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Procedures for Consultation in the Telecommunications and Broadcasting Sectors of Trinidad and Tobago

Maintenance History		
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February 21, 2005	Version 1	1.0
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1 Introduction

1.1 Role of the Authority

The Telecommunications Authority of Trinidad and Tobago (the Authority) has been charged with the responsibility of liberalizing and regulating the telecommunications and broadcasting sectors. As with the establishment of any liberalization or regulatory process, the Authority is responsible for the drafting of policies, regulations, procedures and other documents comprising the industry's regulatory framework, the implementation of which will have an impact on relevant stakeholders (including the public) in the sector.

As a result, and in accordance with Section 18 (4) of the Telecommunications Act:

'In the performance of its functions under subsection (1)(c), (d), (e), (m) and (p), sections 28, 78 and 79 and any other provisions of the Act as the Authority deems appropriate, the Authority shall adopt procedures by which it will—

- (a) afford interested parties and the public opportunities for consultation;*
- (b) permit affected persons and the public to make appropriate submissions to the Authority'*

the Authority has formulated consultation procedures.

1.2 Purpose of the Procedures

Consultation is an essential part of regulatory accountability. It is the means by which stakeholders¹ in the telecommunications and broadcasting sectors who may be affected by various regulatory instruments can express their views on such matters before they come into effect. It is therefore imperative that in the development of the regulatory

¹ Stakeholder' in this document refers to any entity that has a vested interest in the telecommunications sector, and includes service/ facility providers and affiliates, investors, consumers/ consumer groups, government, other regulatory agencies and the general public.

framework, the relevant parties are given the opportunity to comment on, or contribute to the development of those regulatory instruments that could affect their investments, the sustainability of a competitive environment, the benefits of competition to consumers and by extension the social development of the society as a whole.

Procedures for the consultation process are therefore required to ensure that:

- (i) input, information and feedback from stakeholders are considered in regulatory decision-making;
- (ii) all aspects of an issue has been examined; and
- (iii) there is transparency in the decision-making process.

This document seeks to formalize the consultation process such that there can be open participation by any interested party in this process.

1.3 Scope

Pursuant to Section 18 (4) of the Act, the Authority will seek, in accordance with these procedures, the input of stakeholders in relation to various regulatory instruments proposed by the Authority.

The *Procedures for Consultations in the Telecommunications Sector of Trinidad and Tobago* prescribes guidelines for:

- (i) the initiation of the consultation process;
- (ii) notification of a consultation;
- (iii) posting telecommunications policies, regulations, rules and other documents for consultation;
- (iv) receiving and documenting comments;
- (v) consultation on comments received;

- (vi) the final review of documents;
- (vii) notification of decisions made; and
- (viii) the review cycle.

The procedures for the above sections are detailed commencing from Section 4 of this document.

1.4 Modification to the Document

The first version of this document was published on February 21st, 2005. In an effort to enhance the consultation process, the Authority wrote to stakeholders who participated in previous consultations, and requested feedback on the effectiveness of the process. Some of the comments:

- Reinforced the need for such a consultation process;
- Prescribed a longer consultation period;
- Suggested the use of other forms of consultation in addition to the submission of written comments.

The Authority has in this document taken into consideration the comments and recommendations received from stakeholders. A copy of the comments and recommendations received can be found at <http://www.tatt.org.tt>

2 Overview of the Consultation Process

2.1 Objectives of the Authority's Consultation Process

Due to the importance of stakeholder involvement in regulatory decision-making, most regulatory jurisdictions have adopted some formal process for consultation. Similarly, the Authority recognizes the need to prescribe a similar process which would ensure that:

- (i) stakeholders are adequately informed of the issues surrounding a particular subject matter;
- (ii) stakeholders are given the opportunity to express their views;
- (iii) adequate and accurate information is shared between stakeholders and the Authority;
- (iv) there is no breach of confidentiality if it is requested by stakeholders when submitting comments to the Authority;
- (v) the consultation process is not unnecessarily lengthy to affect the time taken to arrive at a decision;
- (vi) there is flexibility to modify regulatory instruments when the need for such arises; and
- (vii) stakeholders feel that they are part of the development process, and therefore more inclined to support the goals of the Authority.

