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Draft Telecommunications (Accounting Separation) Regulations

Maintenance History		
Date	Change Details	Version
December 6, 2006	First Draft (Incorporated within the Telecommunications Regulations (Pricing)	0.1
June 27, 2008	Second Draft	0.2

Introduction

1.1 Objectives of Accounting Separation

The objective of accounting separation is to provide separate financial statements for each business entity as if it were a stand-alone business. Separating the segments will enable the Authority to ascertain whether there are anti-competitive cross-subsidies among services provided by a concessionaire, or whether a concessionaire is engaging in any form of anti-competitive pricing. Accounting separation will also be used to assist in ensuring that charges for telecommunications services are cost-based, transparent and non-discriminatory.

Accounting separation requires the preparation of separate accounts for each of the different businesses operated by the same concessionaire, by identifying and allocating the costs and revenues associated with each business as well as the dealings between them.

The Authority is aware that a number of telecommunications regulators require that business operations be structurally divided into separate business units (retail and wholesale business, and/or fixed and mobile) so that charges between the two segments may be explicitly observed. The Authority may consider structural separation in the future, if it is determined that this is required to ensure fair competition. While structural separation is not required at this time, concessionaires will be required to keep separate accounts as defined by the Authority.

The Authority is equally aware that some regulators are looking at alternative models of operational separation, in which the access network is separated from the core network so

that equivalent access services can be offered to all competing network and service providers. This model may become important in the future as well, particularly with the moves towards next generation IP networks and the convergence of services (e.g. between fixed and mobile, and between telecoms and broadcasting). For these reasons the Authority may consider operational separation in the future, but it is not a requirement at this time.

1.2 Requirement for Accounting Separation

Section 24(1) of the Telecommunications Act 2001, the “Act” states that

“...a concession for a public telecommunications network or a public telecommunications service shall require the concessionaire to adhere, where applicable, to conditions requiring the concessionaire to...

(h) account for cost and keep such books of accounts and where the Authority prescribes by regulation the manner in which books are to be kept, to keep such books of accounts in accordance with such regulations”.

In adhering to the Act, section A32 of the concession document stipulates that when directed in writing, the concessionaire shall implement such accounting practices as may from time to time be required by the Authority in accordance with Regulations made under the Act. This statement gives the Authority the option of prescribing, if necessary, regulations for the maintenance of the books of accounts of concessionaires.

These draft regulations would, if promulgated, require concessionaires, where necessary, to provide separate books of accounts for all services offered. These regulations should be read in conjunction with the Guidelines for Accounting Separation published by the Authority. Also, the Authority has proposed definitions for the relevant markets to which these services will be classified in the *Proposed Price Regulation Framework for Telecommunications Services in Trinidad and Tobago*, and will use these markets to guide the process of the separation of accounts.

1.3 Review Cycle

As the telecommunications sector grows and develops into more efficient and competitive markets with new and innovative telecom services the need will arise for the Authority to revise and update the guidelines to be used for accounting separation, which revision may necessitate changes to the regulations and in particular to the Templates attached to the regulations.

1.4 Consultation Process

On December 4th 2006, the Authority published the first draft of regulations which addressed accounting separation, within the document entitled Telecommunications (Pricing) Regulations, and invited the comments and recommendations from all interested parties. The first consultation period ended on January 29th 2007. The Authority received comments from the various parties.

The Authority has determined based on comments received from stakeholders, that the issue of Accounting Separation would best be addressed in a separate document, rather than within the Pricing Framework and Regulations. The Authority has therefore prepared the Draft Telecommunications (Accounting Separation) Regulations, taking into consideration the comments and recommendations received in the first consultation round. A “Decisions on Recommendations” (DOR) Matrix has been included at Annex 1, which provides all the comments and recommendations received and summarises the Authority’s decisions in respect of those.

The Authority is now seeking the views and opinions of interested parties regarding the proposals made in this revised consultative document in accordance with the Authority’s *Procedures for Consultation in the Telecommunications Sector of Trinidad and Tobago*. The closing date for the submission of comments and recommendations on this document is **September 19th 2008**.

