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A Consultative Document

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

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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. Decisions on Recommendations (DOR) included at Annex I.	0.4

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 radio-transmitting equipment, the required licences will be granted with the applicable concession. 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 draft of this document. The document has been revised with considerations to the comments and recommendations made (Refer to Annex I for the Decisions on Recommendations matrix (DOR)).

The second consultation phase will take place over a period to be prescribed by the Authority.

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 **Public Utilities Commission (PUC) Act (Chap. 54:01)** which was eventually replaced by 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.

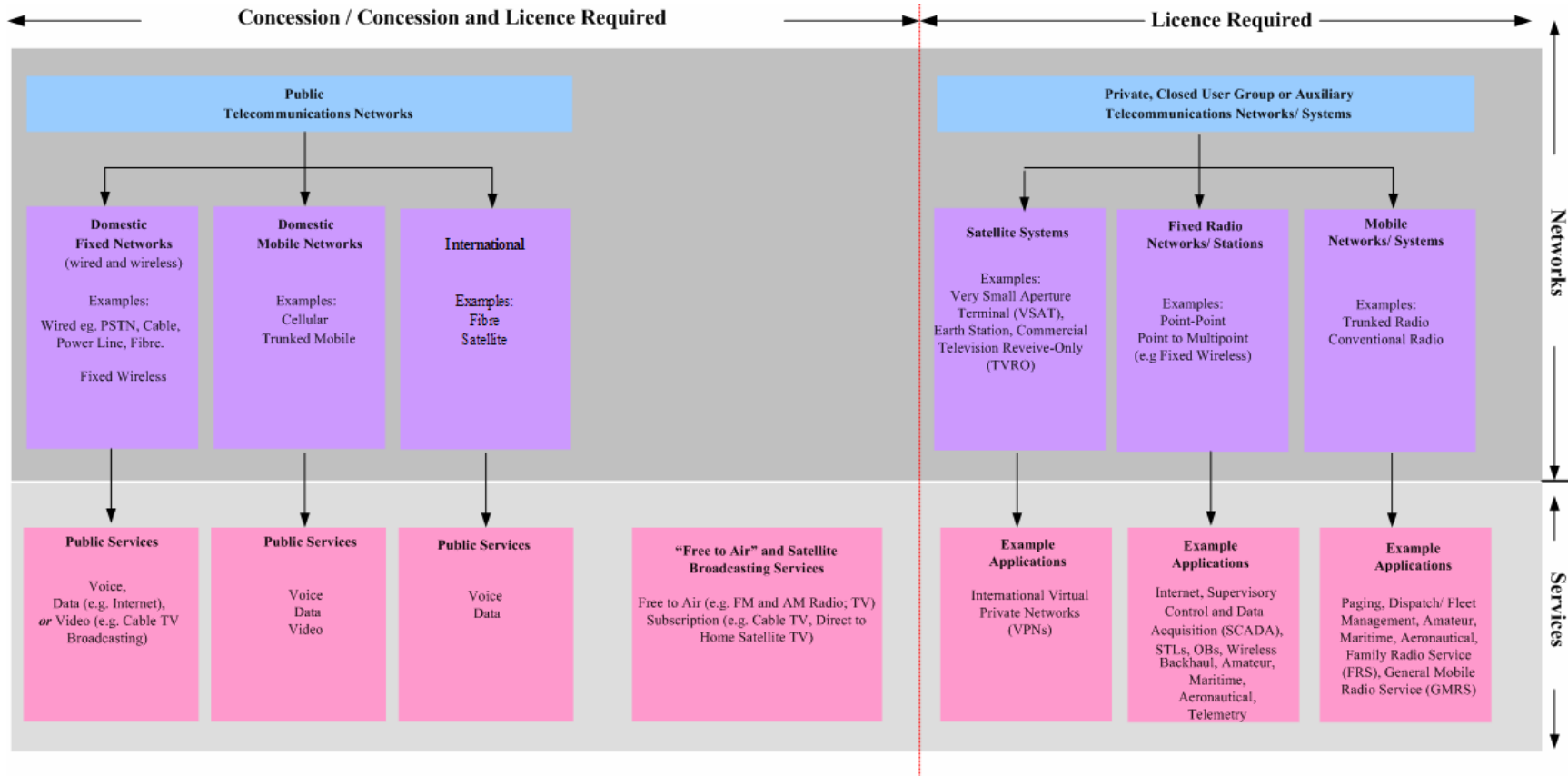


Figure 1

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. Similary 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.

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.

Type 5: Broadcasting Service Concession (service-based): Authorises a concessionaire to provide a broadcasting service without an authorization to

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

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 (e.g. 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 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.

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.

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. This entity purchases capacity from a network operator or may have an agreement with the network operator to access its billing and activation resources. This entity is considered as a virtual network operator as the services provided can be identical to those provided by the network operator. This reseller will require a Type 3 service-based concession.
- An entity that buys wholesale capacity from a network operator, and resells specific services to the end user (either the same services offered by the network operator, or differentiated services) without appearing to own a virtual network. Examples include:
 - (i) 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.

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, Type 5)	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>	May be used when there are a large number of applicants and licences

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. Sections 21(2) and 36(2) require that the Authority prescribe the manner in which applications are submitted.

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 determined by the Authority to be dominant in one or more markets for the provision of 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, 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 holder of a concession for the operation of a public telecommunications network, or provision of a public telecommunications or broadcasting service, under the Act. Accordingly, applicants will need to produce to the Authority sufficient proof of such use, in a form acceptable to the Authority. 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 the concessionaire in order to enable the Authority to give effect to the provisions of the Act, in particular sections 25 and 26. 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.

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. Such restrictions may include limits on the disposal of assets, or dealings with subsidiaries, in order to ensure that such power is not employed to limit, distort or adversely affect competition. Additional obligations may include additional elements of price regulation and more rigorous interconnection terms. 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 (Annex II), 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 (Annex III), 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 first draft of this document (dated June 14th 2005), and the decisions made by TATT as incorporated in this revised document (dated September 26th 2005).

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
General				
N/A	Regional regulatory or Governmental Agency (MPAI)	<p>a. Lacks consideration of a holistic conceptual model of the domestic telecommunications industry which to frame the prescriptions, particularly with definitions of the varying types of service provider.</p> <p>b. What would be the difference between the concessions issued to the different service providers, i.e. the variations in rights and obligations afforded to the class concessionaire as opposed to the individual concession of the service provider?</p>	<p>The "Report of Working Group appointed by Cabinet to prepare a National Policy on Telecommunications in Trinidad & Tobago", February 1998 provided a basic, yet holistic conceptual model of the telecommunications sector of the economy. While needing review, such a framework, appropriately adapted, can form a holistic guide to how services can be classified in the liberalised environment.</p> <p>In that conceptualization there are four levels of actors in the telecommunications sector:</p> <ul style="list-style-type: none"> • Level 1 Network Operators or facilities providers, • Level 2 Service Providers: transmission/termination service provider, • Level 3 Service Providers: content manipulation service provider and 	<p>The Authority's position is not to regulate value added service providers (content manipulation providers) at this time.</p> <p>The Authority believes that Level 1 is addressed by the network-based concession category and that Levels 2 and 4 are addressed by the service-based concession category. However, the Authority agrees with the view that the concession classification requires further sub-classifications for greater clarity. The document has been revised accordingly to include the following types of concessions: Type 1: Network Only Type 2: Network-Service (service</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