2.2 Forms of Consultation

There are different forms of consultation that may be adopted by the Authority. These may include, but may not be limited to:

- Formal invitations for written submissions – this method is frequently used and involves the issuing of draft documents containing the views of the Authority.

- Stakeholders (including the public) are invited to formally submit written comments on the draft document for the Authority's consideration;
- Individual meetings with one or more affected stakeholders – this form of information gathering caters for a one-on-one discussion with parties which can bring immediate clarity to any questions or present an opportunity for immediate feedback from stakeholders;
 - Group meetings, seminars, and workshops with representative groups and other interested parties – this process is useful when the issue being discussed is technical in nature;
 - Public hearings – this method provides a forum where issues affecting the general public, in particular, may be debated extensively;
 - Discussions with other regulatory professionals or advisors in the industry.

2.3 Criteria to Determine the Form of Consultation

In deciding which form of consultation should be used for any particular process, the Authority may take the following factors into consideration:

- The nature of the issue being consulted upon;
- The number of persons that may be affected by the decision;
- The impact on the sector/industry; and
- The timeframe allocated for the resolution of a particular issue.

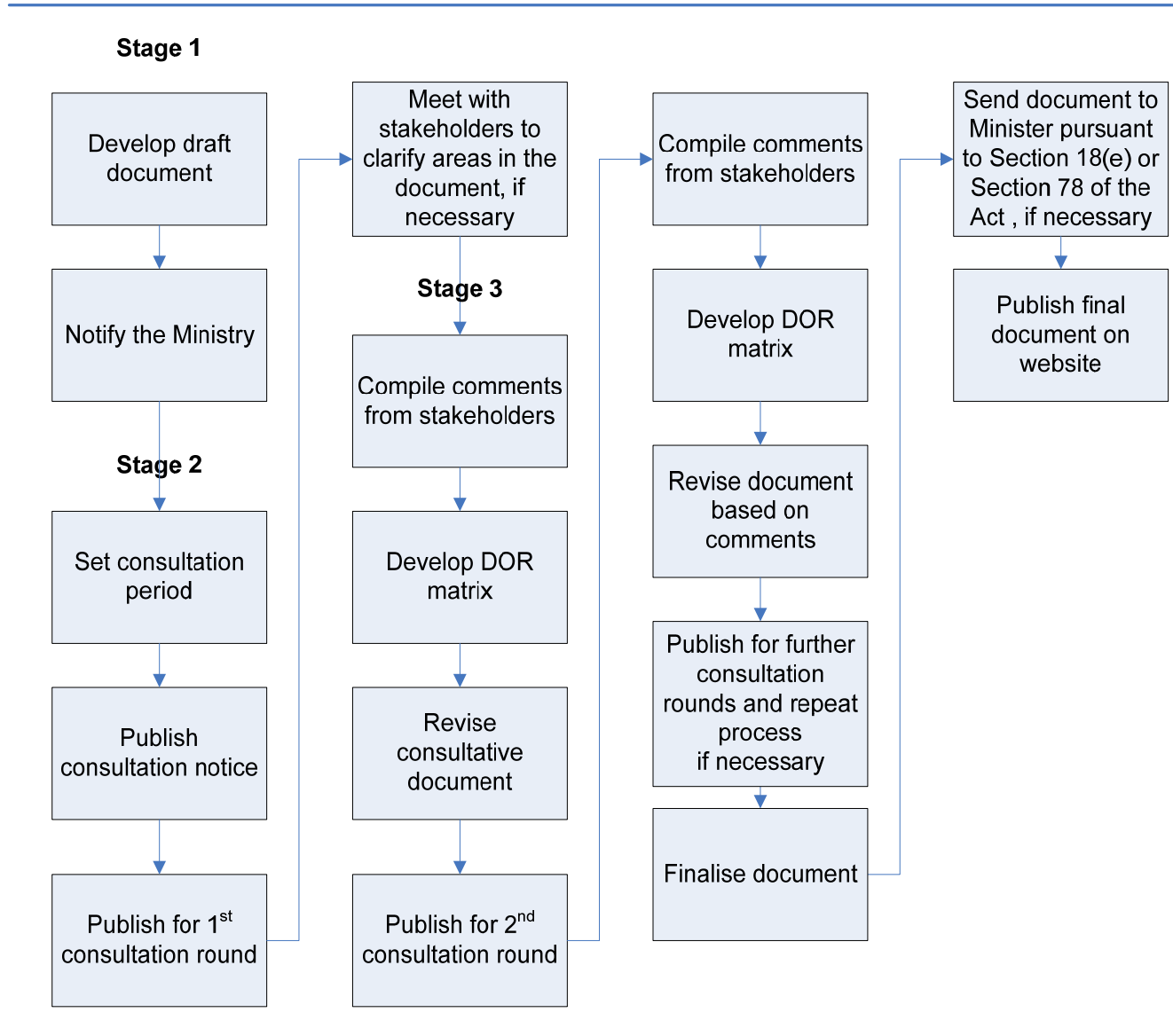
The Authority may use the above criteria as a guideline when determining the appropriate form of consultation to adopt.