2 Draft Telecommunications (Accounting Separation) Regulations

REPUBLIC OF TRINIDAD AND TOBAGO

THE TELECOMMUNICATIONS ACT (ACT NO: 4 OF 2001)

REGULATIONS

Made by the Minister under section 78 (1) of the Telecommunications Act

DRAFT TELECOMMUNICATIONS (ACCOUNTING SEPARATION) REGULATIONS, []

PART I PRELIMINARY

- Citation
1. These Regulations may be cited as the Telecommunications (Accounting Separation) Regulations, [], hereinafter referred to as "**the Regulations**".
 2. These Regulations address the pricing of public telecommunications networks and public telecommunications services in the Republic of Trinidad and Tobago, and the separation of accounts by concessionaires and are made pursuant to section 24 of the Act.
- Interpretation
3. (1) In these Regulations:

“Concessionaire” means a person or an entity authorized to operate a public telecommunications network or provide a public telecommunications service under section 21 of the Act;

“Separated accounts” means accounts submitted in the manner and form required by these Regulations;

“Separated Accounts Templates” means the detailed templates for the preparation of separated accounts as set out in Schedule A.

(2) Terms not otherwise defined in these Regulations shall have the meanings defined in the Act.

(3) A reference to a Regulation or subsection is a reference to

the relevant Regulation or subsection of these Regulations.

(4) A reference to a Schedule is a reference to the Schedule to these Regulations.

PART II ACCOUNTING SEPARATION

- | | | |
|---------------------------------------|----|--|
| Requirement for Accounting Separation | 1. | Any concessionaire that provides two or more services shall prepare, maintain and submit to the Authority its accounts in accordance with the applicable Separated Accounts Templates set out in Schedule A. |
| Amendment of Schedule | 2. | <p>The Minister, acting on the advice and recommendation of the Authority, may by order amend Schedule A or any part thereof.</p> <p>(2) Where the Authority recommends the amendment of the Schedule it have regard to the following principles:</p> <ul style="list-style-type: none">a) separated accounts must be prepared annually and must be based on a transparent cost allocation methodb) the transparent cost allocation method must be based on the principle of cost causality.c) allocations must specifically not be intended to, or have the effect of bringing, advantage the concessionaire at the expense of its competitors.d) separated accounts must be prepared in accordance with generally accepted accounting conventions, unless such conventions are shown to be irrelevant;e) the allocation methodology must be applied consistently between accounting periods or, where a change in the method of application can be objectively justified, it must be noted and comparative data provided according to the revised basis of allocation;f) the separated accounts must be subject to audit, and to standards required by the laws of Trinidad & Tobago. |
| Preparation of separated accounts | 3. | <p>Separated accounts shall be:</p> <ul style="list-style-type: none">a) prepared in the format set out in the applicable Separated Account Templates; |

- b) consistent with the Accounting Separation Guidelines as published by the Authority from time to time;
- c) consistent with Generally Accepted Accounting Practice, and;
- d) audited.

Submission of separated accounts

4. A concessionaire required by Regulation 1 to separate its accounts shall:
 - a) Within twenty-eight (28) days of the coming into force of these Regulations, advise the Authority in writing of the concessionaire's financial year end date, and of all services currently provided by the concessionaire;
 - b) in respect of its financial year immediately preceding the coming into force of these Regulations, submit its separated accounts to the Authority within three (3) months of the coming into force of these Regulations, and;
 - b) thereafter, submit its separated accounts to the Authority annually within six (6) months of the end of its financial year.
5. The Authority shall, within forty-two (42) days of receiving separated accounts from a concessionaire, notify the concessionaire in writing of all aspects in which the accounts fail to conform to the requirement for separated accounts. The concessionaire shall rectify any defects within twenty-eight (28) days of receiving notice from the Authority.
6. Upon the completion of the requirement to submit separated accounts, and the resolution of any defects in accordance with Regulation 5, the Authority shall confirm to the concessionaire in writing the concessionaire's compliance with the requirement to submit separated accounts.

PART III COMPLIANCE

Penalty for breach of Regulations

7. A concessionaire that breaches or fails to comply with any provision of these Regulations, without prejudice to any other applicable remedies under the Act or otherwise, or any compensation payable in any dispute resolution proceedings,

commits an offence and shall be subject to a fine of up to fifty thousand dollars (\$50,000).