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			<ul style="list-style-type: none"> • Level 4 Service Providers: service access provider. <p>Therefore it would be possible to classify service providers and thus segment their associated rights and obligations according to parameters which are entirely technology and service neutral;</p> <ul style="list-style-type: none"> • Power of supply, • power to substitute, • reliability, • security and • lack of latency etc. <p>This will facilitate definition of rights and obligations, for example, the level of interconnection to be proffered.</p>	<p>neutral) Type 3: Virtual Network-Service (service neutral) Type 4: Telecommunications Services only (service specific) Type 5: Broadcasting Services (service specific)</p> <p>The document's previous reference to a class concession regime was not intended to infer that such a regime will be adopted at this time. Clarity is provided in the revised document.</p>
	Potential service and/ or facility providers and affiliates (Antilles Crossing)	Antilles Crossing believes that the draft policy paper is well-constructed, but hopes that further consideration of the issues contained therein does not further delay approval of our application. This landing licence application was filed in accordance with the Telecommunications Act, 2001 and with the expectation that the provisions of Part III Concessions, Paragraph 21 (5) which direct the TATT to make a recommendation to the Minister with ninety days of receipt and require the Minister to approve, modify or reject the TATT's recommendation within sixty days.		Noted.

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
		<p>Antilles Crossing believes that TATT has clearly identified in its documents the relevant issues and has drafted policies which will ensure that the Republic optimizes the return on its spectrum and provides a stable and transparent regulatory environment where facilities-based networks can make investments with the understanding that licence and frequency speculators will not influence the eventual industry structure (Section 7.5).</p>		
	<p>Existing service and/ or facility providers and affiliates (CCTT)</p>	<p>Trans-Cable fully supports the liberalization of the telecommunications sector in Trinidad and Tobago. Liberalization and the attendant competitiveness that results, is clearly in the public interest. It produces the widest range of telecommunications services and drives prices inexorably towards costs. The result is better and cheaper services for customers and more efficient providers of networks and services.</p> <p>Trans-Cable also supports the goals of the policy, as set out at page 7 of the Authorisation Policy. In particular, Trans-Cable supports the introduction of competition in a manner that takes into account the convergence of technologies, services and networks, a regulatory</p>		<p>Noted.</p>

¹¹ Authorisation Policy, page 7.

¹² Authorisation Policy, page 17.

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
		<p>environment that produces a “level playing field” for all regulated entities and regulation that is effective and supports the development of a competitive telecommunications market and that allows the benefits of a competitive market to be enjoyed by consumers. A key to the success in achieving these objects will be to encompass currently unlicensed providers of regulated services and network operators who do not hold valid concessions, so that all competitors do indeed share a level playing field.</p> <p>Perhaps most importantly in these early days, Trans-Cable supports the principle of “regulatory certainty in liberalising the market, so that new operators and investors have confidence in entering the market to expand the national telecommunications infrastructure”.¹¹</p> <p>Trans-Cable further supports the TATT’s approach that the Authorisation Policy should not be regarded as a static document but that it should be amended on a dynamic basis when warranted, assuming that stakeholders and other persons with material interests are consulted in an open manner and asked for their input in any such amendments.</p> <p>Trans-Cable agrees with the TATT’s approach to convergence and the encouragement of concessionaires</p>		

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
		to utilize all aspects of their networks. Accordingly, Trans-Cable fully supports the government's policy of "adopting, as far as practicable, a service- and technology-neutral approach to authorising telecommunications networks, and public telecommunications and broadcasting services". ¹²		
Section 1				
1.2 Policy objectives	Existing service and/ or facility providers and affiliates (TSTT)	TSTT believes that the objectives listed in this section are broadly appropriate. The policy should also include the need for all networks and service providers operating under concession in Trinidad & Tobago to operate within the numbering plan and applicable ITU rules and recommendations.	A new policy objective should be added in Section 1.2 as follows: "All networks and service providers operate within the numbering plan utilize only the numbering resources allocated by the numbering administrator in Trinidad & Tobago, including country code 374."	The Authority disagrees with this recommendation for this document. This is an obligation that belongs in the numbering regulations or the concession document. A more general objective however will be included that refers to adherence to international obligations.
1.3 Modification to document	Existing service and/ or facility providers and affiliates (TSTT)	TSTT agrees that it will be appropriate that the authorizations framework be capable of modification to adapt as the market changes over time. We believe that TATT should commit publicly that any modifications can only be made following full consultation and having taken account of the comments of interested parties.	TATT should modify the Policy to state explicitly that material modifications to the Policy will only be made following full consultation and having taken account of the comments of interested parties.	Noted. The relevant amendment has been made to Section 1.4 for clarity.
1.4 The Consultation Process	Existing service and/ or facility providers and affiliates (TSTT)	TSTT does not believe that 16 working days is a reasonable timeframe to complete a comprehensive review of this consultation document given that TATT also issued 7 other consultations for comment at the	TSTT suggests that TATT at the very least permit stakeholders the minimum period of 4 weeks set out in the "Procedures for Consultations in the Telecommunications	Noted.

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		same time.	Sector of Trinidad and Tobago" which would have given interested parties until 28th July to respond.	
Section 2				
2.2 Telecommunications and broadcasting networks and services in Trinidad & Tobago	Existing service and/ or facility providers and affiliates (TSTT)	This section includes an analysis of some of the different technology platforms on which competing networks and service providers may operate in competitive markets. TSTT notes that Figure 1 identifies particular technology platforms with particular services. We believe it to be important for TATT to recognize that technology platforms are becoming increasingly flexible and it is likely that services will converge across platforms in the next few years.	Section 2.2 should be modified to reflect that platforms may support a range of services. Licensing and concessions must be technology neutral and therefore services driven (not technology driven).	The diagram was simply used as an illustration in a discussion that leads to the statement in Section 3.3 which does not promote technology and service neutrality. However, greater clarity has been provided in the revised document.
Section 3				
3.3 Technology and service neutrality	Existing service and/ or facility providers and affiliates (TSTT)	As explained in our recommendation on 2.2, we agree with TATT's position that authorizations should be technology neutral. However, we seek clarity on what is meant by 'service neutral'. TSTT strongly believes that concessions should stipulate specifically which services can be provided – e.g. a concession may be granted that stipulates the provision of public international services, and this should not allow that concessionaire to provide domestic fixed or mobile services.	The policy statement in Section 3.3 should confirm the technology neutral approach of TATT but references to service neutrality should be removed. Concessions should stipulate which services can be provided.	Service neutrality means that a network operator has the flexibility to provide whatever telecommunications services it wishes to based on demand on his authorized network. For example a cable TV provider with a telecommunications network will have the flexibility to provide voice and Internet services on that network under a Type 2 DFTN concession. A Type 5 (broadcasting service) concession will also be required.

