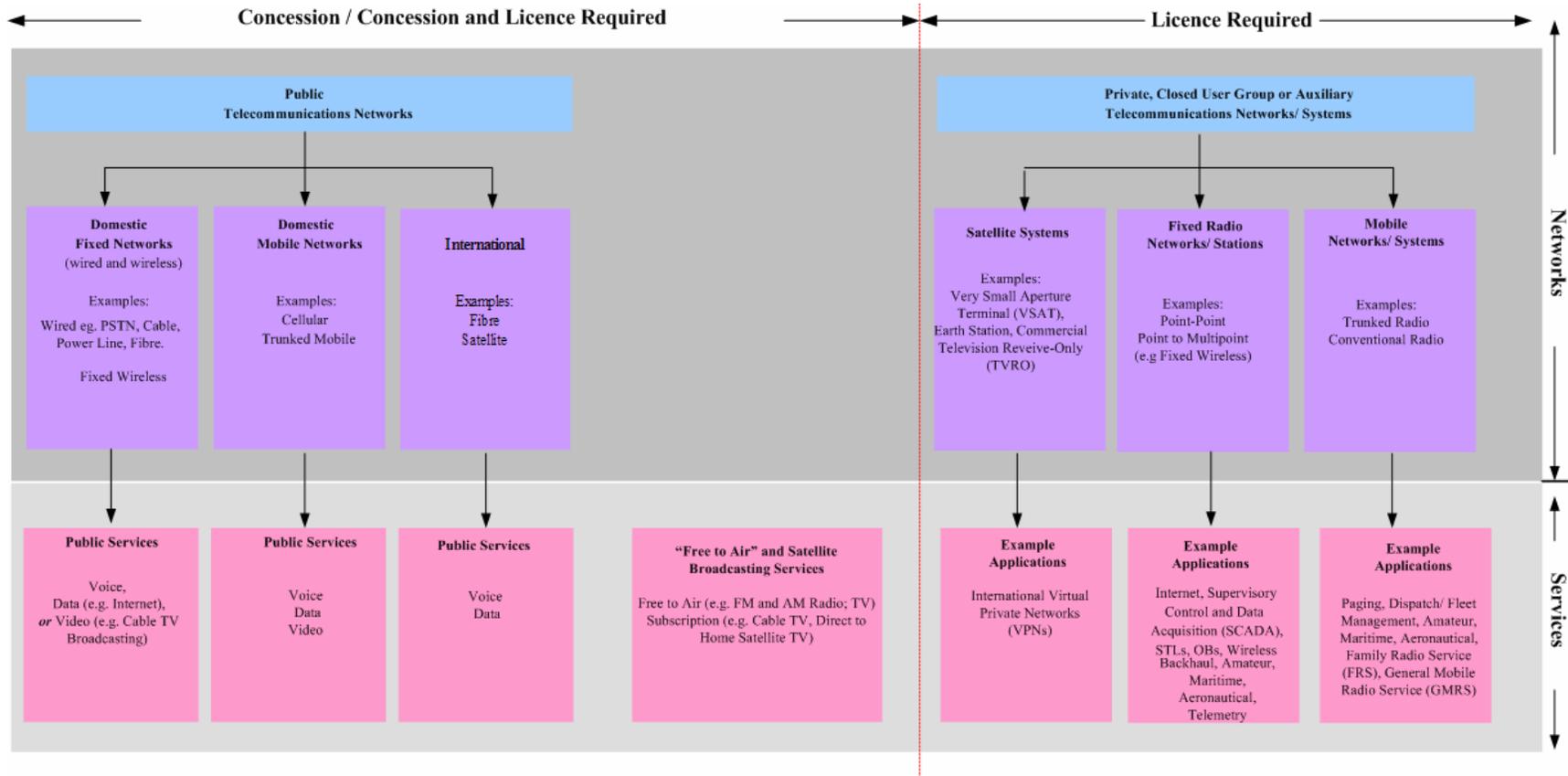


Figure 1

3 Considerations for the Role of an Authorisation Regime in an Era of Industry Change

3.1 Traditional Approaches

There have been three (3) broad approaches to authorising telecommunications globally, and many countries have employed more than one approach within the same regime:

1. Granting individual operator licences;
2. Granting class licences (or general authorisations);
3. Allowing open entry with no licensing requirements.

3.1.1 Individual Licences

An individual licence is generally a customised and detailed licence, where the regulator requires that a service is provided in a particular manner by a particular service provider. It has typically been used where a scarce resource such as spectrum is required, or where the regulator decides to limit the number of providers in a particular service market. Individual licences are often granted through a competitive selection process. In some countries, e.g. Australia, this method has been used to licence network/ facilities-based providers only.

3.1.2 Class Licences

A class licence normally sets out rights, obligations and other regulatory provisions of general application to a particular class of services. Services within the identified class are subject to the same general conditions, which are typically published by the regulator. These licences are generally granted via a non-competitive selection process, provided that the entities are suitably qualified to provide the class of services or facilities. Parties seeking class licences usually face a much less onerous process than

those seeking individual licences. In Australia, service providers who do not own or operate networks are class licensed.

3.1.3 Open Entry

In the open entry approach, no licensing process or qualifications requirements are imposed by the regulator, except perhaps for registration or other administrative requirements.

3.2 Convergence and its Regulatory Effects

There is no universally accepted definition of telecommunications industry convergence. However, the following have been perceived as indicators of convergence:

- Integration of customer terminal equipment or access devices such as the telephone, television and personal computer;
- Provision of data, image, voice and video services over a single transmission technology or infrastructure;
- Provision of the same, or substitutable, service by a variety of different types of providers (e.g. Internet access over cable TV, telephone, or even electrical power networks);
- Substitution of mobile service for fixed service, creating a converged voice service market; and
- Authorisation to provide a combination of communications and content services under a single licence.

For the consumer, bundling of services and the capabilities of a converged network can offer the convenience of dealing with a single supplier i.e. no separate billing for cable TV, telephone and Internet (video, voice and data) services.

The Authority is an example of a “converged” regulatory body as it is responsible for the regulation of the telecommunications and broadcasting sectors. The Act’s definition of telecommunications also encapsulates information technology.

When governments first started liberalising their telecommunications markets, they often did so on a restrictive basis. Many governments introduced competition on a service-by-service basis, so as to reduce the investment burden on new entrants and permit regulators and established operators to adjust practices developed in a monopoly environment before the introduction of unrestricted competition. Often this meant that competition was first permitted in cellular mobile or Internet access service markets.

In some countries, licences were both service- and technology-specific. As a case in point, in the European Union (EU) cellular mobile licensees were required to use GSM technology to ensure that mobile subscribers could use their handsets anywhere in the EU.

In response to industry convergence and other developments, governments and regulators have been adopting more flexible means of authorisation. Permitting both established and new entrant operators and service providers to provide a broad range of services, and use a range of network technologies, enables them to deploy new services and technologies to meet market demand without having to seek new or amended ‘licences’.³

The regulatory framework, in general, should be flexible to ensure that it does not create barriers to entry or impair competition in converged markets. In addition, matters such as interconnection, quality of service, consumer rights and fair competition are increasingly being addressed in regulations of general application and do not need to be addressed as detailed provisions in individual licences.

³ Examples of jurisdictions that have moved to more flexible authorisation and converged industry authorisation schemes are the member countries of the European Union, India, Malaysia and Singapore. A further discussion of these developments is provided by the ITU publication “Trends in Telecommunications Reform 2004: Licensing in an Era of Convergence”.

3.3 Technology and Service Neutrality

A technology neutral authorisation means that the network operator or service provider is not limited to a specific technology or equipment configuration in the provision of services to the consumer. This gives the provider the option of choosing the most suitable technology that would provide the most efficient and affordable service.⁴

In addition to technological neutrality, service neutral authorisations permit network operators to determine their service offerings based on market demand and cost effectiveness and do not prescribe or limit the services that can be provided on an authorised network.

Statement on technology and service neutral authorisations:

The Authority shall facilitate the Government in ensuring minimal barriers to entry and competition in converged telecommunications markets by adopting, as far as practicable, a service- and technology-neutral approach to authorising telecommunications networks, and public telecommunications and broadcasting services.

⁴Spectrum management practices can have a significant effect on the objective of having technology neutral licences. See the Authority's statement of Spectrum Management Policy for a full discussion of spectrum management issues and their effect on spectrum licensing.

4 The Authority's Classification of Concessions and Licences for the New Regime

Other jurisdictions have taken significant steps to creating a single licensing classification for all telecommunications and broadcasting services, in order to simplify the licensing process to accommodate industry convergence. While this approach might be commendable, the Authority has recognised that it took many years before the approach was appropriate for the respective jurisdictions. This approach would be premature in the context of the current state of Trinidad and Tobago's telecommunications and broadcasting industries. It is the intention of the Authority that, once these industries mature to a competitive state where lighter regulation is the most appropriate approach, the regulatory frameworks will be adapted accordingly.

4.1 Classification of Concessions

Section 18(1)(b) of the Act gives the Authority the power to classify telecommunications networks and services as:

- Public telecommunications networks;
- Public telecommunications services;
- Closed user group services;
- Private telecommunications services;
- Value added services;
- Broadcasting services; or
- Any other telecommunication service.

As indicated earlier, a concession is only required for the operation of a public telecommunications network and the provision of a public telecommunications or broadcasting service. Based on the considerations outlined in Section 3, and the requirements of the Act, the Authority shall evaluate and recommend the award of concessions for the operation of telecommunications networks and/ or the provision of

telecommunications and/ or broadcasting services in accordance with the classifications described in this section.