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|------------|--|
| Inspection | 8. The Authority may take such steps as it considers appropriate to verify any information provided pursuant to these Regulations, including exercising its inspection powers under the Act. |
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**PART IV
GENERAL REGULATIONS**

- | | |
|-------------|---|
| Publication | 9. Unless otherwise specified, where the Authority is required by these Regulations to publish any matter, the requirement shall be satisfied by the publication in the Gazette and one daily newspaper with circulation in Trinidad and Tobago, a notice to that effect. |
|-------------|---|

- | | |
|---------------------------------------|--|
| Issuance of guidelines and directions | 10. The Authority may issue written directions to any concessionaire for the purpose of compelling compliance with these Regulations. A concessionaire shall comply promptly with any direction made by the Authority pursuant to this regulation. |
|---------------------------------------|--|

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|--|--|
| | 11. The Authority may from time to time for the purpose of clarification, by publication, issue guidelines on any aspect of these Regulations. Such guidelines may either be of general application or specific to a proceeding. |
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|-------------------------|---|
| Extension of timeframes | 12. Where these Regulations provide a timeframe for the doing of any act by a concessionaire, the Authority shall in its sole discretion have the power to extend such timeframes. Such extension shall be in writing to the concessionaire, and may be granted upon the request of the concessionaire or otherwise as the Authority considers appropriate. |
|-------------------------|---|

Schedule A

Account Separation Templates (Regulation 1)

Template A: Profit And Loss – Core Network Business

PROFIT AND LOSS

	Current Period	Prior Period
Turnover:		
From Retail	X	X
Other operators	<u>X</u>	<u>X</u>
<i>Total Turnover</i>		X
X		X
Operating Costs	X	X
Of which		
Depreciation	X	X
Personnel Costs	X	X
Wages & Salaries		
Subsistence & Traveling	X	X
Overtime	X	X
CCA Adjustments ¹	<u>X</u>	<u>X</u>
Total Operating Costs	X	X
Return ²	<u>X</u>	<u>X</u>
	—	—
Return on Capital Employed		
Return	X	X
Mean Capital Employed	X	X
Return on Mean Capital Employed	X%	X%

¹ Current Costs Accounting (CCA) Adjustment - The change to historical costs arising from the revaluation of assets on a current cost basis. In the statements for individual business areas the adjustments comprise the unrealised holding gains or losses arising from changes in asset values, together with the effect on asset values and depreciation of the appropriate allocation of modern equivalent assets between businesses.

² The calculation of the return should be consistent with the basis on which the cost of capital is calculated.

Template 2: Balance Sheet – Core Network Business³

BALANCE SHEET as at

		Current As at		Prior As at
Fixed Assets				
Tangible Fixed Assets		X		X
Intangible Fixed Assets		X		X
Investments		X		X
Total Fixed Assets		X		X
Working Capital				
Inventory		X		X
Trade Receivables		X		X
Other Assets		X		X
Cash on hand & Bank Deposits		X		X
Total Working Capital	X	X	X	X
Liabilities				
Trade Payables	X		X	
Fund for liabilities & Charges		X		X
Other Liabilities		X		X
Total Liabilities		X		X
Total Capital Employed		X		X
Yield on Capital Employed		X		X

³ All entries in the “balance sheet” should be average values for the year to which they relate. Where possible and material the average values shown should be weighted averages. If information is not available, a simple average of opening and closing balances may initially be used

Template 3: Profit and Loss – Local Access Network Business

PROFIT AND LOSS

	Current Period	Prior Period
Turnover:		
Transfer charges to Retail	X	X
From other operators (if any)	<u>X</u>	<u>X</u>
<i>Total Turnover</i>	X	X
Operating Costs	<u>X</u>	<u>X</u>
Of which		
Depreciation	X	X
Personnel Costs	X	X
Wages & Salaries		
Subsistence & Traveling	X	X
Overtime		
CCA Adjustments	<u>X</u>	<u>X</u>
Total Operating Costs	X	X
Return (excluding ADCs ⁴ , if any)	<u>X</u>	<u>X</u>
	—	—
ADCs (if any)		
From OLOs	X	X
From Retail	X	X
Total ADCs	<u>X</u>	<u>X</u>
	—	—
Return (including ADCs, if any)	<u>X</u>	<u>X</u>
	—	—

RETURN ON CAPITAL EMPLOYED

As for Core Network

BALANCE SHEET

As for Core Network

⁴Access Deficit Contributions (ADCs) - Contributions payable by other licensed operators (OLO) and the Retail Businesses to the Access Business for losses it sustains on the provision of services on the access network.