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				<p>For clarity: 'International', 'Fixed' and 'Mobile' are primarily network classifications, not service classifications. Therefore the service neutrality concept for an authorised network only extends to services that can be offered on that network.</p> <p>An additional section has been created in Section 4 to provide greater clarity.</p>
Section 4				
4.1	Existing service and/ or facility providers and affiliates (CCTT)	<p>In section 4 of the Authorisation Policy the TATT concludes that a single licensing regime for both telecommunications and broadcasting industries is premature at this point in the evolution of these sectors. Trans-Cable does not dispute this conclusion, provided that there is clarity as to which sector is which and what regulatory rules will apply in any specific context.</p> <p>By way of specific example, as the TATT is aware, CCTL has filed an application for a facilities-based cable television operation to serve Trinidad. The filing was made prior to the release of the Authorisation Policy and as such, did not use the terminology</p>	It is Trans-Cable's respectful submission that any concession for a DFTN should necessarily include all authorisations to provide any facilities and/or services under that concession; this would include all programming services normally associated with modern cable television services, e.g. free-to-air television and radio, non-broadcast television and radio ¹⁶ , pay television and pay-per-view television (all using the most appropriate transmission facility as selected by the provider and whether in digital or analogue format), a cable-originated 'community channel', Internet access/retail	<p>Wired and Wireless Cable TV providers will require a Type 1 or a Type 2 network-based concession to operate a Domestic Fixed Telecommunications Network. A Type 2 concession will include a service-neutral authorization to provide any telecommunications service if required. However, a separate authorization is required to provide broadcasting service (Type 5 concession).</p> <p>This has been clarified with the</p>

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		<p>subsequently adopted in the Authorisation Policy. Trans-Cable understands that there are a number of other applications for cable television authorisations that have been filed and that may be in the same situation as CCTL. It now appears that these applications (CCTL's in any event) are for what the Authorisation Policy refers to as a public telecommunications network and more specifically a "Domestic Fixed Telecommunications Networks (DFTN) including: PSTN, Cable, power line, fibre, fixed wireless, etc."¹³</p> <p>What is not clear from the Authorisation Policy is whether such concessions, if granted, would also include all requisite authorisation to provide full cable television services. The reason for this uncertainty is that the Authorisation Policy goes on to state that:</p> <p>"Entities that will require and be eligible for concessions to provide broadcasting services [which are different from DFTNs] include: Wired or wireless cable TV service providers".¹⁴</p> <p>If the reference to "cable TV service providers" is limited to those entities that use the networks of</p>	<p>service and telecommunications services. Accordingly, Trans-Cable specifically asks that the TATT clarify in the final Authorisation Policy that a DFTN concession does encompass the above services.</p>	<p>inclusion of a new section in Section 4 that deals with the applicability of service neutrality to the different types of concessions.</p>

¹³ Authorisation Policy, page 19.

¹⁴ Authorisation Policy, page 22.

¹⁵ Sometimes referred to as 'cable channels' or 'specialty channels'.

¹⁶ Sometimes referred to as 'cable channels' or 'specialty channels'.

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
		<p>cessionaires to provide cable service, essentially as non facilities-based resellers, Trans-Cable submits that the TATT could easily clarify this in the final Authorisation Policy that results from this consultation process. However, if this reference is indeed intended to capture entities such as CCTL and Trans-Cable, this would appear to be a case of complete overlap of concession granting that results in unnecessary confusion, potentially double charging of regulatory fees and a lack of the regulatory certainty that the Authorisation Policy seeks.</p> <p>Trans-Cable is now and CCTL is clearly seeking to operate a facilities-based cable television network, but it could conceivably be considered to fall within the phrase “wired cable TV service provider”. It is Trans-Cable’s respectful submission that any concession for a DFTN should necessarily include all authorisations to provide any facilities and/or services under that concession; this would include all programming services normally associated with modern cable television services, e.g. free-to-air television and radio, non-broadcast television and radio¹⁵, pay television and pay-per-view television (all using the most appropriate transmission facility as selected by the provider and whether in digital or analogue format), a cable-originated ‘community channel’, Internet access/retail service and telecommunications services. Accordingly,</p>		

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		Trans-Cable specifically asks that the TATT clarify in the final Authorisation Policy that a DFTN concession does encompass the above services.		
4.1	Regional regulatory or Governmental Agency (MPAI)	The policy statement item (2) is restrictive.	A definition of a network may be more appropriate. Item 4: "service-based "needs a definition	The Act's definition of 'telecommunications network' is applicable here, and therefore the statement has been re-worded to reflect this. It is the Authority's view that statement 4 of this section is clear in prescribing what requires a service-based concession. However, a definition of telecommunications service and broadcasting service is also included in the relevant sections of the revised document.
4.1 Classification of concessions	Existing service and/ or facility providers and affiliates (TSTT)	As explained in our comments on 3.3, TSTT believes that concessions should stipulate which services can be provided. For example, a concession to supply mobile services should not automatically confer authority to provide fixed (or any other) services. Section 4 in the draft policy does not explain clearly TATT's intentions, and the policy statement on page 19 is open to interpretation and therefore requires clarification. TSTT notes that draft concessions have not been provided for	TATT should provide clarity as to how concessions in each category will be granted, and the scope of all concessions. TATT should publish draft concessions and	For clarity: 'Fixed' and 'Mobile' are primarily network classifications, not service classifications. The revised document breaks the proposed framework down further into levels of concession to provide greater clarity as to which rights and obligations would apply to the various types of

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		comment. We believe significant transparency and clarity would be added to the process if the consultation on authorization policy is accompanied by consultation on draft format and text of concessions and licences.	licences for public comment as soon as possible.	concessionaires. The policy has also been refined to clarify the applicability of service neutrality to the various concessions. Section 4 deals primarily with the classifications of concessions. The Authorization process (manner in which these are to be granted) is dealt with in Section 5.
4.1.3	Potential service and/ or facility providers and affiliates (Illuminat)	The Policy makes it clear that a domestic carrier who interconnects with an international network for the purpose of handing over outgoing international calls from local subscriber does not require an international network concession, but it is not immediately clear whether or not an international carrier who delivers incoming calls to a domestic network requires a domestic network based concession.	Further clarification on this issue should be provided by the Authority.	Noted. The reverse is also true. The clarification has been made in the revised document.
4.1.3	Potential service and/ or facility providers and affiliates (Antilles Crossing)	Antilles Crossing strongly suggests that the definition of international facilities be expanded to specifically include fixed wireless spectrum and any domestic terrestrial facilities designed to improve the technical availability of the International Telecommunications Network (INTN). For example, Antilles Crossing is presently constructing a network from the Global Crossing landing station in St. Croix to St. Lucia and into Barbados. Antilles Crossing has purchased IRUs from Global Crossing north from St. Croix into teleports	Antilles Crossing believes that the INTN definition be expanded to include domestic terrestrial and wireless facilities which are utilized exclusively for interconnection of international fibre facilities to domestic networks or domestic service providers and for interconnection of one international network to another international network. (This clause would enable Antilles Crossing to connect to the Eastern Caribbean Fibre System or	Noted. The definition of International Network has been modified to clarify this concern. If a domestic provider accesses the facilities of an international network operator to pass its domestic traffic over the international network, the int. network operator does not need a domestic network concession. The relevant clarification has been made in the revised document.