4.1.1 Concession Classifications

Statements on concession classification:

1. In accordance with the Act, the Authority shall evaluate and recommend the award of concessions for one or more of the following:

- Operation of Public Telecommunications Network(s)*
- Provision of Public Telecommunications Service(s)*
- Provision of Broadcasting Service(s)*

2. A public telecommunications network can be, but not limited to, any of the following as determined by the Authority in accordance with the Act:

- Domestic Fixed Telecommunications Network (DFTN)*
- Domestic Mobile Telecommunications Network (DMTN)*
- International Telecommunications Network (INTN)*

A public telecommunications network is a telecommunications network used to provide a public telecommunications service⁵.

3. Operators or owners of telecommunications networks used solely for the provision of closed user group, private telecommunications or value-added services do not require concessions. Similarly providers of closed user group, private telecommunications or value-added services do not require concessions.

4. The operation of a public telecommunications network, with or without the provision of public telecommunications or broadcasting services, will require a network-based concession.

⁵ A public telecommunications service means a telecommunications service, including a public telephone service, offered to members of the general public, whereby one user can communicate with any other user in real time, regardless of the technology used to provide such a service.

5. *The provision of a public telecommunications service and/ or broadcasting service, without the operation of any public telecommunications network, will be subject to a service-based concession.*

6. *The Authority will, at a time that it deems appropriate, introduce a class concession regime for particular classes of concessionaires which in the Authority's view warrant a lighter regulatory framework.*

7. *The Authority's concession classifications are as follows:*

Type 1: Network-Only Concession (network-based): Authorises a concessionaire to own or operate a public telecommunications network, without the provision of public telecommunications or broadcasting services.

Type 2: Network-Service Concession (network-based): Authorises a concessionaire to own or operate a public telecommunications network in addition to providing public telecommunications services⁶ over that network.

Type 3: Virtual Network-Service Concession (service-based): Authorises a concessionaire to provide public telecommunications services, without an authorization to own and/ or operate a physical public telecommunications network, in a manner that is transparent to the end user. Such a concession will be required in cases where an entity has the capability of providing multiple services (e.g. data, image, voice, video) over a single transmission medium that has been leased or otherwise obtained from an authorised network operator.

Type 4: Telecommunications Service Concession (service-based): Authorises a concessionaire to provide a specific public telecommunications service(s) without an authorization to own and/ or operate a telecommunications network.

⁶ In order to provide a broadcasting service over a telecommunications network a Type 5 concession is also required.

Type 5: Broadcasting Service Concession (service-based): Authorises a concessionaire to provide a broadcasting service without an authorization to operate a telecommunications network. An entity that leases capacity from a telecommunications network operator and provides subscription-based broadcasting services via that media, requires a Broadcasting Service concession. However an entity that supplies programmes or other broadcast content to a broadcasting service provider does not require a concession.

4.1.2 Application of Service-Neutrality to Concessions

The concept of service-neutrality will only apply to Type 2 and Type 3 concessions, which authorise the concessionaire to provide any telecommunications service that can be provided on the relevant network. The concept of service neutrality for Type 2 and Type 3 concessions does not extend to broadcasting services, since an authorisation to provide a broadcasting service will demand separate eligibility criteria, and thereby require a different concession (Type 5).

Type 4 and Type 5 concessions will only authorise specific services as indicated by the concessionaire in the application.

4.1.3 Domestic Fixed Telecommunications Networks

Domestic Fixed Telecommunications Networks can have either wired or wireless components, or a combination of both.

In a fixed wired telecommunications network, there is no use of spectrum for the transmission of information to the end user.

By contrast, fixed wireless telecommunications networks transmit information to end users using spectrum. Except at the end user's premises, there is generally no wiring required to connect the user to the network. End users are typically equipped with radio receiving equipment that enables them to access the services on the network.

Currently in Trinidad and Tobago, there are two major domestic fixed telecommunications network operators. TSTT provides predominantly voice and data services on its public switched telecommunications network (PSTN), while the Trinidad and Tobago Trans-Cable Company (currently known as CCTT) provides cable TV services on its cable network. Convergence of technologies enables the provision of broadband voice, data and video services on either of these traditional networks.

Examples of DFTNs include :

- Public switched telephone networks (PSTNs);
- Public cable TV networks;
- Public fixed wireless access (FWA) networks;
- Public power line networks; or
- A combination of any of the above.

4.1.4 Domestic Mobile Telecommunications Networks

A Domestic Mobile Telecommunications Network is any network in which the physical location of the end user's equipment is not limited to a stationary position at any point of time while using the network.

Examples of DMTNs include:

- Public cellular networks;
- Public trunked radio networks.

4.1.5 International Telecommunications Networks

An international telecommunications network is any network that enables the provision of an international telecommunications service. An international telecommunications service is any service that enables users to communicate in real time between Trinidad and Tobago and a destination outside of its geographic border via an international gateway.

Entities that will require and be eligible for network-based concessions to operate an INTN, regardless of the type of traffic carried on the network (voice, data, etc.) or the technology employed, will include owners and operators of international facilities (fibre optic cable systems, earth stations, VSAT, etc.).

There are different forms of business models that exist for international operators, since their network resources may be acquired in a number of ways, including:

- Owning an international facility
- An Indefeasible Right of Use (IRU) or similar agreement with an owner of an international facility;
- Leasing the facilities of an international facility provider to provide international services to end users on its domestic network.

A domestic network-based concessionaire who interconnects to an international network-based concessionaire, in order to hand-off traffic and thereby connect end users to an international network, will only require a concession to operate a domestic network.

Similarly, an international network-based concessionaire who interconnects, or provides access, to a domestic network-based concessionaire for the purpose of delivering incoming calls to the domestic network, or for carrying domestic traffic between domestic networks on behalf of domestic concessionaires, will only require a concession to operate an international network.

4.1.6 Provision of Broadcasting Services

As defined in the Act, a broadcasting service means the offering of the transmission of programmes, whether or not encrypted, by any means of telecommunications for reception by the general public, including sound, radio, television and other types of transmissions.

Examples of broadcasting services include:

- Free-to-Air
 - FM, AM or short wave radio;
 - VHF and UHF television;
- Subscription-Based Broadcasters
 - Direct to Home (DTH) satellite TV;
 - Cable TV⁷; and
 - Interactive Video/ TV.

Any provider of broadcasting services shall be required, under its concession, to comply with any Broadcasting Code or relevant regulations in force from time to time. Such regulations may include the requirement for broadcasters to maintain records and to provide information regarding programmes in accordance with the terms and conditions of the concession.

4.1.7 Provision of Public Telecommunications Services

A public telecommunications service means a telecommunications service, including a public telephone service, offered to members of the general public, whereby one user can

⁷ Wired and Wireless Cable TV providers who own and operate their networks will also require a Type 1 or Type 2 network-based concession to operate a Domestic Fixed Telecommunications Network.

communicate with any other user in real time, regardless of the technology used to provide such a service. The Act requires that providers of public telecommunications services obtain a concession, regardless of whether they own or operate a public telecommunications network.

Examples of public telecommunications services include:

- Domestic voice services
- International voice services
- Internet services

Public telecommunications services can be provided by either:

- A service provider who owns or operates a physical network (requires a Type 2 concession); or
- A service provider who does not own or operate a physical network, but who uses the facilities of another network provider.

There are various models of service providers that do not own or operate a physical network, which may include:

- An entity that acts as an agent for the network operator. In this case, the network operator is still responsible for activation of the service and billing of the consumer. This agent does not provide services in his own capacity and therefore *does not* require a concession.
- An entity that does not own a physical network, but gives the appearance to the consumer as doing so. Such an entity is capable of providing multiple services (e.g. data, image, voice, video) over a single transmission medium that has been leased or otherwise obtained from an authorised network operator. This entity is considered as a virtual network operator and will require a Type 3 service-based concession.

- An entity that leases wholesale facilities or purchases wholesale capacity from a network operator, and resells *specific* services to the end user without appearing to own a virtual network. Examples include:
 - (i) Some non facilities-based Internet service providers (ISPs) and Internet Café owners;
 - (ii) Domestic/ International service providers who purchase wholesale minutes from a network operator, and who resell those resources to a network/ service provider or directly to the consumer (e.g. some Calling Card or Call Centre Operators).

Such entities will require a Type 4 service-based concession.

4.2 Classification of Licences

As previously mentioned, a licence is required for the use of any radio transmitting equipment or for the operation of any radiocommunication service. For each of the concession classifications above, where radio-transmitting equipment is used in the provision of the service, or for any auxiliary/ backhaul systems of the network, the appropriate licences are required.

Licences are also required for any private or closed-user group networks that use radiocommunication systems.

The Spectrum Management Policy defines three types of licences that may be granted by the Authority:

1. A *spectrum licence*, which authorises the licensee to operate radiocommunication systems within a specified frequency band on a technology neutral basis. Flexibility will be provided on the range of services which can be provided within the given frequency band. Systems for which a spectrum licence will be required include the following:
 - a. Public mobile radio systems
 - b. Private mobile radio systems

- c. Trunked mobile radio systems
- d. Fixed wireless access systems

2. A *station licence*, which authorises the licensee to operate the specified station in accordance with technical parameters determined by the Authority, which may include: antenna characteristics, transmitter power, polarisation, frequency, and modulation techniques. A station licence will be required in respect of the following systems:

- a. Amateur stations
- b. Maritime stations
- c. Satellite stations
- d. Broadcast stations
- e. General radiocommunication stations
- f. Aeronautical stations
- g. Citizen Band (CB) stations
- h. Stations for special events
- i. Stations for test and development purposes

3. A *class licence*, which authorises persons to use specific radiocommunication devices within specific technical and operational parameters, and will generally apply to low-powered mass-market consumer devices. The Authority will determine the radio devices for which class licences will apply. These radio devices may include:

- a. Alarm Systems
- b. Radio transmitting computer peripherals
- c. Cordless telephones
- d. Radio frequency identification devices
- e. Family Radio Service (FRS) systems
- f. Wireless end user devices (mobile handsets, pagers etc.)