Template 4: Balance Sheet – Retail Fixed Business

PROFIT AND LOSS

	Prior Period		Current Period
Turnover			
Connection Charges	X		X
Installation Charges	X		X
Other Connection Charges	X		X
Subscription Charges			
Residential	X		X
Single Line Business	X		X
Other Business (non-single Line)	X		X
Call Master Services Charges	X		X
Other Subscription Charges	X		X
On-Net Toll Charges			
Intra Exchange Toll Charges	X		X
Inter Exchange Toll Charges	X		X
Off-Net Toll Charges			
Outgoing Toll (Mobile)	X		X
Incoming Toll (Mobile)	X		X
(Outpayments)	X		X
International			
Incoming Toll	X		X
Outgoing Toll	X		X
(Outpayments)	X		X
Other International Charges	X		X
Domestic Calling Cards	X		X
International Calling Cards	X		X
Paystations	X		X
Local 800	X		X
Centrex	X		X
Operator & Director Assistance Charges	X		X
Other Turnover	X		X
Total Turnover	X	—	X
		—	—

Operating Costs:		
Operating Costs specific to Fixed Retail	X	X
Transfer Charges from Fixed Core Network	X	X
Transfer Charges from Fixed Access Network	X	X
ADCs paid to Access Network (if any)	X	X
Depreciation	X	X
Personnel Costs		
Wages & Salaries	X	X
Subsistence & Traveling	X	X
Overtime	X	X
Other Costs	X	X
CCA Adjustments	X	X
Total Operating Costs	<u>X</u>	<u>X</u>
Return (excluding Universal Service Contribution, if any)	X	X
Universal Service Obligation Contributions from OLO	X	X
Return (including USO Contribution, if any)	<u>X</u>	<u>X</u>

RETURN ON CAPITAL EMPLOYED

As for Core Network

BALANCE SHEET

As for Core Network

Template 5: Profit and Loss – Data Services

PROFIT AND LOSS

	Current Period	Prior Period
Turnover	<u>X</u>	<u>X</u>
Dial-up Internet	X	X
xDSL Subscription	X	X
xDSL Connection	X	X
Lease lines	X	X
Other data Services	<u>X</u>	<u>X</u>
<i>Total Turnover</i>		X X
Operating Costs		
Operating costs specific to Data Service	X	X
Transfer charges from Core Network	X	X
Transfer charge from Local Access Network	X	X
Depreciation	X	X
Personnel Costs	X	X
Wages & Salaries	X	X
Subsistence & Traveling	X X	
Overtime	X	X
ADCs paid to Local Access Network (if any)	X	X
CCA Adjustments	<u>X</u>	<u>X</u>
Total Operating Costs	X	X
Return (excluding USO Contribution, if any)	X	X
USO Contribution from OLO	X	X
Return (including USO Contribution, if any)	<u>X</u>	<u>X</u>
	—	—

RETURN ON CAPITAL EMPLOYED

As for Core Network

BALANCE SHEET

As for Core Network

Template 6: Profit and Loss – Retail Mobile Business

PROFIT AND LOSS

		Prior Period		Current Period
Turnover				
Handsets Charges		X		X
Activation Charge		X		X
On-Net Charges		X		X
Off-Net Charges				
Outgoing (Fixed)		X		X
Incoming (Fixed)		X		X
(Outpayments)		X		X
Outgoing (Mobile)		X		X
Incoming (Mobile)		X		X
(Outpayments)		X		X
International				
Incoming		X		X
Outgoing		X		X
(Outpayments)		X		X
Roaming				
Inbound				
Incoming		X		X
Outgoing		X		X
Outbound		X		X
SMS				
On-Net			X	X
Off-Net		X		X
(Outpayment)		X		X
MMS				
On-Net			X	X
Off-Net		X		X
(Outpayment)		X		X
Data Services charges		X		X
Subscription		X		X
Other Turnover		X		X
Total Turnover	X	—	X	—

Operating Costs:		
Operating Costs specific to Retail	X	X
Operating Costs specific to Network	X	X
Depreciation	X	X
Personnel Costs		
Wages & Salaries	X	X
Subsistence & Traveling	X	X
Overtime	X	X
Other Costs	X	X
CCA Adjustments	X	X
	<hr/>	<hr/>
Total Operating Costs	X	X
	<hr/>	<hr/>
Return (excluding Universal Service Contribution, if any)	X	X
Universal Service Obligation Contributions from OLO	X	X
	<hr/>	<hr/>
Return (including USO Contribution, if any)	X	X
	<hr/>	<hr/>

