

# REPORT

## Report on Mobile Phone Jammers Draft Regulation

### Report on Mobile Phone Jammers Draft Regulation

A Report issued by the Telecommunications Regulatory Authority

8<sup>th</sup> November 2004

Reference: MOU/RP/045

**Purpose:** Provides analysis on the approach that the TRA has taken in relation to the Mobile Phone Jammers Regulation.



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### 1 Introduction

#### 1.1 Context

This Report represents the outcome of the consultation process, which commenced on 21<sup>st</sup> March 2004 with the publication of the consultation on the use of Mobile Phone Jammers (“the Consultation”), reference MOU/CN/016 which was followed by a Report on comments received to the Consultation, reference MOU/RP/038 of 31<sup>st</sup> August 2004 and a draft Regulation (“Draft Regulation”), reference MOU/RN/006 of 31<sup>st</sup> August 2004.

The TRA received five responses on the Draft Regulation, from the Bahrain Consumer Protection Society, Batelco, the Ministry of Commerce, the Ministry of Industry and the Ministry of Interior. Three of the respondents noted that they had no suggested amendments on the Draft Regulation, whereas the other two respondents provided some comments, which are discussed at section 2 of this Report below. In carrying out the final review of the Draft Regulation in light of the comments received, the TRA has made minor structural amendments to it, which aim to clarify the Regulation and its scope. As these are non-substantive and solely to ensure that the text is clear and consistent, no further consultation was considered appropriate.

#### 1.2 Scope and other steps

This document has no status other than as a means of disseminating information and the TRA’s reasoning leading to the non-substantive amendments made to the Draft Regulation.

The TRA has today issued the Mobile Phone Jammers Regulation (“the Regulation”), reference number: Regulation 4 of 2004 (document: MOU/RN/010).

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### 2 Analysis of amendments made to the Regulation

Articles in this section refer to those of the Draft Regulation and the Regulation.

#### Article 1 - Definitions

A respondent suggested changes to the following definitions of the Regulation, in order to improve the cohesion of the Draft Regulation:

- “Applicant”: to exclude the wording “*and applies to the TRA for approval for such Use...*”. The TRA considers that the suggested excluded wording does not assist to clarify the text, as an ‘Applicant’ in particular refers to a Person who applies to the TRA for permission to use a Mobile Phone Jammer, therefore the TRA has not amended the wording as contained in the Draft Regulation.

- “3G”: “*a third generation mobile phone network, operating in the 2.1GHz band and based on CDMA technology*”. The TRA considers that the suggested wording provides clarification to that contained in the Draft Regulation, in particular that 3G should refer to a ‘network’ rather than a ‘phone’. Therefore the TRA has amended the wording in the Regulation as per this paragraph.

- “Mobile Phone Jammers” or “Jammer”: “*a device for intentionally blocking mobile phone network frequencies to prevent mobile phones from operating*”. The TRA considers that this suggested wording provides clarity compared to that contained in the Draft Regulation, in particular by not including the concept of a temporary installation or a small space. Therefore the TRA has used the wording contained in this paragraph in the Regulation. Whilst the TRA shall limit possible approval to those Jammers which are temporary and for use in a small space, the concept of a Jammer should be defined so as to include all such devices.

- “Person”: “*any natural or artificial person, organisation or public authority*”. The TRA considers it is not appropriate to include ‘organisation’ in the meaning of Person, and has retained the original wording of the Draft Regulation which reflects that contained in the Telecommunications Law.

#### Article 2 – Use of Mobile Phone Jammers

##### *General principle of prohibition on the use of Mobile Phone Jammers*

A respondent highlighted that although the report on the responses to Consultation (MOU/RP/038) concluded that in general, the use of Mobile Phone Jammers is prohibited, the Draft Regulation did not confirm this principle. The respondent stated that instead, the Draft Regulation provided an application procedure for the use of Jammers, which implied that the TRA would allow the use of Jammers. The respondent therefore requested that the Regulation should include a paragraph that confirms the general principal of prohibiting the use of

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Mobile Telephone Jammers. The TRA considers that this issue is addressed in that at Article 2.1 of the Regulation it states that “...*no Mobile Phone Jammer shall be Used within the Kingdom ...*” i.e. the general principle is that Jammers are prohibited except in certain exceptional cases upon application and obtaining TRA approval. It should be noted that as per most laws in jurisdictions around the world, a general principle may be set, with waivers/exceptions to it. It is not the case that a general principle necessarily implies that no exceptions to that may ever apply. The TRA therefore considers that the Draft Regulation reflected the principle correctly and the TRA and has not amended the wording of Article 2 in this respect.

### *Penalties*

A respondent requested that wording be contained in the Regulation to include deterrents and penalties in the event of use of Mobile Phone Jammers which have not been granted TRA approval. The Telecommunications Law provides for Penalties (Section 73 (e) to (j)) to deter the unauthorized use or infringement of a Law. Furthermore, Article 2.1 of the Regulation provides that: “*Any unauthorized Use in breach of this Regulation shall be treated by the TRA as a material breach of the Telecommunications Law.*” Therefore the TRA considers that this issue is sufficiently addressed in the Regulation, and as is the case with other Regulations, the TRA does not set out specific penalties in the event of a breach.