Statements on licence classifications:

1. The Authority shall grant radiocommunication licences within the following broad classifications:

- *Spectrum Licence*
- *Station Licence*
- *Class Licence*

2. Due to the nature of equipment that requires a class licence, the Authority shall adopt an authorisation process that imposes minimal burdens on itself and users of such equipment. The Authority shall publish a list of radio-transmitting equipment that requires authorization by a class licence, and shall update this list as it deems necessary.

4.3 Geographic and Coverage Considerations

In order to encourage a broad range of service providers, the authorisation framework caters for the provision of services at a *national* level, at a *territorial* level and at a *niche* level. This approach is also in keeping with the Authority's objective of increasing the country's digital access index.

In the past, licences were granted to community broadcasters who targeted particular geographic areas (including Tobago). In those licences, the community was defined as the area within a specified radius from the transmitter site.

The Authority shall encourage the build-out of all types of networks, in particular those reaching under-served communities. Incentives for service expansion by network operators and service providers to under-served communities will be detailed in the Universality Policy, which will include at a minimum:

- A reduction in the otherwise applicable Universal Service Obligation (USO);
- The ability to access the Universality Fund to help offset any large capital investments required;
- A temporary waiver or reduction of licence fees for the wireless parts of their networks in under-served communities and un-economic areas.

Statements regarding geographic service areas:

1. A national network/ service provider will have the right to provide its network and/or service to 100% of the geographical area of both Trinidad and Tobago.

2. A major territorial network/ service provider will have the right to provide its network and /or service to 100% of the geographical area of the island of Trinidad.

3. A minor territorial network/ service provider will have the right to provide its network and/ or service to 100% of the geographical area of the island of Tobago.

4. A niche network/ service provider will have the right to provide its services to specific groups of subscribers identified by the Authority in either island of Trinidad or Tobago. These specific groups may include: underserved communities or specific market defined groups. Under-served communities may include rural communities, communities in topographically challenged areas and subscriber populations that have special needs, and shall be designated by the Authority as it deems appropriate. The Authority shall maintain and publish a list of subscriber communities that are categorised as under-served communities.

5. Regardless of the rights specified in statements 1 to 4 above, the Authority shall prescribe in the concession document, the roll out/ service area obligations of national, major territorial, minor territorial and niche concessionaires in a manner consistent with the interests of all segments of the subscriber population to have access to services provided within a reasonable period of time. The Authority may require performance bonds as security for a concessionaire's roll out/ service area obligations, which will also be set out in the concession.

6. The Radio Spectrum Regulations shall prescribe the technical obligations of licensees to ensure that harmful interference is not generated by their radiocommunication equipment or systems where spectrum has been licensed on a geographically limited basis. These obligations will include, at a minimum, the maximum power level at the

service boundary. The Authority will identify re-usable frequencies in the applicable spectrum plans.

Table 2 summarises the geographic categories that will be applicable to the different types of network-based and service-based concessions.

Table 2 Applicability of Geographic Categories to Concession Classifications

Concession Type	Applicable Geographic Categories
Domestic Fixed (Type 1, Type 2)	National Major Territorial Minor Territorial Niche
Domestic Mobile Networks (Type 1, Type 2)	National
Virtual Networks (Type 3)	As applicable to the network over which the service is provided; or as otherwise defined by the concession
Telecommunications Services (Type 4)	As applicable to the network over which the service is provided; or as otherwise defined by the concession.
Broadcasting Services (Type 5)	National Major Territorial Minor Territorial Niche

5 The Authorisation Process

The Act requires that all applications for concessions and licences be made to the Authority. The Authority is responsible for granting licences. Concessions are granted by the Minister, following evaluation of applications and recommendations by the Authority.

The Authority will consider applications for concessions and the relevant licences for:

- Existing public network operators and/ or service providers who may or may not have been regulated or licensed under the old regime; and
- New network operators and/ or service providers entering the public telecommunications and broadcasting sectors.

The authorisation method adopted by the Authority for recommending the award of concessions will be based on a number of factors, including:

- Potential number of applicants;
- Number of concessions to be granted based on the potential sustainability of network operators and/ or service providers in a given market; and
- The Government's economic and social objectives.

The authorisation method adopted by the Authority for spectrum and station licences will be based on a number of factors, including:

- Potential number of applicants;
- Number of licences to be granted based on spectrum availability;
- Type of service linked to the use of the spectrum; and
- Economic value of the resource.

The application procedures that will be applicable per concession/ licence category will be determined by the authorisation method adopted by the Authority for the respective category.

5.1 Methods of Authorisation

Table 3 below summarises the methods generally used for authorising telecommunications services, networks and resources on an international level, and the circumstances to which they may apply.

Table 3 Methods of Authorisation (Bogdan-Martin et al., 2004)

Authorisation Method	Description/ Advantages & Disadvantages	Applicable Circumstances
“First Come, First Served” (FCFS)	<p>Requires that legal, financial and technical requirements be satisfied.</p> <p>Licences or Concessions granted in the order that the applications are received, granted that requirements are satisfied.</p> <p><i>Advantages:</i></p> <ul style="list-style-type: none"> ◆ Simple and least burdensome of all methods. ◆ Fast, practical and inexpensive. ◆ Little subjectivity involved, therefore opportunity for favouritism is minimised. <p><i>Disadvantages:</i></p> <ul style="list-style-type: none"> ◆ Successful applicants may not be the entities that would most economically value the authorisation. 	<p>May be applicable when the number of qualified applicants is less than the number of concessions to be granted, or where there is not a high demand for spectrum.</p> <p>Not appropriate for competitive or economically desirable markets.</p>
Comparative Evaluation (or “Beauty Contest”)	Involves an assessment of competitive applicants based on predetermined criteria and public policy objectives. Each criterion is weighted, and the	When demand for spectrum or other resources exceed the

Authorisation Method	Description/ Advantages & Disadvantages	Applicable Circumstances
	<p>weightings made known to the applicants prior to selection. Applicants are selected based on their rank after evaluation.</p> <p>Criteria may include:</p> <ul style="list-style-type: none"> ◆ Proposed Business Plan (marketing strategy, proposed tariffs, etc.) ◆ Experience in the market (demonstration of an understanding of the market to be served) ◆ Ability to use spectrum efficiently (where applicable) ◆ Proposed service offerings (coverage, QOS) ◆ Technological capability ◆ Coverage targets ◆ Commercial feasibility ◆ Extent to which there is regional involvement ◆ Commitment to social objectives ◆ Financial backing <p><i>Advantages:</i></p> <ul style="list-style-type: none"> ◆ Ensures that the successful applicant will make best use of the opportunity: socially, financially and technically ◆ Keeps spectrum costs low compared to an auction ensuring lower service prices for consumers ◆ Enables policy makers to utilise subjective requirements in the evaluation process to 	<p>supply, or there is a limitation to the number of concessions to be granted.</p>

Authorisation Method	Description/ Advantages & Disadvantages	Applicable Circumstances
	<p>achieve social goals.</p> <p><i>Disadvantages:</i></p> <ul style="list-style-type: none"> ◆ Can be a slow and costly process if a proper mechanism is not put in place to deal with complex applications and the effort involved in fairly and objectively evaluating applications. ◆ Subjective, therefore may give rise to problems of transparency: regulator's capacity to identify best proposal is limited, difficult to justify selection of best proposals, possibility of political or other interferences. This may be minimised in developing countries if experienced consultants are contracted to assist in drafting terms of references and selecting applicants. ◆ Costly. ◆ Successful applicants may not be able to fulfil the proposals made in applications. ◆ Does not provide a clear way of choosing between two applicants who are equal in quality. ◆ Applicants may propose systems that appear appealing or innovative but may not be well suited to the marketplace resulting in higher prices for consumers. 	
Lottery	<p>Involves a random selection from a pool of qualified applicants.</p> <p><i>Advantages:</i></p>	<p>May be used when there are a large number of applicants and licences</p>

Authorisation Method	Description/ Advantages & Disadvantages	Applicable Circumstances
	<ul style="list-style-type: none"> ◆ Fast, inexpensive and transparent. ◆ Fair for selecting among applicants of substantially equal opportunity. <p><i>Disadvantages:</i></p> <ul style="list-style-type: none"> ◆ Will not guarantee that the best service provider is awarded a licence/ concession. The regulator can minimise this by using a pre-qualification process, however, this adds to the time, complexity and cost of the process, negating the principal advantages of the lottery. 	<p>to be granted.</p> <p>Recommended that they are preceded by a comparative evaluation process to ensure technical and financial viability of applicants.</p>
Auction	<p>The regulator selects from qualified applicants based on their willingness and capability to pay for the spectrum resource.</p> <p>Can be open or closed single round auction or a multi-round auction that can be sequential or simultaneous</p> <p><i>Advantages:</i></p> <ul style="list-style-type: none"> ◆ Provides an efficient, transparent and objective means of awarding spectrum licences to bidders who most value the resource. ◆ Can be conducted quickly and efficiently. ◆ Provides information on economic value of resources. ◆ Excess revenues generated can be used by the government to fulfil universality and other social objectives. ◆ Discourages spectrum hoarding. <p><i>Disadvantages:</i></p>	<p>When demand for spectrum or other resources exceed the supply.</p> <p>When there is a limitation on concessions to be granted; and</p> <p>When the resource has high economic value.</p> <p>Recommended that they are preceded by a comparative evaluation process to ensure technical and financial viability of applicants.</p>

Authorisation Method	Description/ Advantages & Disadvantages	Applicable Circumstances
	<ul style="list-style-type: none"> ◆ Due to the high fees paid, it may be harder to roll out the network as quickly as proposed. ◆ Smaller market participants may be discouraged to enter the market. ◆ High costs may be passed on to the consumer, which can result in reduced service penetration. ◆ Governments can exploit the process for revenue purposes only, without taking into consideration the policy impacts. ◆ Auction designs can be quite complex depending on the nature of the award. An improper design can yield results that does not maximise economic benefits. 	
Hybrid	A mixture of one or more of the above.	The benefits of more than one of the above methods are required.