Template 7: Balance Sheet – Retail Mobile Business

BALANCE SHEET as at _____

		Current As at		Prior As at
Fixed Assets				
Tangible Fixed Assets		X		X
Intangible Fixed Assets		X		X
Investments		X		X
		_____		_____
Total Fixed Assets		X		X
		_____		_____
Working Capital				
Inventory		X		X
Trade Receivables		X		X
Other Assets		X		X
Cash on hand & Bank Deposits		X		X
		_____		_____
Total Working Capital	X		X	
		_____		_____
Liabilities				
Trade Payables	X		X	
Fund for liabilities & Charges		X		X
Other Liabilities		X		X
		_____		_____
Total Liabilities		X		X
		_____		_____
Total Capital Employed		X		X
		_____		_____
Yield on Capital Employed		X		X
		_____		_____

Template 8: Other Business Activities

PROFIT AND LOSS

	Current Period	Prior Period
Turnover	<u>X</u>	<u>X</u>
Total operating costs	X	X
Return	<u>X</u> —	<u>X</u> —

RETURN ON CAPITAL EMPLOYED

As for Core Network

BALANCE SHEET

As for Core Network

Template 9: Inter Business Transfer Charges Summary

From/To → ↓	Fixed Access	Fixed Network	Fixed Retail Services	Mobile Business	Total
Fixed Access		X	X	X	X
Fixed Network	X		X	X	X
Retail Services	X	X		X	X
Mobile Business	X	X	X		X
Total	X	X	X	X	X

Template 10: Statement of Transfer Charges

Costs/Services	<i>Fixed Retail Services</i>	Intra-Exchange	Inter-Exchange	Calls to Mobile	Public Payphone	Directory Enquiry	International Outgoing Call	International Incoming Call	Data Circuits	Internet Service	Remaining Services	<i>Mobile Business</i>
Fixed Access	X	X	X	X	X	X	X	X	X	X	X	X
Fixed Network	X	X	X	X	X	X	X	X	X	X	X	X
Fixed Retail Services	X	X	X	X	X	X	X	X	X	X	X	X
Mobile Business	X	X	X	X	X	X	X	X	X	X	X	X
TOTAL	X	X	X	X	X	X	X	X	X	X	X	X

Template 11: Network Statement of Costs

	Operating Costs TT\$	Capital Employed TT\$	Rate of Return %	Capital Costs TT\$	Total Operating and Capital Costs TT\$	Total Volume Minutes	Average Cost TT\$/Minute
<i>Traffic Sensitive</i>							
Subscriber Unit	X	X	X	X	X	X	X
Primary Switch	X	X	X	X	X	X	X
Secondary Switch	X	X	X	X	X	X	X
<i>Transmission - Non-Length Dependent</i>							
RSU to Primary/Secondary Link	X	X	X	X	X	X	X
Primary to Primary Link	X	X	X	X	X	X	X
Primary to Secondary Link	X	X	X	X	X	X	X
Secondary to Secondary Link	X	X	X	X	X	X	X
Secondary to Tertiary Link	X	X	X	X	X	X	X
Tertiary to Tertiary Link	X	X	X	X	X	X	X
<i>Transmission - Length Dependent</i> <i>(Split as above)</i>							
<i>International Transmission</i>	X	X	X	X	X	X	X
<i>Directory Enquiry</i>	X	X	X	X	X	X	X
<i>International Directory enquiry</i>	X	X	X	X	X	X	X
<i>Private Circuits \ Leased Lines</i>	X	X	X	X	X		
<i>Interconnect connections and rentals</i>	X	X	X	X	X		
<i>Other categories will be included as appropriate</i>	X	X	X	X	X	X	X
Total Conveyance	X	X	X	X	X	X	X

Template 12a: Costs of Network Services

<i>Traffic Sensitive</i>	Subscriber Unit	Primary Switch	Secondary Switch	<i>Non-Length Dependent</i>	RSU to Primary/Secondary Primary to Primary Link	Primary to Secondary Link	Secondary to Secondary Link	<i>Length Dependent</i> (Split as above)	International Transmission	Directory Enquiry	International Directory enquiry	Private Circuits\Leased Lines	Interconnect connections and rentals	Other cost categories will be included as required
Average Cost TT\$/Minute ⁵	X	X	X		X	X	X	X	X	X	X			
Total Costs ⁶									X	X	X	X	X	X
Usage Factors (Routing or Percentage)														
Retail Services														
Intra Exchange Calls	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Inter Exchange Calls	X	X	X	X	X	X	X	X	X	X	X	X	X	X
International Calls	X	X	X	X	X	X	X	X	X	X	X	X	X	X
<i>(Other retail services as appropriate)</i>														
Other Activities Services														
Apparatus Supply	X	X	X	X	X	X	X	X	X	X	X	X	X	X
<i>(Other services as appropriate)</i>														
RIO Services														
Call Termination														
Primary	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Tandem	X	X	X	X	X	X	X	X	X	X	X	X	X	X
<i>(Other RIO services as appropriate)</i>														