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		<p>in Miami and New York City. Subject to receipt of a licence, it is our intention to extend the fibre from Barbados to Crown Point, Tobago and thence into Maracas Bay, Trinidad.</p> <p>It is our further intention to construct several wireless microwave paths from the Maracas Bay landing station to rooftop locations and towers in Port of Spain to provide connectivity to domestic networks and domestic service providers. These microwave links will be augmented by a terrestrial fibre extended approximately 17 km from Maracas to a carrier-neutral teleport in Port of Spain.</p> <p>Given that these facilities will solely be utilized to carry international traffic, Antilles Crossing believes that such facilities should not be classified as domestic facilities either on a “national network provider”, “major territorial network”, or “niche network” basis.</p> <p>Similarly, Antilles Crossing believes that any terrestrial facilities it may construct in Tobago to connect with domestic networks or domestic service providers should not be categorized as a “minor territorial network.”</p> <p>This physically distinct nature of Tobago from Trinidad also requires an amendment to the definition of an International Telecommunications Network. If, as</p>	<p>Americas 2 fibre system, and vice versa, thereby enhancing system reliability for all international carriers). This amendment would provide regulatory symmetry with the waiver given to domestic network-based concessionaires who connect with INTN facilities.</p> <p>Antilles Crossing requests that the INTN definition be refined to encompass inter island traffic between Trinidad and Tobago which is transmitted over facilities designed primarily for the carriage of traffic to international destinations.</p>	

Document Sub-Section	Submission Made By: Stakeholder Category¹⁰	Comments Received	Recommendations Made	TATT's Decisions
		<p>anticipated, Antilles Crossing carries telecommunications traffic for other licenced networks or service providers between points in Trinidad and points in Tobago, such traffic would present as domestic traffic. Accordingly, Antilles Crossing would have to secure a domestic fixed network licence; such licence carries a proposed annual administrative fee of \$2,361,900.</p> <p>Imposition of this fee over and above the annual international telecommunications administration fee of \$754,500 would result in the unintended result that Antilles Crossing would not carry traffic between Trinidad and Tobago, but only traffic from these islands to other international destinations.</p>		
4.1.4	Regional regulatory or Governmental Agency (MPAI)		A more appropriate policy statement would be "Any provider of broadcasting services shall be required, under its concession, to comply with any Broadcasting Code or similar programming obligations.	Noted. However the statement will be made as normal text.
4.2 Structure of Concession Document	Existing service and/ or facility providers and affiliates (TSTT)	TSTT comments on the proposed rights and obligations for concessions in our response to Section 7 of the draft Policy below. At this late stage in the liberalization process it would be much more helpful to see draft concessions and licences rather than simply a table listing the services that will be dealt with in different schedules. If TATT does not intend to publish draft	TATT should publish draft concessions and licences for public comment as soon as possible. Failing that, TATT should identify which of the conditions discussed in Section 7 of the draft policy would appear in which of the proposed concession sections in Table 2.	Noted. Table 2 has been modified to refer to the various types of network-based and service-based concessions (Types 1 to 5). Table 6 (now Table 4) has also been

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		format and text for concessions as suggested by TSTT, it would add some transparency for it to be made clear which of the conditions discussed in Section 7 of the draft policy would appear in which of the proposed concession sections in Table 2. As a general comment, there may need to be a separate section covering conditions that apply only to concession holders who are determined to be dominant in a particular market and to which particular conditions are therefore applied.		<p>modified to include this type classification, and refers to the various regulations that would stipulate specific rights and obligations to these different types of concessions. The concession document may not repeat these specific obligations.</p> <p>It is the Authority's intention to provide a draft of the relevant concession document to potential applicants as part of the application process.</p> <p>The Authority may also consider publishing the templates of concession and licence documents as annexes to this framework.</p>
4.2	Existing service and/ or facility providers and affiliates (CCTT)		Section 4.2 of the Authorisation Policy sets out the structure of a concession document. Trans-Cable supports the modular approach. However, Trans-Cable strongly encourages the TATT to make the implementation of this aspect of the Authorisation Policy prospective in nature and submits that it should not be applied to any applications currently before the TATT or awaiting Ministerial action on a TATT recommendation.	The modular structure of concession will be applicable to all concessions granted by the Minister in the new regime. Concessionaires will be granted concessions as applicable to their application.
4.3 Classification	Existing service and/ or facility	The authorizations framework will need to contain	Licences should include clauses to (1) reinforce	The Authority will include appropriate

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of licences	providers and affiliates (TSTT)	safeguards to ensure that concessions holders or licensees are not able to provide unauthorized services. For example, VSAT stations have been used in some jurisdictions to bypass the international licensing system.	TATT's powers to take enforcement action against licensees who provide unauthorized services, and (2) enable other concession holders or licensees to withdraw or withhold services (e.g. interconnection services) to such licensees.	provisions in licences, concessions or the relevant enforcement regulations to enforce the relevant provisions of the Act. However, concessionaires will require the relevant authorization before withdrawing or impairing services to other concessionaires. Such an authorization will be given on the basis of suitable evidence provided by the concessionaire or persons authorised by the Authority.
4.3	Potential service and/ or facility providers and affiliates (Antilles Crossing)	The Spectrum Management Policy categories should be expanded to reflect the fact that potential station licensees may want to utilize spectrum for emergency restoration on a short-term (less than 30 days) basis. For example, Antilles Crossing will likely want to utilize a high-capacity microwave between Trinidad and Tobago cable landing stations in that one year in fourteen probability that there will be a cable break.	Antilles Crossing requests that a Temporary or Restoration Licence category be created on an unprotected frequency basis to enable operators to improve system reliability without imposing undue spectrum cost or administrative burdens.	If a backup link is required for emergency purposes then the relevant station licence will be required. A temporary licence will be catered for by the special events licence. However, the Authority does not recommend that a special event licence be acquired for a station that is needed for emergency purposes.
4.4	Existing service and/ or facility providers and affiliates (TSTT)	As with the concession documentation, TSTT believes it would assist transparency for TATT to publish draft format and text of licences for consultation.	TATT should publish draft concessions and licences for public comment as soon as possible.	It is the Authority's intention to provide a draft of the concession document for stakeholder consultation.

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				The Authority may also consider publishing templates of concession and licence documents as annexes to this framework.
4.5 Geographic and coverage considerations	Existing service and/ or facility providers and affiliates (TSTT)	<p>TSTT notes the proposal for further classification of concessions and licences by geographic coverage. As a general point, TSTT submits that this proposal can only be fully understood if developed together with the Universality policy. Without details on the Universality Policy it is difficult to understand the policy statements in this section. If a system of “pay or play” is being proposed to deal with coverage for underserved communities then this needs to be set out in detail in the Universality Policy rather than being referred to in passing in the Authorizations Policy. The framework for the industry to provide full national coverage in a competitively neutral way needs to be transparent and understood by all market participants as the decision to build or contribute to the network costs of others in high cost areas will be conditioned by this.</p> <p>Further, there are some very important considerations which should be applied to this system. For example:</p> <ul style="list-style-type: none"> • Any reduction in USO funding obligations (as implied on page 30) should not result simply from the granting of a national concession, but from real 	<p>TATT should publish and consult on the Universality policy as soon as possible.</p> <p>TATT must ensure that the USO framework provides for competitively neutral funding of the costs of universal service (i.e. only those costs which are accrued directly from the universal service obligation).</p>	Noted. The comments will be taken into account in the formulation of a Universality Policy.