Statements on methods of authorisation:

1. The Authority will adopt a competitive selection process such as comparative evaluation, auction or any other method or combination of methods for recommending the award of concessions or the granting of licences, where it determines that there should be a limit to the number of providers in the market, or where it determines that based on its spectrum plans, the spectrum resources for the provision of those services are limited.

2. Where the Authority determines that there shall be no limit on the number of providers in a particular market category, or where the available spectrum resources exceed demand, a First-Come First Served award method will be adopted, subject to the applicant meeting the evaluation criteria set out by the Authority in respect of the relevant concession/ licence.

3. The Authority shall develop appropriate evaluation criteria and associated weightings in a transparent and open manner, and shall ensure that applications are evaluated in a fair and objective manner and in accordance with the applicable criteria and weightings.

4. The Authority will put in place fair and transparent procedures for dealing with unsuccessful applicants in any authorization process.

5.1.1 Review and Modification of Authorisation Methods

The Authority may determine from time to time to adopt different methods to recommend the award of concessions, or grant licences, as the market changes and the demand for services or resources vary accordingly.

Statement on modification of authorisation methods:

The Authority may alter the authorisation methods for licences and concessions based on changing market forces that affect the demand for services and resources, and the resulting impact on socio-economic behaviour. Where the Authority has altered an authorisation method for a particular concession/ licence category, it will give due notice to the industry prior to the implementation of the new authorisation method.

5.1.2 Evaluation of Applications for Concessions and Licences

The criteria for evaluating applications for concessions and the associated spectrum or station licences *may* include, but may not be limited to:

- General company information;
- Operational and management plans;
- Technical proposals and network rollout plans where applicable;
- Proposed service offerings (where applicable);
- Evidence of relevant technical and engineering expertise;
- Evidence of commercial arrangements with existing concessionaires (applicable to resellers) and forecast capacity/ facility resource requirements;
- Financial viability;
- Risk assessment;
- Relevant telecommunications or broadcasting sector experience;
- Marketing strategies;
- Pricing strategies.

The criteria for evaluating applications for spectrum and station licences not associated with the provision of a public telecommunications service may include, but may not be limited to:

- General applicant information;
- Technical proposals and/ or engineering plans;

- Financial viability;
- Evidence of the ability to adequately maintain the radiocommunication system on an ongoing basis.

5.1.3 Renewals and Treatment of Existing Network Operators and Service Providers

The categories of existing network operators, service providers and users of radio transmitting equipment for whom the Authority may recommend the award of concessions or to whom the Authority may grant licences, before their current transitional authorisations expire, are:

1. Those who were not regulated under the Wireless Telegraphy Ordinance (e.g. Internet Service Providers (ISPs), International Call Centre/ Calling Card Operators (ICCs)); and
2. Those who were licensed under the Wireless Telegraphy Ordinance or Telephone Act (e.g. TSTT, cable TV providers; broadcasters; private/ closed-user group network operators).

Existing network operators and service providers who were unlicensed under the previous legislation, and who wish to continue operating, are required to apply for concessions and licences in accordance with the relevant application procedures, and the evaluation criteria will be consistent with those outlined in Section 5.1.2 above, in addition to:

- The investments made by stakeholders; and
- The interests of existing subscribers or end-users.

Existing operators and providers who were licensed under previous legislation, are also required to apply for concessions and licences in accordance with the relevant application procedures, and will be evaluated on consideration of criteria, which may include the following:

- Proposed service offerings and marketing strategies for the new term (applicable to concessions only);
- Compliance with terms and conditions of existing licence;
- The investments made by stakeholders; and
- The interests of existing subscribers or end-users.

Section 31 and 39 (8) of the Act prescribe that for the renewal of any concession and licence respectively granted for the first time under the Act, the Minister shall, on the recommendation of the Authority, or the Authority (in the case of licences) shall renew that concession/ licence unless the concessionaire/ licensee:

- failed to operate within the terms and conditions of the first concession/ licence;
- failed to comply materially with any provisions of the Act or regulations during the period of the first concession/ licence; or
- failed to comply with any lawful direction of the Authority.

Renewal applications for concessions and licences (with the exception of the first renewal) under the Act will be evaluated on consideration of criteria, which may include the following:

- The conditions prescribed in Sections 31 and 39(8) of the Act for first renewals
- Proposed service offerings and marketing strategies for the new term (applicable to concessions only);
- The investments made by stakeholders; and
- The interests of existing subscribers or end-users.

5.2 The Application Process for Concessions and Licences

The Act does not limit the mechanism to be used for applying for licences and concessions. The Authority will prescribe the manner in which applications are to be submitted in accordance with Sections 21(2) and 36(2) of the Act.

Application procedures will vary depending on the service or network to be provided, the band of spectrum to be utilised, and the authorisation method adopted by the Authority for the particular classification.

The *Application Procedures for Concessions and Licences* will address, at minimum, the following:

- the categories of services and networks for which concessions/ licences will be granted;
- information on where application forms can be collected;
- instructions on the manner in which applications should be completed, including the information and any accompanying materials to be provided by the applicant;
- application fees and the manner in which payments should be made;
- the time period within which the application will be processed by the Authority in accordance with the provisions of the Act;
- information on how to acquire the relevant policies, plans and regulations to inform applicants of the relevant requirements for the different service/ network/ spectrum categories;
- provision of updated or additional information;
- renewals;
- amendments;
- withdrawal of applications;
- cancellation of application process by the Authority;
- confidentiality; and
- conflict of interest.

5.3 Methods of Application for Concessions/ Licences

The two methods for receiving applications from prospective concessionaires and licensees are:

1. General Application; and
2. Response to a Request for Proposal.

5.3.1 General Application

Where the Authority determines that a First Come First Served method will be used to recommend the award of a concession or grant a licence, a general application form will be available at the Authority's office.

The form will require the applicant to provide the information and materials to be used for evaluating the application. For concessions where the use of radio-transmitting equipment is required, the concession application form will indicate the relevant licence application form that should be attached.

5.3.2 Response to an Invitation by the Authority to Participate in a Competitive Selection Process

Where competition is introduced for the first time in highly profitable markets, where there is demand for spectrum or other resources that may be limited, or where there is a need to limit the entry of providers in a particular market, the Authority shall publicly issue requests for proposals (RFPs) to invite interested parties to participate in a competitive selection process for the relevant concession(s) and/ or licence(s).

The RFP issued by the Authority will include all specific instructions and details particular to the process to be adopted by the Authority for that concession/ licence, and the criteria and associated weightings to be used in the evaluation process.

5.4 Treatment of Class Licences

Section 4.3 defined a class licence as one which authorises persons to use specific radiocommunication devices within specific technical and operational parameters.

Statement on treatment of class licences:

Due to the nature of equipment that requires a class licence, the Authority shall adopt an authorisation process that imposes minimal burdens on itself and users of such equipment.

6 Equipment Certification and Standardisation

Under Sections 18(d) and 18(o) of the Act, the Authority is required to establish national telecommunications standards, and to test and certify telecommunications equipment, to ensure compliance with international standards and environmental health and safety standards, including electromagnetic radiation and emissions. Sections 32, 45 and 48 set out related powers and duties of the Authority.

For the purposes of Sections 18, 32, 45 and 48, the Authority will adopt internationally recognised standards in the development of “National Telecommunications and Broadcasting Standards”. These standards will be published on the website maintained by the Authority and may be modified as the Authority deems appropriate from time to time.

The Authority will also develop “Procedures for Certification of Telecommunications and Broadcasting Equipment” to be followed by all concessionaires and licensees.

The Authority will collaborate with the Trinidad and Tobago Bureau of Standards (TTBS), the Environmental Management Agency (EMA) and other relevant agencies in the development and maintenance of the “National Telecommunications and Broadcasting Standards”. The TTBS may be called on by the Authority to perform metrology and calibration functions on its behalf for the purposes of certifying telecommunications and broadcasting equipment.

The Authority will consult with the EMA in prescribing environmental, health and safety standards for electromagnetic radiation and emissions.

Statement on equipment standards and certification:

In exercising its powers and performing its duties under the Act, the Authority will adopt methods of setting standards and certifying equipment, which will include at a minimum:

- publishing criteria for certification and establishing standards for approval of telecommunications equipment;*
- identifying domestic or foreign organizations or testing facilities for approval of telecommunications equipment;*
- maintaining a register of certified or approved types of telecommunications equipment, criteria for certification and standards for approval; and*
- entering into mutual recognition agreements with authorities in other countries to provide for mutual recognition, certification and approval of telecommunications equipment.*

7 Terms and Conditions

Sections 22 to 26 of the Act prescribe terms and conditions that must be included in concessions, and Section 37 prescribes conditions that must be included in licences.

The Act also prescribes conditions with respect to interconnection, universal service, quality of service obligations, price regulation, consumer relations and other provisions for which policies and regulations are to be developed.

Accordingly, the authorisation framework includes terms and conditions contained in the specific concessions or licences, and regulations and procedures promulgated or recommended by the Authority from time to time. Concessionaires and licensees are required to comply with the terms and conditions of their concessions and licences as well as any applicable regulations or procedures.

This document describes many of the general terms and conditions that apply to both concessions and licences. The specific rights and obligations of the different types of licences are addressed in the Radio Spectrum Regulations. Table 4 outlines additional rights and obligations of concessionaires which are the subject of regulations or management plans.