3 Summary of the Authority's Consultation process

At present, the Authority engages in a minimum of two rounds of consultation for regulatory documents. There are three main stages in each round of the Authority's consultation process. In the first stage, an issue is identified and the Authority drafts a formal consultation document seeking written comments from stakeholders. This is followed by a comment period in the second stage where comments are submitted using the Authority's Consultation Form (Annex A). In addition to the receipt of written comments, the Authority may use the comment period to engage in other forms of consultations as well, such as public hearings, to gather additional information or clarify information that it receives. In the last stage, the Authority compiles the comments received and makes a decision based on the feedback. The stages of the consultation process are then repeated for further rounds of consultation, as may be needed, before the document is finalized.

The following flowchart summarises each stage of the Authority's consultation process.

Figure 1: Flowchart summarizing the Authority’s Consultation Process



4 Consultation Procedures - Stage 1

4.1 Development of the Draft Document

- 4.1.1 Where there is a need for consultation pursuant to Section 18(4) of the Act, the Authority may develop the appropriate drafts for consultation with the relevant stakeholders.
- 4.1.2 At this initial stage, the Authority may hold informal information-gathering sessions with external parties. The Authority may also invite comments and input from relevant stakeholders about specific topics where the Authority believes these contributions will assist in the development of the document.
- 4.1.3 Parties submitting information to the Authority upon request for the purpose of informing the draft document may request that some parts of the submission be treated as confidential and not published, in accordance with Section 80 of the Act and Section A28 of the concession.
- 4.1.4 Taking into consideration the inputs from relevant stakeholders where the Authority deems appropriate, the Authority shall produce a first draft and release it for a first round of consultation.

4.2 Notification to the Ministry

- 4.2.1 In the case of draft policies and regulations, the Authority shall formally submit copies of the draft documents to the Minister two (2) weeks prior to public release for the first round of consultation.

4.3 Publication of Consultation Notice

- 4.3.1 The Authority shall publish a notification to inform the public and stakeholders of the availability of the consultative document. The notification shall appear for at

least two (2) days in at least one (1) daily newspaper, and should indicate at minimum:

- (i) Title of consultation document;
- (ii) URL of website from which documents can be downloaded and locations where a physical copy of the document can be obtained;
- (iii) Date from which document will be available;
- (iv) Deadline for submission of comments;
- (v) Contact information to which queries may be addressed;
- (vi) Any additional information as the Authority deems necessary.

4.3.2 The Authority shall also publish a notification of the consultation on the homepage of its website for the duration of the consultation period. The newspaper notification (4.3.1) may also be extended throughout the consultation period as the Authority deems appropriate.

4.3.3 The notification may also be published in any regional/ international telecommunications/ business magazine, periodical or journal, as the Authority deems appropriate.

4.3.4 The Authority may also decide to notify the public through public service announcements via broadcasting media. This method of notification may be used where the Authority considers that the consultative document may have a significant impact on the national community.