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		<p>investment by the concession holder in infrastructure and services to provide national coverage. To be eligible for support under the USO funding framework, this investment must demonstrably be a cost of universal service (in other words, it must be an investment which the concession holder would not have made in the normal course of its business, but be the direct result of national network roll out or universal service obligations).</p> <ul style="list-style-type: none"> • There must be a robust system for contributions to the costs of universal service by all concession holders and licensees to ensure that a competitive level playing field is maintained. 		
4.5	Regional regulatory or Governmental Agency (MPAI)	<p>1) TATT does away with the concept of the 'community' licence, or market area, which currently used in the broadcast sector. Instead, there is the introduction of a 'niche' classification which is geared for general telecommunications service provision. From the policy position it seems clear that the niche concept comes as a precursor or as a basis for the pending Universal Service Programme. While creditable in itself, the question arises why the 'community' licence/ market area is being eliminated?</p> <p>2) Regarding the policy statement under items 1, 2 and 3 on geographic service areas, which suggests 100% geographic area and/ or population. Reference to</p>	Another strategy would be to make it clear that the policy/ DAI defined telecommunications niche classification is independent from the market defined proposal for a community (broadcasting only) concern.	<p>A niche network/ service provider is one that provides its services to only under-served communities, or other specific groups of subscribers identified by the Authority...</p> <p>It is the intention that the latter part of the definition will also encapsulate market defined proposals (for broadcasting and telecommunications) where the Authority deems it appropriate. However, the statement has been modified to provide greater clarity.</p>

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		<p>geographic coverage appears inappropriate and so does the 100% requirement. Is this practical?</p> <p>3) Item 5 seems to refer to USO policies and not that the Authority shall prescribe the roll out of service and item 6 does not cater for any other prescription other than that noted by the Authority.</p>	<p>Why not a minimum of 95%?</p>	<p>The 100% geographical coverage is a right as opposed to an obligation and the definitions have been modified to reflect this. The roll-out and service obligations will vary per concessionaire depending on the network/ service classification.</p> <p>Item 5 does refer to roll out obligations.</p>
4.5	Potential service and/ or facility providers and affiliates (Antilles Crossing)		Table 4 on Page 31 should be amended to reflect Antilles Crossing's comments on section 4.1.3.	The geographical classifications will not apply to international networks. (Also see response to Antilles Crossing's comment on 4.1.3).
4.5	Existing service and/ or facility providers and affiliates (CCTT)	<p>Trans-Cable generally supports the approach in the Authorisation Policy regarding geographic service areas. The Authorisation Policy states that:</p> <p>“The Authority shall prescribe the roll out/ service area obligations of 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</p>	Trans-Cable submits that an appropriate balance might be to enact regulations that would establish the fundamental roll out principles to be applied to all similarly situated concessionaries and to provide additional specificity in individual concessions. Another alternative would be not to use regulations but to set out all relevant roll out obligations in detail in each concession. If either of these two approaches were to be adopted, it would be	It is TATT's intention to not enact separate regulations on roll out/ service obligations but that these would be specific to each concession granted where it applies. See statement 5 of this section. The roll –out obligation will be consistent with the commitments made in the application.

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		<p>roll out/ service area obligations, which will be set out in the concession.”¹⁷</p> <p>It is unclear from the foregoing if the intention is to “prescribe” these obligations by way of formal regulation enacted by the Minister on the recommendation of the TATT or whether the intention is to incorporate them into specific concession terms and conditions.</p> <p>Trans-Cable submits that it may be difficult to enact regulations that would be appropriate for all concessionaires, but acknowledges that such obligations should be imposed in a non-discriminatory manner, which may also be difficult to accomplish in individual concessions.</p>	<p>advisable for an applicant for a concession to propose roll out terms and conditions that were acceptable to it and for the TATT to provide interested parties with an opportunity to comment on such proposals, principally to ensure that no competitive advantage is inadvertently granted to one applicant over another.</p> <p>Regardless of the approach adopted by the TATT, Trans-Cable submits that it should not be necessary to require performance bonds or other similar form of security for performance of roll out obligations. These financial requirements will impose an additional expense upon the concessionaire that serves no public interest but that may impact its ability to raise capital for its operations. It should be sufficient for the TATT to conclude sufficiently specific terms and conditions relating to roll out obligations in the actual concession document, that failure to adhere to them would constitute a breach of condition, thus giving the TATT full authority to consider suspension, revocation or other regulatory sanction against the</p>	<p>TATT is of the view that in addition to including the roll out obligations within the concession document, a performance bond will also be required due to the insufficient penalties in the Act for breaches, and the current inefficiency of the court process to adequately deal with any regulatory sanction imposed by TATT.</p>

¹⁷ Authorisation Policy, page 31.

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			concessionaire.	
Section 5				
5. The authorization process	Existing service and/ or facility providers and affiliates (TSTT)	<p>TSTT would welcome greater clarity on the factors which will be considered in the granting of concessions and licences. Following the naming of the companies other than TSTT who will hold authorizations in the mobile sector (Digicel, Laqtel), we believe that the Government and TATT should provide clearer signals of its intentions for liberalization of other sectors. We would also note that it is somewhat unusual for an Authorization Policy to be published for consultation <i>after</i> an authorization process has been completed. The policy statements on p38 indicate that TATT will adopt a competitive selection process, but the recent use of an auction process for the award of mobile concessions, rather suggests that TATT has already adopted a method, despite the fact the consultation is ongoing.</p> <p>TSTT firmly believes that liberalization across all sectors of the telecommunications industry will deliver benefits to consumers in Trinidad & Tobago, and to the economy. To optimise these benefits though, the process for liberalization and creation of a regulatory framework must consider all the possible consequences of policy options before deciding on the best course. For example, no economy in the world can sustain</p>	TATT should undertake an exercise to ensure that an efficient investment climate is created – to facilitate competitive investment but without over-supply. They should consult stakeholders on this.	Government has an existing policy on the liberalization of the telecommunications sector and this framework is simply an expression or expansion of that policy.

¹⁸ The experience of RFA providers in the UK market following liberalization in the 1990s is an example of this.