⁵ From Statement of Network Costs Schedule

⁶ Ibid

Template 12b: Statement of Costs of Network Services (Con't)

	<i>Traffic Sensitive</i>			<i>Non-Length Dependent</i>				<i>Length Dependent</i>				Other cost categories will be included as appropriate	<i>Call Conveyance Cost</i>		
	Subscriber Unit	Primary Switch	Secondary Switch	RSU to Primary/Secondary Link	Primary to Primary Link	Primary to Secondary Link	Secondary to Secondary Link	(Split as above)	International Transmission	Directory Enquiry	International Directory enquiry		Gradient		
Average Cost Per Minute															
<i>Retail Services</i> ⁷															
Intra Exchange Calls	X	X	X	X	X	X	X	X	X	X	X	X	Peak	X	X
													Off - peak	X	X
													Weekend	X	X
Inter Exchange Calls <i>(Other retail services as appropriate)</i>	X	X	X	X	X	X	X	X	X	X	X	X	Peak	X	X
													Off - peak	X	X
													Weekend	X	X
<i>Other Activities Services</i>															
Apparatus Supply <i>(Other services as appropriate)</i>	X	X	X	X	X	X	X	X	X	X	X	X	Peak	X	X
													Off - peak	X	X
													Weekend	X	X
<i>RIO Services</i>															
Call Termination															
Primary	X	X	X	X	X	X	X	X	X	X	X	X	Peak	X	X
													Off - peak	X	X
													Weekend	X	X
Tandem <i>(Other RIO services as appropriate)</i>	X	X	X	X	X	X	X	X	X	X	X	X	Peak	X	X
													Off - peak	X	X
													Weekend	X	X

⁷ Those costs are obtained from multiplying the average cost per minute by the usage factors, both of which are shown on page 34. These costs reflect the conveyance element of the service only.

Made this day of 2008.

Minister of Public Administration

Laid in the Senate this day of 2008.

Clerk of the Senate

Laid in the House of Representatives this day of
2008.

Clerk of the House

ANNEX I: Decisions on Recommendations

The following summarizes the comments and recommendations received from stakeholders on the first draft of this document (dated December 6th 2006), and the decisions made by TATT as incorporated in this revised document (dated June 27th, 2008)

Document Sub-Section	Submission Made By: Stakeholder Category ⁸	Comments Received	Recommendations Made	TATT's Decisions
ACCOUNTING SEPARATION				
Requirements of Accounting Separation Section 31	Telecommunications Services of Trinidad and Tobago (TSTT)	<p>TSTT has provided a detailed response to the Authority's Accounting Separation Consultation which should be read together with this response. TSTT believes that regulations for accounting separation should be drafted once the policy has been set. There are a number of significant differences between the policy and the regulations. Whilst the policy is not clear on what basis a concessionaire is determined to be subject to the requirement to produce separate accounts, the regulations set out a number of criteria. However, even with the very basic criteria that are set out, the regulations do not sufficiently explain the principles of clear market failures or overriding public policy concerns which rightly ought to be examined before requiring accounting separation.</p> <p>Regulators generally follow a two-stage process to determine if ex-ante measures, such as accounting separation, are necessary.</p>		<p>The Regulations provide the process for the implementation of Accounting Separation.</p> <p>The Authority strongly disagrees with TSTT's suggestion that</p>

⁸ Regional regulatory or Governmental agencies, Existing service and/ or network provider and affiliates, Potential service and/ or network providers and affiliates, Service/ Network Provider Associations/ Clubs/ Groups, General Public