4.3.5 The Authority may directly inform key stakeholders of the publication of the consultative document.

4.4 Publication of Consultative Documents

- 4.4.1 All consultative documents shall be posted on the Authority's website.
- 4.4.2 In addition to the above, the Authority may also decide to hold other forms of public consultations as listed in Section 2.2 as deemed appropriate.
- 4.4.3 Where the Authority believes the matter under consideration can have a direct impact on the population, the Authority may publish a simplified version of the document in the national newspapers, with opinion questions attached so as to improve the response rate and the quality of feedback from the public. .
- 4.4.4 Printed documents shall be available for collection at the Authority's offices both in Trinidad and in Tobago, and at the main national library located in South Trinidad.
- 4.4.5 Other formats of the document may also be made available upon request. The Authority may charge a fee for documents, in any format, collected at its office.

5 Consultation Procedures - Stage 2

5.1 The Consultation Period

- 5.1.1 The Authority shall, as far as possible, have at least two rounds or phases for any given consultation process. However, due to the thorough deliberations entailed in the established procedures for the enactment of legislation, the Authority may conduct one round of consultation in respect of draft regulations prior to submission to the Minister for his laying in Parliament pursuant to Section 78 of the Act.
- 5.1.2 The duration of the consultation period may vary depending on the level of urgency required for the matter at hand, the level of complexity of the subject matter, and the need to allow enough time for stakeholders to provide meaningful contributions. In any event, each phase of any consultation process shall normally be for a period of **no less than four (4) weeks**.
- 5.1.3 In instances where the Authority may require that a consultation phase be less than four (4) weeks, the Authority shall provide adequate justification.
- 5.1.4 Circumstances may arise where a stakeholder may request an extension of the submission deadline. In such cases, the stakeholder shall be required to formally submit in writing a request to the Authority for the extension of the consultation deadline. Such a request should be submitted no later than one (1) week prior to the published consultative deadline. The Authority, through its discretion, will reserve the right to determine:
- if such an extension will be granted to the requesting party only;
 - if the deadline for the consultation period should be extended in general; and

➤ the extension period;

5.1.5 The Authority may reject any request for an extension of time that is not submitted within one week prior to the published consultative deadline.

5.2 Submission of Comments

5.2.1 The Authority may receive comments from the following categories of stakeholders:

- (i) Regulatory or government agencies
- (ii) Existing service and/ or facility providers and affiliates
- (iii) Potential service and/ or facility providers and affiliates
- (iv) Service provider associations/ clubs/ groups
- (v) Consumers/ consumer groups
- (vi) General public

5.2.2 Employees, investors and shareholders of entities in categories i) to iv) who wish to comment on consultative documents issued by the Authority, shall do so in unison with the submission made by the entity. It is therefore encouraged that these entities engage in an internal review forum to culminate the views of all their stakeholders on the consultation document, prior to submission to the Authority.

5.2.3 Clause 5.2.2 does not apply to an employee or agent of an entity who wishes to comment in his personal capacity.

5.2.4 The Authority's primary method for the collection of comments is through written submission. Written comments may be submitted, preferably via email, or in a

- printed format that is hand-delivered or mailed to the Authority. All electronic submissions must be made in Microsoft Word or Rich Text format.
- 5.2.5 The Authority shall deal with the submission of comments in the manner prescribed in 4.1.3.
- 5.2.6 All written comments and recommendations must be submitted using the prescribed consultation form (Annex A) which shall be published on the Authority's website.
- 5.2.7 The Authority may reject any comments and recommendations that are not submitted in the prescribed consultation form.
- 5.2.8 The consultation form shall contain at minimum:
- (i) Respondent category;
 - (ii) A declaration of interest;
 - (iii) Name of entity, if applicable;
 - (iv) Contact information (contact person, address, telephone number, email address etc.);
 - (v) The proposed structure of comments to be submitted;
 - (vi) A declaration that provides respondents with a choice of having their submitted comments published by the Authority for purposes of consultation;
 - (vii) Signature;
 - (viii) Position of signatory (This is applicable for vii above, if the persons is submitting on behalf of an entity).
- 5.2.9 Comments submitted by any party will not be used against that party in any process in which that party is involved with the Authority.

5.3 Meetings with Stakeholders

5.3.1 During the consultation period, the Authority may hold individual or public meetings with stakeholders to clarify any areas of concern in the consultation document. In addition where meetings are held by the Authority, the views of stakeholders will be noted and considered when revising the consultative document.