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		unlimited competition in telecommunications networks, and many have fallen into the trap of over-licensing leading to inefficient wasted investment and consequent stranding of assets. ¹⁸ As part of its mandate to create a regulatory framework for a competitive sector, we believe TATT should engage in detailed consultation and discussion with stakeholders to ensure that an efficient investment environment is created for liberalization.		
5.1	Regional regulatory or Governmental Agency (MPAI)	The policy statements on methods of authorization do not have any reference to the treatment of unsuccessful applicants, including reasons for failure to received authorization.		Noted. The Authority will put in place fair and transparent procedures for dealing with unsuccessful applicants in any authorization process. The statement has been revised accordingly.
5.1 Methods of authorization	Existing service and/ or facility providers and affiliates (TSTT)	TSTT notes the discussion in table 5 of the pros and cons of different methods to select authorizations holders. We believe it is important that a method is chosen to ensure that the winning candidates are those which will deliver the most benefit to Trinidad & Tobago. For example, TATT should ensure that all concession holders and licensees are committed to long-term investment in Trinidad & Tobago. ¹⁹ Also, we note that different selection methods will be used where there will be a limited number of providers and where there	TATT should clarify as soon as possible which selection method will apply to each type of concession licence.	The Authority disagrees with the recommendation made. The statements in section 5.1 make it clear as to what type of selection method would apply. It is not practical to determine in this document exactly which type of selection method would be applicable for each concession/ licence category, since the conditions for a competitive or non-competitive

¹⁹ Recent experience in the mobile sector elsewhere in the Caribbean shows the disruptive effects which can result from the quick entry to and exit from markets of short term investors.

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		will not. TSTT does not disagree with this approach, but we think TATT must make it clearer which types of authorizations fall into which category. We note and support TATT's commitment (in its policy statement on methods of authorization) to transparency in evaluation methods and weighting of criteria, and encourage TATT to develop this as soon as possible.		process may vary for any classification from time to time.
5.1	Existing service and/ or facility providers and affiliates (CCTT)	With respect to the methods of authorisation discussed at section 5.1 of the Authorisation Policy, Trans-Cable supports the notion of a competitive selection process and is particularly supportive of the conclusion that the TATT will develop: "the applicable 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." ²⁰		Noted.
5.1.1	Regional regulatory or Governmental Agency (MPAI)		The associated policy could include similar provisions under 5.1., particularly items 3.	See response to MPAI's comment on 5.1
5.1.1 Review and modification of award methods	Existing service and/ or facility providers and affiliates (TSTT)	TSTT recognizes that it may be appropriate to adapt the methods for selection of authorizations holders as the market changes. Any such adaptations must be made following a transparent consultation on proposals and taking account of the views of interested parties.	TATT should commit to full consultation before any changes to the methods for selection of authorizations holders.	What may change based on market demand is the scarcity/non-scarcity of the resource. This statement is intended to mean that an award method for a particular class will change on that basis.

²⁰ Authorisation Policy, page 37.

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				However the Authority will notify the industry where there are changes to award methods for concession/ licence categories. Clarity in statement provided.
5.1.2 Renewals and treatment of existing network operators and service providers	Existing service and/ or facility providers and affiliates (TSTT)	<p>TSTT seeks clarification on the considerations which will apply to renewal of concessions. TATT has stated that the same criteria will be considered in assessment of an application for renewal as in a new application. This does not seem consistent with the requirements of Section 31 of the Act which clearly establishes the considerations which must be applied to first renewal applications for concessions.</p> <p>TSTT also seeks clarification on TATT's position on application criteria for concessions for existing operators because the evaluation criteria set on p40 are over and above those set out for new operators and are not supported by the Act and indeed would mean that existing operators were being assessed using different criteria than that employed for new entrants which would amount to discrimination contrary to section 18(5) of the Act.</p>	TATT should clarify how it will consider applications to renew concessions and separately confirm that the criteria for new concessions under the Act will be the same for all applicants.	<p>The document has been amended to be consistent with Section 31 of the Act on the first renewal of concessions.</p> <p>The Authority has amended the document to include more appropriate criteria for both new and existing operators. The Authority believes that it should be fair in the evaluation process. It would be unfair to have exactly the same criteria for both new and existing operators. There should be specific criteria for existing operators to ensure that their existing interests and investments are protected, and similarly specific criteria for new entrants, since they are new and unknown entities and the Authority needs to be certain that they are appropriately qualified to enter the market.</p>
5.2 The	Existing service and/ or facility	To facilitate a transparent and smooth liberalization,	TATT should develop and publish the	The Authority will publish its

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application process for concessions and licences	providers and affiliates (TSTT)	<p>prospective market entrants need to understand the processes and TATT should develop and publish the application procedure as soon as possible. TSTT would have expected that rather than delaying discussion of these important issues to another round of consultation, that this Policy document would have been the appropriate place to discuss these issues in detail given the urgent timeframes for liberalization.</p> <p>In particular, TSTT should specify which authorizations will be subject to the 'first come first served' method, and which will require invitation from TATT.</p>	application procedure as soon as possible.	procedures.
5.4	Regional regulatory or Governmental Agency (MPAI)		The associate policy provision could require simply that an approval for registration of the equipment.	It is the intention that all equipment that fall under the class licence classification will be type approved. This form of licensing may not require a registration of such equipment. See Spectrum Management Policy and Regulations.
Section 6				
6 Equipment certification and standardization	Existing service and/or facility providers and affiliates (TSTT)	TSTT notes TATT's intention to develop and publish testing and certification standards and procedures. As with other areas of the regulatory framework, TSTT would like to emphasize the importance of full transparency in this process and encourages TATT to develop its plans for testing and certification as soon as possible in consultation with all interested parties.	TATT should develop its plans for testing and certification as soon as possible in consultation with all interested parties.	This exercise has already commenced internally and will be consulted upon in due course.

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		Testing and certification should be based on international standards and should not be overly burdensome on carriers.		
Section 7				
7	Existing service and/ or facility providers and affiliates (CCTT)	Table 6 of the Authorisation Policy outlines additional rights and obligations of concessionaires that are not addressed in the policy, but which the TATT has indicated are the subject of regulations or management plans that are under development. Trans-Cable reserves comment on these additional obligations until they are posted by the TATT for public comment.		Noted.
7 Terms and conditions	Existing service and/ or facility providers and affiliates (TSTT)	As noted in our comments on Section 4.2 above, greater transparency is needed on licence format, structure, and terms and conditions. The way to achieve this is for TATT to publish full drafts of concessions and licences for consultation. Authorizations and the conditions they contain will be the absolute cornerstone of the regulatory framework and so the importance of transparency cannot be understated. Without a description of the rights and obligations that will be contained in the concessions (other than a general description in Table 6 of the issues to be covered), it is not possible to comment in detail on the rights and obligations.	TATT should publish draft concessions and licences for public comment as a matter of urgency.	It is the Authority's intention to provide the draft concession document stakeholders for consultation The Authority will also publish templates of concession and licence documents as annexes to this framework, or on its website.
7.1	Existing service and/ or facility providers and affiliates	Trans-Cable has provided its comments with respect to applicable fees in a separate document and will not		Noted.