Document Sub-Section	Submission Made By: Stakeholder Category ⁸	Comments Received	Recommendations Made	TATT's Decisions
		<p>The first stage is to define relevant markets that may be subject to ex-ante regulation and to assess the degree of competitiveness, barriers to entry and availability of substitute products and assessing the degree of competition on that relevant market. The assessment must be consistent with Significant Market Power Guidelines. If dominance exists, a second stage would involve determining what market failure or public policy concern would result from that dominance and considering what, if any regulatory remedy is necessary to deal with that concern. TSTT believes the regulations as drafted do not provide adequate guidance on the due regulatory process that must be followed before accounting separation could be required of a concessionaire.</p>		<p>dominance in a particular market is a pre-condition to a requirement for accounting separation. Accounting separation is used to address possible actions that are anti-competitive or improper whether conducted by a concessionaire who is dominant or otherwise, for example cross-subsidy. The Authority further notes that many of the processes mentioned by TSTT would be facilitated by the keeping of separated accounts by concessionaires who provide multiple services within the sector. The Authority notes that Accounting Separation is a regulatory measure which enables and facilitates the other regulatory measures that might be undertaken.</p>
Sections 33-36.	Ministry of Public Administration and Information,	It may be advantageous to distil the accounting separation regulations from this document into separate document. Please see MPAI's comments regarding the Accounting Separation Guidelines.		This has been done.

Document Sub-Section	Submission Made By: Stakeholder Category ⁸	Comments Received	Recommendations Made	TATT's Decisions
Section 33	(MPAI) Telecommunications Services of Trinidad and Tobago (TSTT)	<p>The requirement to deliver separated accounts within 3 months of being given notice to do so is too onerous for a number of reasons. First, as is clear from the proposed accounting separation policy, the Authority is going to have to determine or at least validate a methodology before it is implemented with any concessionaire's accounts. This may involve new accounting software, restructuring of cost centres and creation of numerous processes to deliver information for cost allocation. Second, of necessity, separated accounts have to be done after financial accounts have been completed. Logically the financial year for separated accounts will have to be the same as the statutory year. The Authority cannot arbitrarily set a three month timeframe as a reasonable timeframe for the provision of separated accounts. It is our considered view and after reviewing the situation in several markets where separated accounts is a requirement, that a minimum of six months after a statutory year end would be required before separated accounts for that period could be prepared. In fact for the provision of the first set of accounts a longer period of nine months is a more suitable period.</p> <p>TSTT would point to markets such as UK, Jamaica and Ireland. In Jamaica six months is allowed for the publication of regulatory accounts. In the UK where BT has had years of experience in publishing regulated accounts, in August of 2006, the period for publication was extended by two months. The requirement is</p>		<p>The methodology is included in the relevant documents. The regulations have been amended to reflect adherence to concessionaire's financial years. The Authority notes, however, that there is no reason why the preparation of separated accounts should commence only after the completion of financial accounts.</p> <p>The proposed timeframe has been extended.</p>

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		now no later than six months after the period to which they relate. In the case of eircom in Ireland, the current publication timeframe is five to six months after the financial year end. TSTT would strongly urge the Authority to follow international best practice in setting regulations for separated accounts.		
Section 36	Telecommunications Services of Trinidad and Tobago (TSTT)	Any timeframe set by the Authority should be reasonable.		
PART V : COMPLIANCE				
37. Penalty for breach of Regulation	Windward Telecom	The maximum fine for a breach of the Regulations has been limited TT\$50,000. We believe that this maximum does not provide enough of an economic deterrent to concessionaires, particularly large dominant carriers. For example, we would note that simple under-pricing of inbound termination by US\$0.01 per minute to thwart competition involves a revenue "opportunity" of TT \$93,000 per day. TSTT's proposed DS-3 interconnection charge of US\$82,600 per month exceeds the causal cost of such facilities by at least US\$79,000 (TT\$490,000) per month. The proposed fines will not induce dominant carriers to comply with the regulations.		The proposed fine is the maximum possible under the Telecommunications Act 2001.

Document Sub-Section	Submission Made By: Stakeholder Category⁸	Comments Received	Recommendations Made	TATT's Decisions
Inspection Section 38	Telecommunications Services of Trinidad and Tobago (TSTT)	TSTT repeats its concern that the information requested by the Authority must be demanded in such a way that a concessionaire understands why the information is being requested, exactly what information is required and observance by the Authority of the established confidentiality procedures/guidelines as provided by the Authority in furtherance of the relevant provisions of the Telecommunications Act, 2001.		The regulation limits requests only to those required to verify information submitted. The issue raised by TSTT is therefore irrelevant.