6 Consultation Procedures - Stage 3

6.1 Compilation of Comments from Stakeholders

- 6.1.1 Upon the closing of the consultation period, the Authority will collate all the comments and recommendations received from stakeholders into a Decision on Recommendations (DOR) matrix.
- 6.1.2 The Authority will deliberate and respond to the comments and recommendations received in the DOR matrix, and revisions will be made to the consultative document as the Authority deems appropriate.
- 6.1.3 Where there is need to clarify the comments submitted by stakeholders, the Authority may hold individual stakeholder meetings to discuss the concerns raised. Issues discussed will be taken into consideration when revising the document.

6.2 Second Consultation Round

- 6.2.1 After revisions have been made to the document based on the comments received, the Authority shall publish the document for a second round of consultation. The DOR, which shall contain the Authority's decisions in respect of comments and recommendations received, shall be published together with the revised document.
- 6.2.2 Steps 4.3 to 6.1 will be repeated for the second consultation round.
- 6.2.3 As prescribed in 5.1.1, draft regulations may not be issued for a second round of consultation.

6.3 Finalisation of Document

- 6.3.1 The Authority shall end the consultation process when it determines that it has sufficient information to produce a final draft document.
- 6.3.2 The Authority shall make decisions with respect to issues arising out of the consultation process, and finalize the document within the shortest possible timeframe subsequent to the end of the consultation process. A final DOR shall also be prepared that will summarise the comments received in the previous consultation phase, and the decisions made by the Authority based on the views expressed. The final DOR shall be included as an Annex to the final document.
- 6.3.3 In the case of draft policies and regulations, the Authority will submit the document for the approval of the Minister in accordance with Sections 18(e) and 78 of the Act.
- 6.3.4 The final version of the document, or final draft regulatory instruments that have been submitted to the Minister (6.3.3), shall be posted on the Authority's website and a notification of the posting may appear in at least one (1) daily newspaper for three (3) days. The notification may also be published in any regional/ international telecommunications/ business magazine, periodical or journal, as the Authority deems necessary.
- 6.3.5 Printed documents shall also be available for collection at the Authority's offices, on payment of an administrative fee.

7 Logging of Consultations

- 7.1.1 Consultative versions of the document may remain posted on the Authority's website after finalization for such period of time as may be determined by the Authority. This will ensure that all interested parties are adequately informed of the views expressed and issues addressed during the decision making process.
- 7.1.2 The Authority shall also provide on its website a list of all the current and recently closed consultations.

8 Review Cycle

- 8.1.1 The Authority may engage in further consultation with stakeholders and the public for the purposes of revising published policies, procedures or regulations if the Authority considers that such modifications will have a significant impact on stakeholders.
- 8.1.2 Any stakeholder or member of the public may submit proposals for modifications to be made to published policies, procedures or regulations. However, the Authority shall log proposals received until the respective document is scheduled for review.

Annex A: Consultation Comment Submission Form



CONSULTATION COMMENT SUBMISSION FORM

Name of Document:

1. Respondent Category:

- (a) Regional regulatory or governmental agencies
- (b) Existing service and/ or facility providers and affiliates
- (c) Potential service and/ or facility providers and affiliates
- (d) Service provider associations/ clubs/ groups
- (e) Consumers/ consumer groups
- (f) General public

2. Interest

(Provide details of any relationship with/ interest in any of the above respondent categories):

.....
.....
.....
.....
.....
.....
.....
.....

3. Contact Information:

Respondent's Name:

Postal Address:

.....

Email Address:

Contact Number:

4. Comments:

Document Section	Comments	Recommendations

5. Confidentiality

The information and comments stated above can be published by the Authority for the purposes of consultation.

Agree

Do not agree because:

All comments submitted are confidential

Some of the comments submitted are confidential. (In the information submitted in Section 4 above, please indicate what information should be considered as confidential by the Authority.

Name of Respondent/Name of the Organisation is confidential

If you do not want part of your response, your name or the name of your organisation to be published, can the Authority still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or your identity)?

Yes

No

6. Declaration

I confirm that the comments and recommendations submitted under this cover sheet is a formal consultation response that the Authority can publish, exclusive of those comments marked confidential.

Signature:

Position of signatory:

(This is only applicable for stakeholder categories **a** to **e**)