Table 4 Additional Rights and Obligations applicable to Concessionaires

Description of Rights and Obligations of Concessionaires	Relevant Regulations/ Plans	Applicable Concession Types
Universality Obligations	Universality	All
Quality of Service between Concessionaires	Quality of Service	1, 2, 3, 4
Consumer Specific Quality of Service and their rights and obligations	Consumer Rights and Obligations; Complaint Handling Procedures; Quality of Service	All
Spectrum Related Obligations	Spectrum Management Regulations and relevant Spectrum Plans	Obligations under these regulations apply to the relevant licences required for concessions.
Numbering (Obligations specific to central office codes, international mobile subscriber identifiers, etc)	Numbering Plan	2, 3
Commercial, Technical and Legal Rights and Obligations with respect to Interconnection	Interconnection, Quality of Service	1, 2, 3
Obligations for Broadcasters	Broadcast Code	5
Pricing in markets where there is not effective competition	Pricing	1, 2, 3, 4
Collocation and Access to Facilities	Access to Facilities	1, 2, 5
Requirements and Procedures for Equipment Certification and Standardisation	Equipment Certification Regulations	All
Compliance and Enforcement	Compliance and Enforcement Regulations (includes Dispute Resolution Procedures)	All
Dominance and other competition issues	Competition Policy	All

7.1 Fees for Concessions and Licences⁸

Approaches to setting fees for licences have varied around the world and have primarily been based on the type of licence awarded and whether a scarce resource is being used. To ensure the efficient use of spectrum where it is used for providing services in highly profitable markets, regulators have taken the view that the economic value of the resource should be reflected by the fees paid for use of that resource. For licences where spectrum is not being used, fees have typically been based on some combination of the following:

- A percentage of gross revenues;
- An allocation of the regulator's administration costs.

Statement on the determination of fees:

In developing a fee structure for concessions and licences, the Authority will ensure that:

- *fees imposed on concessionaires and licensees do not create significant barriers to entry or impair competition;*
- *the financial viability and profitability of concessionaires and licensees are not jeopardised; and*
- *the efficient use of scarce resources is encouraged by applying charges that reflect the economic value of those resources.*

7.1.1 **Concession Fees**

The concession fee structure developed by the Authority will include the following features:

- An activity-based contribution towards the costs incurred by the Authority to administer all concessions over a period to be prescribed in the Fee Regulations;

⁸ See the Authority's "Fee Structure: Concessions and Licences for the provision of telecommunications and broadcasting resources (networks and services) in Trinidad and Tobago" for a more detailed methodology for the calculation of fees.

- a fair and proportionate contribution towards the operational costs incurred by the Authority over a period to be prescribed in the Fee Regulations. This contribution will be based on the concessionaire's percentage contribution to the total revenue generated by the telecommunications and broadcasting sectors in Trinidad and Tobago;

7.1.2 Licence Fees

As mentioned in Section 5, the method adopted for awarding a particular licence will depend on whether the availability of the resource is greater or less than the demand. Similarly, in setting fees for the use of spectrum the Authority will take into consideration the scarcity, and the economic value, of the resource.

In a competitive selection process, including where the auction method is adopted by the Authority, the licence fee shall be determined by the winning bid arising out of the process.

A licence fee, where a competitive selection process does not set its value, shall be based on a relative contribution towards the costs incurred by the Authority in managing the spectrum resource, in addition to a fee which represents the value of the resource in relation to spectrum auctioned in a similar band. The contribution applicable to a particular licensee may be based on a combination of, but not limited to, any of the following:

- The proportion of the Authority's spectrum management costs (including spectrum monitoring costs to ensure compliance);
- The extent to which spectrum is used efficiently based on prescribed technical parameters for the relevant band; or
- The exclusivity of use of the spectrum/ frequency to be licensed.

7.2 Periods for Concessions and Licences

The Authority will take into consideration the needs of a network operator or service provider to recoup investment, and the needs of the Government to ensure that the sector develops properly over the longer term, in determining the periods of concession and licences. The period granted will be no less than the time required for the concessionaire to reasonably recoup its investments.

Fair treatment will be afforded to all concessionaires and licensees based on the type of network, coverage, and investment made or required. Similar authorisations will have similar terms, and licences associated with a particular concession will have the same term as the associated concession.

Table 5 shows the proposed periods for the different concession classes and the licences associated with them.

Table 5 Proposed terms for concessions and associated licences

Concession Type	Proposed terms for concession and associated licences
Network-Based - Type 1 - Type 2	10 to 20 years (depending on network and market characteristics)
Service-Based - Type 3 - Type 4 - Type 5	2 to 10 years (depending on service and market characteristics)

Where a licence is not associated with a concession, the period of the licence shall be determined by the type of radiocommunication licence and the application for which the licence is granted.

7.2.1 'Use or Lose' Periods

The Authority recognises that in a competitive environment and where there is scarcity of the relevant resources, an appropriate mechanism is necessary to ensure that

authorisations are utilised in a timely manner for the benefit of consumers and for the public good.

Statement on “use or lose” periods:

The Authority will prescribe an appropriate “use or lose” period for concessions and licences, which will take into consideration the concessionaire’s specific roll out/ service expansion obligations. Failure to build and operate a network or provide a service within the “use or lose” period or failure to comply with any terms and conditions of a concession / licence may result in the revocation of the concession/licence.

7.3 Renewals

The criteria to be adopted by the Authority for renewals are outlined in Section 5.1.2.

An application for renewal of any authorisation should be submitted after two-thirds (2/3) of the period of the authorisation has passed, but no less than six (6) months, prior to its expiration. This period will provide sufficient time for the Authority, and if necessary the Minister, to make a decision before the relevant authorisation expires. The period will also provide sufficient time for the concessionaire / licensee to submit the renewal application. Applications for the renewal of a concession must also be accompanied by an application for the renewal of any associated licence(s) where required.

If applicants fail to apply within the period specified, they risk failure to have their concession and/or licence renewed before the expiration date. Operation of a network or provision of a service without a valid concession or licence will constitute an offence under the Act.

Statement on Renewals:

An application for renewal of any authorisation should be submitted after 2/3 the period of the authorisation has passed, but no less than six (6) months, prior to its expiration.

7.4 Amendments, Additional Authorisations and Surrender of Existing Authorisations

Sections 30(2) and 39(2) limit the conditions under which amendments can be made to concessions and licences respectively:

- force majeure
- national security considerations
- changes in national legislation; or
- the implementation of international obligations.

Therefore, this section provides guidelines on the processes that would apply in cases that would otherwise warrant amendments to concessions or licences.

The modular concession document prepared by the Authority makes possible addition of networks, network elements or services through the process of acquiring additional authorisations, which will only require modifications to the appropriate schedule. The Authority will put in place an application procedure for this purpose, which will not be as onerous as the application procedure for a new concession. The extent of the evaluation required will depend upon the nature of the change or service extension being proposed.

Holders of Type 1, Type 2 and Type 3 concessions are required to apply for authorisations to own or operate additional networks (physical or virtual). These concessions are service-neutral in respect of telecommunications services, and therefore these concessionaires will not require an authorisation to provide additional telecommunications services on the authorised network. These concessionaires are required to notify the Authority of all telecommunications services provided. However,

an additional authorisation will be required to provide a broadcasting service (Type 5 concession) on the authorised telecommunications network.

Holders of Type 4 and Type 5 concessions are required to apply for concessions to provide additional services (that are otherwise permitted by the Authority) to those specified in their existing concessions.

Where new networks are added to any existing network-based concession, or new services are added to any Type 4 or Type 5 service-based concession, the concession fees and period may be adjusted to comply with the administration fees or periods otherwise applicable to the relevant networks/ services. An additional authorisation is not required for changes to networks as a result of network maintenance or upgrade.

Where it is required that there be a change in the frequency or technical specifications of an existing licence, the Authority will require that the existing licence is surrendered and an application submitted for a new licence. However, the procedure for such an application will not be as onerous as that of a new application. In this case, the existing licence will be surrendered and a new licence granted provided that the applicant justifies the required change, and the Authority is satisfied that such a change complies with the relevant spectrum plans, and will not jeopardise the operation of existing radiocommunications systems.

7.5 Trading of Concessions and Licences, Change of Control, Disposal of Assets

Allowing network and service providers to trade concession and licence rights can result in public benefits, including the option for spectrum to be utilised by persons who value the resource more highly or who are capable of more efficient use. However, trading is not an end in itself. An unrestricted trading of rights could interfere with the overall management of the sector and create arbitrage and other market incentives not in the

public interest. In addition, concession obligations associated with specific users, such as network roll-out requirements and public service broadcast commitments, must be adhered to, to ensure that public access to the services is retained.

The Authority may determine that certain licences may not be traded based on allocations in its spectrum plans. These may or may not include aeronautical and maritime spectrum allocations, emergency, health and safety allocations, blocks assigned to the national security services and other blocks that the Authority may deem appropriate.

Concessions and licences shall not generally be traded within the obligatory ‘use or lose’ period of the concession/ licence agreement, since the new entity will have to be eligible for the grant of the authorisation.

Statement on transfers and similar transactions:

1. All concessionaires and licensees will require the prior approval of the Authority for any transfer of the concession/ licence, for any change of control of the concessionaire/ licensee and for any other form of agreement with a third party under which the third party would obtain any rights or privileges under the concession/ licence, which would normally require the grant of a concession to that party. The third-party must be an entity that would have qualified to hold the concession or licence on first grant.

2. Where a concessionaire is authorised by the Authority to provide basic public telecommunications services⁹, the Authority will require that such concessionaire seek the approval of the Authority for the transfer or disposal of any component of its network/ service that would adversely affect the provision of access to services in the relevant markets. Such approvals will not be unreasonably withheld by the Authority, provided that there is sufficient evidence to show that access to the services in question will not be adversely affected.

⁹ See the Authority’s draft Consumer Rights and Obligations Policy for the definition of basic telecommunications services.

The requirement for approvals of network or service equipment does not apply where the transfer or disposal of network/ service components is in the ordinary course of the concessionaire's maintenance, replacement or upgrading of such network or service.

7.6 Transmitter Sites

In accordance with its objective to manage the national spectrum resource and act to avoid or eliminate any harmful interference, the Authority retains the right to oversee the sites of operation for any licensed spectrum user.