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	(CCTT)	repeat its views in this submission.		
7.1 Fees for concessions and licences	Existing service and/ or facility providers and affiliates (TSTT)	TSTT provides detailed comments on TATT proposals in its response to the separate consultative document on fees structure.		Noted.
7.1	Potential service and/ or facility providers and affiliates (Antilles Crossing)	Antilles Crossing believes that the definition of free cash flow should be simplified so that it is subject to specific audit and not subject to any subjective industry “average cost” or “network component costs” provisions or arbitrary estimated cost of capital. For example, those concessionaires who are operationally efficient are penalized. Conversely, those concessionaires who employ little debt within their balance sheet structures are penalized. (These comments will be expanded upon within our specific response to the “Draft Fee Structure).		Noted.
7.1.1	Potential service and/ or facility providers and affiliates (Digicel)	Digicel believes that concession fees should cover the costs of administration of concessionaires. Any amount charged above this amounts to double taxation as all concessionaires will already be subject to corporation tax. We see no case for any tax on free cash flow based on the award of a concession.	Concession fees should only cover the cost of administering concessionaires.	Noted. The Authority has revised it’s fee methodology such that concession fees will only cover the administrative and operational costs of the Authority. This section of the document has been revised accordingly.
7.2	Potential service and/ or facility providers and affiliates (Antilles Crossing)	In the case of an INTN, the concession should be granted to a 20-year term in accordance with normal equipment lifespan	Antilles Crossing strongly concurs with the policy statements enunciated within this section but believes that to ensure transparency and optimize spectrum utilization, the Policy should	Noted. This concern has been addressed within the ‘use or lose’ provision. It is impractical to indicate specific use or lose periods since this may vary

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			be refined to include specific time limits for network concessionaires to complete physical construction of their networks or face revocation of the concession.	depending on specific obligations (eg. roll out) per concessionaire.
7.2 Periods for concessions and licences	Existing service and/ or facility providers and affiliates (TSTT)	<p>TSTT agrees that the framework must provide concession holders and licensees with sufficient time to recover investments. The periods suggested in table 7 seem broadly appropriate but we would stress that longer periods are needed for recovery of capital-intensive network investment. We would also assume that where network concessions are granted, for example mobile concessions, that the service concession and spectrum authorization terms would mirror the network term.</p> <p>TSTT also agrees with the 'use or lose it' principle to be applied to authorizations. However, the time periods within which networks and services should be launched within these rules must be reasonable taking account of appropriate schedules for network build and lead times for service launch, but without giving any authorization holder the opportunity to inefficiently withhold a scarce resource from the market.</p> <p>To provide transparent conditions in which to make investment decisions, TATT must develop the framework for licence periods and 'use or lose it' in</p>	TATT should publish and consult on licence periods and detailed application of the 'use or lose it' principle as soon as possible.	<p>A network-based concession may also include authorizations for the services offered on that network, and therefore the concession term would apply to both the network and associated service authorizations.</p> <p>Noted.</p> <p>The Authority will provide clearer guidelines in the revised document as to</p>

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		detail and in full consultation with stakeholders.		the criteria that would be considered in determination of licence/ concession terms and the use or lose periods.
7.2	Existing service and/ or facility providers and affiliates (CCTT)	<p>Section 7.2 of the Authorisation Policy addresses the question of the period of concessions and the concept of “use it or lose it”.</p> <p>With respect to the proposed period, the Authorisation Policy suggests 10 to 20 years for a network based concession “depending on network and market characteristics”. Trans-Cable respectfully submits that the TATT should provide somewhat greater clarity as to how this range will be calculated, given its material impact on the ability to recover an investment and the prices that will be charged.</p> <p>As for the use it or lose it approach, Trans-Cable fully supports this especially in a competitive concession situation and/or where limited resources (e.g. spectrum) are concerned. Refusing to implement a concession as promised can in fact constitute an anti-competitive act that harms both competitors and customers and unnecessarily increases the cost of regulation.</p>	The main suggestion that Trans-Cable would propose for the TATT’s consideration is a more complete description of what constitutes implementing a concession to an acceptable degree. This can take the form of a requirement to achieve some minimum amount of roll out within a specified time period, the expenditure of a predetermined amount of capital on requisite assets or other measurable goal. Again, this should be applied in a non-discriminatory manner to competing concessionaires.	Noted. This will be addressed. The Authority will provide clearer guidelines as to the criteria that would be considered in determination of licence/ concession terms.
7.3 Renewals	Existing service and/ or facility providers and affiliates (TSTT)	TSTT agrees the principle that there should be a minimum period prior to expiry of authorizations by which application for renewal must be made. Much	TATT should publish and consult on detailed process and timing for renewal applications.	The Authority notes the comment made by TSTT and has proposed in the revised document that a reasonable

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		<p>more detail is needed on how this will work, and the periods that will apply. We suggest that the period will need to be longer for network authorizations than service authorizations. The period will need to take account of the possibility that the application will be rejected, and provide sufficient time for orderly withdrawal from the market. In the case of networks, this may require an opportunity to recover capital-intensive investments (which can take time). As a starting point for debate, TSTT proposes that the minimum period for application for renewal of national network authorizations be set at 5 years (provided that assessment and decision is completed quickly thereafter).</p>		<p>renewal period be 1/3 of the concession term, but no less than 6 months, prior to the expiry of the concession. The Authority invites comments and recommendations in respect of this proposal during the consultation period for this document.</p>
7.4	Existing service and/ or facility providers and affiliates (CCTT)	<p>In section 7.4, the TATT states that:</p> <p>“At this time, the Authority will require amendments to network-based concessions for domestic fixed network operators and all service-based concessions, where the concessionaire wishes to provide additional telecommunications or broadcasting services that are otherwise permitted by the Authority.”</p> <p>Trans-Cable assumes that this requirement for an amendment by a DFTN concessionaire does not extend to a requirement to apply to provide service that is already encompassed within that authority but which may not have been the focus of the initial application for</p>		<p>The heading of the section has also been revised to “Additional Authorisations and Surrender of Existing Authorisations”, since amendments can only be dealt with in a manner consistent with the Act.</p> <p>A Type 2 and Type 3 network based concession will also provide authorization for telecommunications services that can be offered on the authorised network. However, the Authority will at least require to be</p>

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		<p>the concession. For example, CCTL has applied for a DFTN concession, with the intention of providing a full cable television service, including Internet access, which may involve using coaxial and/or fibre cables. Trans-Cable submits that there would be no public good achieved if CCTL had to apply for an amendment to any concession that was granted to it if it subsequently decided to subsequently replace coaxial with more fibre or utilize a new technology in its build out (a new service). This would appear to run counter to the TATT's goal of technology neutrality and service neutrality and would obviously slow down the introduction of those improvements or services and add to their cost.</p>		<p>notified if an additional service than what was indicated in the concession application is to be provided on the authorised network.</p> <p>The document has been amended to require an additional authorization for Type 4 and Type 5 service-based (service-specific) concessionaires.</p> <p>An amendment to a network-based concession will not be required if the company were to replace existing coaxial cable with fibre in its hybrid network.</p>
7.4 Amendments	Existing service and/ or facility providers and affiliates (TSTT)	<p>TATT will need to ensure that the requirements for amendments to authorizations are tightly defined. For example, the draft Policy suggests that amendments to licences will usually be required for 'changes in equipment'. This requirement should obviously exclude routine maintenance and upgrade of networks. Furthermore, this should only be applicable to station licences, as in the case of spectrum licences, the party would be free to use any technology they wish, hence allowing the change of equipment. Once again, much greater clarity of TATT's proposals is needed.</p> <p>TSTT also does not understand why domestic mobile</p>	<p>TATT should publish and consult on detailed process and timing for amendments to concessions and licences.</p> <p>TSTT also recommends that concessionaires should only be allowed to provide the services stipulated in their concessions.</p>	<p>This section will be revised to provide greater clarity. The heading of the section has also been revised to "Additional Authorisations and Surrender of Existing Authorisations", since amendments can only be dealt with in a manner consistent with the Act.</p> <p>For clarity: 'International', 'Fixed' and 'Mobile' are primarily network classifications. See clarification on</p>