This oversight shall include the review of all radiotransmitting equipment installations. All licensees shall be required to provide updated records of all locations of licensed transmitters, for all locations including primary or secondary/ repeater sites. This information should include:

- Latitude and Longitude of transmitter sites;
- Height above ground level (AGL) and height above mean sea level (AMSL) of all antennas;
- Vertical and horizontal separation between transmitting/ receiving antennas on structures with co-located systems; and
- Validation that the relevant health and safety precautions are met.

In addition, the Authority shall implement measures to support the Town and Country Planning Division's (TCPD) policy that seeks to minimise the negative effects of the placement of dedicated structures for public telecommunications networks and services. These measures will be designed to:

1. limit the number of such structures required by careful location planning and sharing arrangements;

2. afford the public an opportunity to raise objections to proposed sites, especially where they are in sensitive areas; and,
3. streamline and expedite the application processes to facilitate the timely achievement of roll-out objectives, while ensuring that the operators or persons who build and place such structures are held to a high level of accountability.

The TCPD as the body responsible for planning approvals, and the Authority, will provide a system of approvals and monitoring which will ensure that applications to obtain planning approval for the building of dedicated structures for telecommunications equipment will be determined in a manner that achieves the above objectives.

The basis of this system is the TCPD's "Planning Policy for Personal Wireless Service Facilities". An application to the TCPD for planning approval of the construction of any structure dedicated to the situation of telecommunications equipment will also require an approval by the Authority.

The Authority shall consider applications for such approvals on the basis of the following:

1. Approval will only be given if the structure is guaranteed to be used by a licensee or a concessionaire for the purposes of telecommunications or broadcasting service. Accordingly, applicants will need to produce to the Authority sufficient proof of such use, in a form acceptable to the Authority. Where the structure is to be used by a concessionaire, such proof must give sufficient control to the concessionaire in accordance with 2. below.
2. A concessionaire may only use dedicated structures which it owns or controls, or which are owned or controlled by another concessionaire. Such ownership or control may be achieved through lease arrangements. Such arrangements however must give sufficient control to a concessionaire to ensure that the facility is covered by Section 26 of the Act. The Authority will consider, on a case by case basis, any lease arrangement between a concessionaire and a non-

concessionaire, to determine whether the arrangement permits the concessionaire sufficient control over the dedicated structure or the part being leased.

3. Structures for transmitter sites used in the provision of public telecommunications and broadcasting services must be constructed with sufficient capacity for collocation as specified in the relevant regulations, but in any event, for at least three operators, failing which approval will not be granted.
4. The location of proposed new sites will be considered in accordance with a Transmitter Site Inventory which will be managed and maintained by the Authority on an ongoing basis. This will assist in ensuring the sharing of sites (collocation) by operators in cases where such sharing is possible without disrupting network efficiency or quality.
5. Any structure which has not received all required approvals, or does not comply with the requirements of TCPD's policy, shall not be used by any concessionaire for the siting of telecommunications equipment.

The Authority may exempt particular structures from the requirements listed at 1 to 3 above, where it determines there is sufficient and justifiable evidence to support the feasibility of such requests.

7.7 Rights of Way

In addition to obtaining access to individual properties for the installation of telecommunications equipment or facilities, this term also refers to rights of access to streets, sidewalks, road allowances and other public property for the purpose of laying overhead and underground cables.

These 'rights' should be accompanied by rules for access, defining cost recovery or other payments, requirements for public safety and convenience, environmental impacts etc.

The Authority is not responsible for granting nor is it empowered to grant such rights of way and therefore concessionaires and licensees will need to apply to the relevant Government body for permission. Generally, in respect of roads such rights are administered by either the Highways Division (for major highways and roads) or the Regional or City Corporation within which the roads are situated. Currently, the agencies which have various 'rights of way' include the Water and Sewerage Authority (WASA), the Trinidad and Tobago Electricity Commissions (TTEC), TSTT and CCTT.

The Authority will, however, seek to facilitate the obtaining of such rights by concessionaires and licensees to the extent truly needed and practicable. The Authority will also seek to provide a procedure for concessionaires and licensees to share information regarding any works being planned or undertaken so that other concessionaires and licensees can coordinate their works wherever possible in order to minimise disruption, and the need for each concessionaire or licensee to obtain separate approvals.

7.8 Dominant Providers

In order to protect the interest of the public, the Authority may place certain restrictions and additional obligations on concessionaires that it deems dominant in one or more telecommunications or broadcasting markets. In order to ensure that such power is not employed to limit, distort or adversely affect competition additional obligations may be imposed, including additional elements of price regulation in certain markets.

The Authority may determine that a concessionaire is dominant where, individually or jointly with others, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers. The Authority shall take into account the following circumstances in any such determination:

- The relevant market;
- Technology and market trends, including ease of market entry;
- The market share of the concessionaire; and

- The power of the concessionaire to set and maintain prices.

A Competition Policy will provide further guidance on the determination of market dominance, including applicable criteria and processes.

7.9 Structure of Concession Document

The Authority has prepared a modular concession document, which sets out conditions of general application to all concessionaires, followed by conditions and authorisations specific to different types of networks and services. Accordingly, the following concession structure will be adopted for concessions to be granted by the Minister upon recommendations made by the Authority:

Table 6 General Structure of a Concession

<p>Title of Concession Concession for the Operation of (DFTN/DMTN/INTN) Telecommunications Network(s) and/ or The Provision of (Telecommunications and/or Broadcasting) Services</p>
<p>Definitions</p>
<p>Section A: General Conditions applicable to all concessionaires (Type 1, 2, 3, 4, 5).</p>
<p>Section B: Conditions applicable to Network(s) specified in Schedule A. This section will only apply to network-based concessions (Type 1, 2, 3).</p>
<p>Section C: Conditions applicable to the Telecommunications Services specified in Schedule B. This section will apply to network-based and service-based concessions (Type 2, 3, 4).</p>
<p>Section D: Conditions applicable to the Broadcasting Services specified in Schedule C. This section will apply to Type 5 service-based concessions.</p>
<p>Schedule A: Telecommunications Networks This schedule will list the networks to be operated by the concessionaire as authorised by the Minister, and applies only to network-based concessions (Type 1, 2, 3).</p>
<p>Schedule B: Telecommunications Services This schedule lists the public telecommunications services to be offered by the concessionaire as authorised by the Minister. It applies both to network-based and service-based concessions (Type 2, 3, 4).</p>
<p>Schedule C: Broadcasting Services This schedule lists any broadcasting services to be offered by the concessionaire as authorised by the Minister. It applies to Type 5 service-based concessions.</p>

7.10 Structure of Licence Document

The Authority has prepared a modular form of radiocommunication licence, to match the modular concession, which sets out conditions of general application to all licensees, followed by conditions and spectrum authorisations specific to different types of radio communications networks and equipment. Accordingly, the following structure shall be adopted for licences to be granted by the Authority:

Table 7 Structure of Licence Document

<p>Title of Licence</p> <p>(Private/ Public) Spectrum Licence or (Name of Station) Station Licence</p>
<p>Definitions</p>
<p>Section A: General Conditions applicable to all licences.</p>
<p>Section B: Conditions applicable to specific type of licence (spectrum, station or class)</p>
<p>Schedule A: Technical Specifications</p>
<p>Schedule B: Frequencies / Spectrum assigned to licensee</p>
<p>Schedule C: Reference to concession (s) to which the licence is related, where applicable</p>

Bibliography

Australian Communications Authority. (2004). ACA Carriers and Carriage Service Providers. Retrieved January 10, 2005 from http://internet.aca.gov.au/ACAINTER.65636:STANDARD:505958129:pc=PC_1622

Bogdan-Martin, D., Mendiluce, D., Alden, J., De La Torre, M., Dorward, L., Doyle, C. and et al. (2004). *Trends in Telecommunications Reform 2004/ 2005: Licensing in an Era of Convergence*. International Telecommunications Union.

European Commission. 2002. Directive 2002/20/EC of the European Parliament and of the Council on the Authorisation of electronic communications networks and services (Authorisation Directive). Retrieved January 10, 2005 from http://europa.eu.int/information_society/topics/telecoms/regulatory/new_rf/index_en.htm

Intven, H (Ed.), Oliver, J. and Speulveda, E. (2000). *Telecommunications Regulatory Handbook*. USA. The World Bank.

Telecommunications Authority of Trinidad and Tobago. (2005). Draft Spectrum Management Policy (Consultation Document).

Telecommunications Regulatory Authority of India. (2004). Consultation Paper on Unified Licensing Regime. Retrieved February 3, 2005 from <http://www.trai.gov.in>.

The Infocomm Development Authority of Singapore. (2003). Guidelines on Licensing Scheme. Retrieved January 10, 2005 from <http://www.ida.gov.sg/idaweb/pnr/infopage.jsp?infopagecategory=licensing:pnr&versionid=1&infopageid=I190>

Legal References

Public Utilities Commission (PUC) Act. 1966. *Laws of Trinidad and Tobago*. Chap. 54:01.

Regulated Industries Commission Act. 1998. *Laws of Trinidad and Tobago*. Act. No. 26.

Telecommunications Act. 2001. *Laws of Trinidad and Tobago*. Act. No. 4. (as amended by the Telecommunications (Amendment) Act 2004).

Trinidad and Tobago Telephone Act. 1968. *Laws of Trinidad and Tobago*. Chap. 47:30 (as amended by the Trinidad and Tobago Telephone (Amendment) Act 1990).

Wireless Telegraphy Ordinance. 1936. *Laws of Trinidad and Tobago*. Chap. 36:2

ANNEX I: Decisions on Recommendations

The following summarises the comments and recommendations received from stakeholders on the second draft of this document (dated September 26th 2005), and the decisions made by TATT as incorporated in this revised document (dated November 21st 2005).