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		and international network operators would be allowed to provide any service on their authorized network. Would a domestic mobile or international operator be entitled to fixed numbers for their subscribers? Would an international network operator be allowed to provide domestic services, including mobile services? If so, then a fixed operator with wireless access spectrum should also be allowed to provide mobile services. TSTT believes clarification is needed pertaining to this policy provision.		service neutrality as it applies to concession classifications in section 4 of revised document.
7.5	Existing service and/ or facility providers and affiliates (CCTT)	<p>The policy statement with respect to transfers of control in section 7.5, includes the statement that the prior approval of the TATT will be required, among other things, where there is “any other form of agreement with a third party under which the third party would obtain any rights or privileges under the concession/ licence”.</p> <p>Trans-Cable respectfully submits that this is far too broad a requirement that serves no apparent public interest. It would appear to extend to any agreement between a concessionaire and service provider to extend services beyond what the concessionaire might be able to do on its own. It would also capture even ordinary service agreements under which customers are entitled to obtain service from the concessionaire.</p>	<p>Trans-Cable submits that the public interest requires only that TATT approval be required where there is an actual proposed transfer of control of the concessionaire or the concession itself.</p> <p>Trans-Cable also respectfully submits that exceptions may be required and appropriate with regard to public companies that hold concessions (and including proposals by concessionaires to proceed with initial public offerings), as such ownership structure can not only support strong business operations but also promote broader local investment and ownership, all of which is in the public interest.</p>	<p>The statement has been revised to make it clear that permission would be required from TATT where the transfer involves transfer of rights that would otherwise require the grant of a concession.</p> <p>The framework does not prohibit such, but just states that consent will be required.</p>
7.5 Trading of	Existing service and/ or facility	TSTT supports TATT's intention to require that all	TATT should publish further detail of its	

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concessions and licences, change of control, disposal of assets	providers and affiliates (TSTT)	<p>transfers of authorizations be subject to approval. However, existing and prospective market participants need a much clearer understanding of the rules around transfer (including trading) of authorizations. Specifically, TSTT requests explanation of point 2 in the policy statement on transfers. The meaning of this clause is not clear to us and could materially impact the business of any authorization holder determined to be dominant in any market. TSTT also seeks clarification as to why the Authority proposes that concessions and licences shall not be traded within the 'use or lose' period, regardless of whether the concession is being used or not.</p> <p>As a general point, TSTT believes it to be imperative for the Government and TATT to have visibility and powers of approval for any transfer of an authorization. The telecommunications and broadcasting sectors are vital to the economy. Therefore, Government and Regulator must have the ability to prevent national assets falling into undesirable hands. There may also be competition concerns in any transfer of assets or authorizations (e.g. where a concentration in market power is involved), and Government and regulator have a legitimate role to ensure that the public interest is not harmed in any transfer.</p> <p>Notwithstanding this, a concessionaire may have valid</p>	<p>proposals, including clarification of point 2 in its policy statement on transfers.</p> <p>TSTT recommends that the whereby the Authority's concerns as it relates to access to services can be addressed, the Authority should not unreasonably withhold its approval for the transfer or disposal of components of a concessionaire's networks and services, once it can be reasonably demonstrated that access to services will not be adversely affected.</p>	<p>The Authority may tend to agree with this recommendation. The provision to not unreasonably withhold such authorization is in the concession document. The document has been amended accordingly.</p>

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		reasons for transferring or disposing components of its networks/services in order to improve the efficiency of its operations, such as outsourcing call center operations. Therefore, the Authority's approval should not be unreasonably withheld, particularly where it can be demonstrated that the provision of access to services will not be adversely affected.		
7.6	Regional regulatory or Governmental Agency (MPAI)	This is an exceptional well thought out section, which should be repeated in any of the spectrum management policy, regulations. Unfortunately it is included in none.	This should be remedied.	Noted. TATT will include a statement that addresses this issue in its revised Spectrum Management Policy. This issue has also been addressed in the Access to Facilities Regulations.
7.6 Transmitter sites	Existing service and/ or facility providers and affiliates (TSTT)	<p>TSTT has commented on this issue in its response to the Interconnection and Access Policy and we question whether given the current activities of another operator, this policy will be enforced.</p> <p>However, the provisions related to concessionaires only using structures that are owned and controlled by a concessionaire are not necessarily economically efficient. Independent infrastructure providers foster better and more efficient construction and maintenance of tower facilities, which tends to prove ultimately beneficial to the wider society as a whole.</p> <p>TSTT believes that once the Authority can be assured that non-discriminatory terms are being offered to co-sited concessionaires, subject to reasonable adjustments</p>	TSTT recommends that this issue be considered in consultation with the industry to hopefully devise a feasible means by which infrastructure providers, which are not necessarily concessionaires, can provide tower facilities to facilitate network rollout.	The Authority has consulted separately with the relevant stakeholders on this particular issue, and the relevant amendments will be made in this document accordingly.

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		due to height and space requirements, the Authority should not have any reason for denying access to use such facilities. However, the requirement for concessionaires to control the tower owner is unreasonable.		
7.8	Existing service and/ or facility providers and affiliates (CCTT)	Section 7.8 of the Authorisation Policy addresses the question of dominant providers. Trans-Cable notes that the TATT has undertaken to publish a Competition Policy that will consider this matter further; Trans-Cable will make its comments on this issue at that time.		Noted.
7.8 Dominant providers	Existing service and/ or facility providers and affiliates (TSTT)	Much more detail is required on TATT's proposals for identification and regulation of dominant providers. A comprehensive dominance framework requires clear guidance on how relevant economic markets will be identified, as well as how economic strength within such markets will be measured. The authorizations framework needs also to clearly identify how the behaviour of dominant players will be regulated, and how relevant conditions in concessions/licences will work. TSTT has a concern though that some conditions proposed to be imposed on dominant concessionaires solely, should be imposed on all concessionaires, particularly as it pertains to the provisions of the Act. For example, the Act specifies requirements of all concessionaires, which cannot be imposed only on dominant concessionaires.	TATT should publish its Competition Policy in draft for consultation.	Noted. This exercise has already commenced internally. The policy will be consulted upon in due course.

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		TSTT therefore looks forward to publication of a Competition Policy by TATT. All interested parties must have an opportunity to comment on the Competition Policy in draft before it is finalized.		

ANNEX II: Draft Modular Concession

ANNEX III: Draft Modular Licence