Document Sub-Section	Submission Made By: Stakeholder Category ¹⁰	Comments Received	Recommendations Made	TATT's Decisions
Section 1				
<p><i>1.1 The Authorization Regime as prescribed by the Act</i></p> <p>2. ...“Where the operation of a public telecommunications network or the provision of a public telecommunications or broadcasting service requires use of radio-transmitting equipment, the required licences will be granted with the applicable concession.”</p>	<p>Existing service and/ or facility providers and affiliates (TSTT)</p>	<p>This statement is at variance with Section 36 of the Telecommunications Act which expressly states that where spectrum is required in respect of a concession, applied for under part III, the licence application will be processed as part of the concession.</p> <p>It is evident herein that the Act makes a fundamental distinction between an entity obtaining a spectrum licence simultaneously when applying for a concession and one in when a licence is needed for operating a public telecommunications network. TATT's statement appears to conform to the latter position and is therefore at variance with the Act. TATT's statement gives the impression that an entity already authorized to provide radiocommunications services must apply for a concession in order</p>	<p>TSTT strongly recommends that TATT's statements in this section be reworded to reflect the substantive of Section 36(2) of the Telecommunications Act.</p>	<p>Noted. The statement has been reworded to reflect Section 36(2) of the Act.</p>

¹⁰ Regional regulatory or Governmental agencies, Existing service and/ or network provider and affiliates, Potential service and/ or network providers and affiliates, Service/ Network Provider Associations/ Clubs/ Groups, General Public

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
		to be awarded additional spectrum.		
Section 2				
2.1 The Licensing Regime of Trinidad and Tobago Prior to the Act. “The rate structure of the company was also regulated as a public utilities company under the Public Utilities Commission (PUC) Act (Chap.54:01).....”	Existing service and/ or facility providers and affiliates (TSTT)	TSTT wishes to advise that it was never regulated under the Public Utilities Commission (PUC) Act (Chap. 54:01).	Delete	Noted. The relevant modification has been made.
Section 3				
3.1.2 Class Licences “A class licence normally sets out rights, obligations and other regulatory provisions of general application to a particular class of services. Services within the identified class”	Existing service and/ or facility providers and affiliates (TSTT)	The use of Class Licence herein is at variance to the definitional construct used for Class Licence under the Spectrum Management Policy Document (Page 46). Further, if the Definitional construct as used in this document is utilized, then TATT is requiring all holders of ‘devices’ requiring Class Licences to obtain TATT’s approval. This is impractical and administratively burdensome.	TSTT recommends that the definitional construct as utilized for Class licence under the Spectrum Policy Document should be utilized herein.	The Authority notes the comment, but disagrees with the recommendation to re-word Section 3.1.2 because this section speaks to the general concept of Class Licences globally. Page 46 of the Spectrum Management policy and Section 4.2 of this framework defines a ‘class licence’ as applicable to Trinidad and Tobago.
Section 4				
4.1.1 Concession	Existing service	TSTT is having difficulty in understanding exactly the distinction	TSTT requests further	There is a distinction. The Type 4

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
Classifications Type 3	and/ or facility providers and affiliates (TSTT)	<p>between a virtual network-service Concession and a service concession, seeing that both parties do not have authorization to operate a network. In both cases, the concessionaire is using another parties' network in order to provide their services, via a commercial agreement.</p> <p>In both cases, the service provider/virtual network operator can provide value added services separate and apart from the underlying network operator, as well as may not have access to all of the value added services made available by the underlying network operator to its subscribers. For example, an ISP may provide web-hosting services, while the access wholesaler does not. Similarly, a virtual network operator may provide a distinct multi-featured voice mail platform and directory enquiry services.</p>	clarification on the distinction between the virtual network and service-based concession. TSTT recommends that due to the imprecision that exists between these classifications, that they be merged under the single service provider category.	<p>concessionaire is only authorised to provide specific services, while the Type 3 concessionaire is authorised to provide any telecommunications service that can be provided over a facility that it leases, because of its capability to provide multiple services over a single transmission media that has been leased or otherwise obtained from an authorised network operator.</p> <p>Clarity has been provided in this section and Section 4.1.7.</p>
4.1.5 International Telecommunications Networks Para 2 “Entities that will require ...will include owners and operators of international facilities (fibre optic cable systems, earth stations (e.g. VSAT), etc.)”	Existing service and/ or facility providers and affiliates (TSTT)	VSAT is an acronym for Very Small Aperture Terminals as distinct from earth stations.	Change to read ... (fibre optic cable systems, earth stations, VSAT, etc.).	Noted. The modification has been made.
4.1.5 International	Existing service	Where an International Telecommunications Network is to carry	TSTT recommends that this	The Authority disagrees with the

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
<p>Telecommunications Networks Para 4 “Similarly, an international network-based concessionaire...or for carrying domestic traffic between domestic networks on behalf of domestic concessionaires, will only require a concession to ...”</p>	<p>and/ or facility providers and affiliates (TSTT)</p>	<p>domestic traffic between domestic networks on behalf of domestic concessionaires, such a network effectively functions as a domestic network and therefore should be classified as such, unless of course hopping between carriers (leaving and returning to the country) is being encouraged. Were it to exist hopping functions effectively acts as bypass of the domestic rate structures.</p>	<p>statement be revised with the following part being deleted ... “or for carrying domestic traffic between domestic networks on behalf of domestic concessionaires,...”</p>	<p>recommendation and the view expressed by TSTT. ‘Tromboning’ is not a form of bypass.</p>
<p>4.1.7 Provision of Public Telecommunications Services (i) ISPs and Internet Café owners; (ii) Domestic/International service providers who ... directly. to the consumer (e.g. Calling Card or Call Center Operators)</p>	<p>Existing service and/ or facility providers and affiliates (TSTT)</p>	<p>TSTT seeks clarification as to whether a classification of niche or minor territorial service provider will apply to Call Center and Internet Café owners, while a classification of national or major territorial service provider will apply to Calling Card International Service Providers and ISPs, as their services can be accessed by any individual from their homes at any location in the country. The Authority has not defined what classification would apply to Type 4 international service providers.</p>	<p>TSTT recommends that service providers whose services can be accessed from individuals’ homes nationwide should be subject to national classification, pending a distinct classification for international service providers of this nature being defined.</p>	<p>The Authority agrees with the comment that any service that can be accessed from homes nationwide, should be classified as a national service. However, the Authority does not share the view that a non-facilities based international service provider (e.g. Calling Cards and ISPs) should not fall within the ‘Type 4’ classification with International Call Centre and Internet Café owners. Section 4.3 and Table 2 already deals with geographical distinctions between the both as TSTT has recommended. For clarification,</p>

Document Sub-Section	Submission Made By: Stakeholder Category ¹⁰	Comments Received	Recommendations Made	TATT's Decisions
				<p>an Int. Call Centre Operator or Internet Café owner will be eligible for a Niche Type 4 concession, while a Calling Card operator, or ISP serving the national/major territorial/ minor territorial populace will be eligible for a National/ major territorial/ minor territorial Type 4 concession respectively.</p>
	<p>Existing service and/ or facility providers and affiliates (TSTT)</p>	<p>TSTT would like to draw to the Authority's attention that an ISP may also establish its own facilities, and may not necessarily resell the services of another concessionaire. TSTT seeks clarification as to whether an ISP with its own VSAT terminal to gain its own Internet access would require a network concession. In this case, the ISP is not reselling the services of another concessionaire, but is using its own facilities established with an international VSAT operator that does not have a concession, much as an international facility/network concessionaire that establishes an Earth Station.</p>	<p>TSTT recommends that entities that provide their own Internet access facilities should have a separate Type 4 classification as a facility-based Internet Service Provider, as they are not reseller of another concessionaire's services.</p>	<p>In response to this comment and the one immediately below it...</p> <p>The framework already states that any entity that owns or operates its own facilities and provides telecommunications services (including Internet services) requires a Type 2 concession. Only non-facilities based providers are eligible for Type 4 concessions.</p> <p>An ISP who operates its own VSAT will require a Type 2 International concession.</p>

Document Sub-Section	Submission Made By: Stakeholder Category ¹⁰	Comments Received	Recommendations Made	TATT's Decisions
				For further clarity, the reference made to 'Internet Service Providers' in Section 4.1.7 has been modified to 'Non-facilities based Internet Service Providers'.
	Existing service and/ or facility providers and affiliates (TSTT)	In the event of the above, TSTT requests that the Authority clarify which type of service-based concession would apply to such an ISP with its own facilities. TSTT draws to the Authority's attention that these parties can readily engage in the termination of incoming international minutes into Trinidad and Tobago.	TSTT recommends that entities that provide their own Internet access facilities should have a separate Type 4 classification as a facility-based Internet Service Provider.	See response immediately above.
4.3 Geographic and Coverage Considerations "A temporary waiver or reduction of licence fees for the wireless parts...in under-served communities."	Existing service and/ or facility providers and affiliates (TSTT)	TSTT draws to the Authority's attention that under-served communities may not necessarily represent uneconomic areas, as such an area may be owned or inhabited by individuals that can afford service. Similarly, a served or unserved community can be uneconomic and would therefore require some form of investment incentives to encourage network deployment	TSTT recommends that " <i>and un-economic areas</i> " be added. Thus statement should read: "A temporary waiver or reduction of licence fees for the wireless parts...in under-served communities and uneconomic areas."	Noted. Modification has been made.
Statements regarding	Existing service	TSTT notes that performance bonds are required for network roll	TSTT recommends that	The Authority notes the comment;

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
geographic service areas: 5. "the Authority may require performance bonds as ... which will also be set out in the concession."	and/ or facility providers and affiliates (TSTT)	out by new domestic providers, given that TSTT already has substantial national network coverage.	performance bonds be required of new entrants rather than providers that have already established national coverage.	however there is no need to modify the current wording of the statement. If an operator's rolls out obligations have already been achieved, the performance bond milestones on these obligations will not be applicable.
Table 2 Applicability of Geographic Categories to Concession Classifications "Telecommunications Services (Type 4, Type5)	Existing service and/ or facility providers and affiliates (TSTT)	Type 5 is not a telecom service, but a broadcasting service.	TSTT recommends that the distinction between telecommunications and broadcasting services be maintained.	Noted. The modification has been made.
Section 5				
5.1 Statements on methods of authorization: 1. The Authority will adopt a competitive selection process such as ...where it determines that there should be a limit to the number of providers in the market or where it determines that...those services are	Existing service and/ or facility providers and affiliates (TSTT)	TSTT enquires of TATT as to the methodological approach for determining the number of providers given that TATT has expressly stated in its DOR Matrix for Spectrum Management Policy that it is required by the Act, under Section 18(5) to operate in a transparent manner.	TSTT recommends that in the interest of transparency that TATT makes available its methodological framework for determining the number of providers in the market.	Noted. However, this framework does not belong in this document. Market Studies will be conducted and published by the Authority from time to time.

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
limited.”				
5.1.1 Review and Modification of Authorization Method Statement on Modification of authorization methods	Existing service and/ or facility providers and affiliates (TSTT)	In the interest of transparency, TSTT enquires of TATT as to the process to be utilized for modifying its authorization methods.	TSTT recommends that TATT makes available its process for modifying its authorization methods.	The policy statement in this section already indicates the basis via which and authorisation method will be changed, and that notification will be given to the industry prior to implementation of the new method.
5.1.3 Renewals and Treatment of Existing Network Operators and Service Providers The categories of existing network operators, service providers and users of radio transmitting equipment for whom the Authority may recommend the award of concession or to whom the Authority may grant licences, before their current transitional authorization expires, are:.... TSTT	Existing service and/ or facility providers and affiliates (TSTT)	This explicit statement by TATT gives the unwelcome impression that TATT can grant TSTT a concession without the Company applying for same. This is not in keeping with the substantive of the Telecommunications Act (Section 21(2)).	TSTT recommends that this statement be redrafted to reflect the substantive of the Act. A possible redraft can state that: TATT would recommend the award of a concession for existing network operators, service providers and users of radio transmitting equipment upon these entities adhering to stipulated conditions as prescribed by the Authority in its application for concessions.”	The Authority is not of the view that this statement implies this. The third paragraph in this section addresses TSTT's concerns.

Document Sub-Section	Submission Made By: Stakeholder Category ¹⁰	Comments Received	Recommendations Made	TATT's Decisions
5.1.3 Renewals	Potential service and/ or facility providers and affiliates (Digicel)	Requires specifics in terms of timelines for Authority to conclude its consideration and decide whether or not to renew well before the existing licences run out.	Include timelines	Refer to section 7.3 of the framework.
5.2 The Application Process for concessions and Licences “The Act does not limit the mechanism to be used...”	Existing service and/ or facility providers and affiliates (TSTT)	TSTT draws to TATT’s attention that the Act limits the mechanism to be used for applying for a concession or licence to a method to be prescribed. In the interest of transparency, it is imperative that TATT indicates the prescribed method.	TSTT recommends that this statement be redrafted to reflect the substantive of Section 21(2) of the Act. A possible redraft could state: “In accordance with Section 21(2) and 36(2) the Authority will prescribe the manner in which applications are to be submitted.”	The Act dos not limit the mechanism. It just requires that the Authority prescribe the manner, therefore the Authority is not limited to the mechanisms adopted in its prescriptions. The next statement already refers to the requirements of Sections 21(2) and 36(2) but will be revised for further clarity.
Section 7				
7.5 Trading of Concessions and Licences, Change of Control, Disposal of Assets <i>Statement on transfers and similar transactions:</i> 2. Where a concessionaire is	Existing service and/ or facility providers and affiliates (TSTT)	TSTT draws to the Authority’s attention that the principle of Dominance in the Telecommunications Act is applicable only to pricing (Section 29(8)). Therefore the provisions as articulated in this statement are either applicable to all providers or to none at all.	TSTT recommends that either the word dominance be deleted from this statement or the entire statement be omitted.	Noted. Reference to dominant operators will be deleted from this section. The obligation will apply to all concessionaires required to provide basic telecommunications services.

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
determined by the Authority to be dominant...				
7.6 Transmitter Sites	Potential service and/ or facility providers and affiliates (Digicel)	<p>Include timelines for Authority to provide any approvals.</p> <p>Clarity required on how Authority will balance coverage requirements with stringent planning rules.</p>	<p>Include timelines</p> <p>Provide further clarity on coverage versus planning rules balance eg if strict on planning will this permit longer roll-out times?</p>	<p>The Authority will prescribe timelines in the procedures that deal with approvals for the town and country site approval process.</p> <p>The Authority notes Digicel's concern. The Authority will continue to work with the Town and Country Planning Division to ensure that planning approvals are not drawn out to the extent that it hampers the accomplishment of a concessionaire's roll out objectives (Minor modification made for clarification).</p> <p>The Authority will also ensure that collocation agreements with owners of existing towers are concluded on a timely basis (Access to Facilities Regulations).</p>
7.6 Transmitter Sites	Existing service and/ or facility	TSTT notes that the Authority recognizes in its own document that it does not have the power to mandate that only concessionaires	TSTT suggests that the legality of some of the	Neither the Authorisation Framework, nor the Position Paper on tower

Document Sub-Section	Submission Made By: Stakeholder Category ¹⁰	Comments Received	Recommendations Made	TATT's Decisions
	providers and affiliates (TSTT)	should be allowed to erect telecommunications structures. TSTT suggests that similarly, TATT cannot mandate that only towers owned or controlled by concessionaires can be erected. However, as TATT has defined requirements on non-concessionaires before TATT granting their approval to erect towers, TATT has seemingly assumed the authority of tower approval over non-concessionaires. Consequently, TSTT believes that some of the provisions of the position adopted by the Authority may be considered unlawful.	provisions of the position being adopted by the Authority may need to be reviewed.	<p>approvals indicates that TATT is responsible for approving the erection of towers.</p> <p>The final decision is made by TCPD on whether a tower should be erected based on TCPD's policy requirements and the technical recommendations of TATT and other agencies (see TCPD's revised planning policy).</p> <p>The Authority DOES NOT:</p> <ul style="list-style-type: none"> ◆ mandate that only towers owned or controlled by concessionaires can be erected; ◆ grant approvals to erect towers, or ◆ assume the authority of tower approval over non-concessionaires. <p>The Authority is not of the view that its procedures, or its position on the manner in which it will facilitate the Town and Country Planning Division's tower application process, is unlawful.</p>

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
	Existing service and/ or facility providers and affiliates (TSTT)	TSTT also questions the practicality of this provision. There are many present cases where towers owned by non-concessionaires such as Ministry of National Security and TTEC are used as transmitter sites. It would be inappropriate to ask these parties to handover control of their sites to the lessees. This inappropriateness extends to use of TTEC poles by CCTT and TSTT for supporting their lines.	TSTT suggests that notwithstanding the legality of whether TATT can mandate that only towers owned or controlled by concessionaires can be constructed, the requirement that TATT is seeking to impose may be impractical, and should be re-considered.	The comment is noted. However, the revised position paper does allow the Authority to use its discretion in such cases. The relevant clause in the concession document (A42) also provides this discretion. A general statement has been included to enable the Authority to use its discretion in particular cases.
Structures for transmitter sites used in the provision of public telecommunications and broadcasting services must be constructed with sufficient capacity ... for at least three operators, failing which approval will not be granted.	Existing service and/ or facility providers and affiliates (TSTT)	As articulated in previous stakeholder sessions, TSTT due to its 1800MHz spectrum assignment, without associated 900MHz spectrum, will be required to construct considerably more towers than its competitors, in excess of 150 towers. Hence, TSTT should be able to, on towers filling coverage holes that other operators would not have, and therefore other providers would not seek tower collocation, construct these extra towers without the unnecessary costs of providing space for two operators. Constructing these additional towers with space for three providers, where no other providers would seek sharing arrangements, would be costly, unsightly and wasteful.	TSTT recommends that TATT will reserve the right to grant exemptions to the requirement to accommodate three operators in specific circumstances.	Noted. See response immediately above.
7.8 Dominant Providers	Existing service	TSTT draws to the Authority attention that it is an ex ante industry	TSTT strongly recommends	The Authority disagrees that this

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
	and/ or facility providers and affiliates (TSTT)	<p>specific regulatory and not an ex post economy-wide competition authority. In fact, the Act does not allow TATT to function as a competition authority. As such the statements made herein transcends the limits imposed by the Act.</p> <p>TSTT wishes to therefore remind the Authority that dominance is applicable only to pricing, as per Section 29 of the Act. Any other obligation should apply to all providers or none. For example, all parties are required to treat with competitors equally as they deal with subsidiaries.</p>	that this section be removed from this document. TSTT recommends that the Authority comply with Section 29 of the Act as it pertains to dominance.	<p>section should be removed. The section does not suggest that the Authority will function as a Competition Authority.</p> <p>However, any references made to examples where additional obligations will be imposed that are outside the limits of the Act, have been removed.</p>
Additional obligations may include ... more rigorous interconnection terms.	Existing service and/ or facility providers and affiliates (TSTT)	<p>TSTT draws the Authority's attention to the growing consensus being developed by regulators around the world that all providers are dominant in their respective interconnection termination markets. Traditional competition principles do not apply to interconnection terms and conditions, as each party is a bottleneck provider of termination to its subscribers. Hence, it would not be appropriate to impose more stringent interconnection terms on providers that are dominant in retail markets; all providers equally hold significant market power in their respective interconnection markets.</p> <p>The Act reflects the growing consensus around the world that all providers are dominant in their respective interconnection markets. An overview for TATT is provided in Appendix I.</p>	TSTT recommends that the same terms and obligations should apply to all concessionaires as it pertains to interconnection, particularly termination rates.	Noted.