### *Identifying situations when Mobile Phone Jammers may, and may not, be used*

A respondent highlighted the fact that the Regulation should provide examples of those situations where the use of Mobile Phone Jammers may be allowed. Furthermore, the respondent indicated that the Draft Regulation did not sufficiently explain the nature of the problem in using Jammers and therefore potential Jammer users may seek to use Jammers on occasions when they should not be used. The TRA considers that it explained why Jammers could cause problems at section 2.2 of the Consultation and that it is inappropriate to include such discussions in a Regulation. In summary, these problems included:

- as a mobile phone is capable of adjusting its output power in high levels of interference, the use of a Jammer will sometimes have the effect of increasing the output power of a mobile phone, which in certain circumstances (e.g. in a hospital) could cause problems;
- as a Jammer is a transmitter, to place a transmitter of any kind in the vicinity of sensitive equipment (e.g. in a hospital) may cause disruption to that equipment, consequently a Jammer and mobile phone(s) transmitting at higher/full power may produce the very interference that the Jammer was intended to remove;
- the use of Jammers blocks radio spectrum which is allocated to mobile phone network operators who have paid to use this spectrum. It is reasonable for such network operators to expect that the spectrum that they

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have paid for should be kept clear of interference. Furthermore the range of Jammers cannot be controlled accurately and the siting of Jammers may be problematic. In addition, network operators have a responsibility to provide access to emergency service numbers, which a Jammer would prevent from occurring.

In relation to examples of when Jammer Usage may be useful, the TRA also considers that it discussed this issue, and gave certain examples at section 2.1 of the Consultation. The TRA does not consider that examples should be included in a Regulation as this is a legal document setting out the relevant rules applicable, therefore the TRA has not amended the wording of the Regulation in this respect. However, for information, the TRA provides an example of when Jammers may, if appropriate, be permitted. It should be noted that the example given below do not necessarily mean that the TRA would approve the Use of Jammers in this situation, each application shall be assessed on its merits:

- covert use of mobile phones during events such as examinations, thereby giving the examinee access to information outside the examination room (via for example a friend elsewhere) and an unfair advantage over others sitting the same exam.

### *Structural comments*

A respondent suggested moving Article 2.3 of the Draft Regulation to become Article 2.2, so that this new Article 2.2 dealing with the approval process follows on from the concept of approval.

A respondent made that the comment that Article 2.2 of the Draft Regulation could be moved to become new Article 2.4 in order to allow for an appropriate continuation, of the articles where the concept of inspection should come after approval and the conditions of use. The TRA agrees that this is a reasonable suggestion and has accordingly made this change to the Regulation, however with the numbering of the regulation this is new Article 2.3. Further, the respondent suggested additional wording to the end of that Article as follows: "*The TRA encourages mobile phone network users affected by the Use of a Jammer to report to the TRA*". The TRA considers this inappropriate, as subscribers should bring any complaints about coverage/interference to their mobile operator, in particular as an occasion of interference may not be as a result of Jammer Use.

A respondent suggested adding a new Article 2.3 to indicate approval conditions such as type of Jammers that cover all frequencies, power output as directed by the TRA and other specific and general conditions specified by TRA from time to time. The TRA considers that it is inappropriate to impose further conditions on Applicants seeking to use Jammers, however in light of this suggestion, and in the interests of clarity, the TRA has included some wording on power output in Article 3.4, to provide the right for the TRA to set power output levels if appropriate, the additional wording is "*[the approval] which may be subject to*

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*conditions, including where appropriate in relation to power output and frequency spectrum”.*

### *Right to terminate an approval*

The TRA received a suggestion that whilst TRA rights to terminate an approval may go without saying, in the interests of clarity and certainty, it would be helpful to insert appropriate wording to this effect. The TRA considers this a helpful suggestion and therefore has included the following wording at a new Article 2.4: *“If, at any time, the Applicant is in breach of a condition of approval, the TRA may withdraw its approval. Such withdrawal to take effect as specified by the TRA in a notice of withdrawal of approval, with reasons for such withdrawal attached.”*

In the interests of enhancing the structure of the Regulation, one respondent commented that it could be useful to move Article 3.6 of the Draft Regulation into Article 2, as Article 3 deals with the process for applying for Use of a Jammer, whereas Article 2 covers the use and withdrawal of a Jammer. The TRA considers this a helpful suggestion and has moved Article 3.6 of the Draft Regulation into Article 2, as new Article 2.5. For added clarity, the TRA has slightly modified the wording, to read as follows: *“At the end of the period for which the Jammer’s Use is approved, or if the approval is withdrawn, on withdrawal, the Applicant shall inform the TRA in writing within 5 (five) working days that the Jammer has been withdrawn from service, providing details of the relevant approval reference number, Jammer type and serial number”.*

### **Article 3 - Process for applying for permission to Use a Mobile Phone Jammer**

#### *Informing mobile network operators of applications*

A respondent proposed that mobile operators should be informed at all stages of the application process, and therefore suggested an addition to Article 3.3 to indicate that mobile network operators should be notified at the time of application. The TRA has considered this issue of informing and consulting with mobile network operators, in particular where there could be a severe interference, for example if a Jammer were to be located near a base station that could affect all calls carried through the base station. Therefore the TRA considers it appropriate that the TRA may, at its discretion, inform and consult with mobile phone operators before reaching its final decision in relation to an Application, in order to make more appropriate decisions about the use of Jammers. This is provided for in the current wording of Article 3.3: *“The TRA may also consult other Persons as it considers appropriate”*, however in the interests of clarity the TRA has slightly modified this Article as follows: *“The TRA may also consult other Persons as it considers appropriate from time to time, including, for example, mobile network operators”*. The TRA does not however

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propose as a matter of course informing mobile network operators at the time of receipt of an application.

The respondent also suggested using “must” instead of “should” to make the required information mandatory in the application. The TRA considers that the use of the “should” is appropriate, but the usual tense in legal documents is “shall” which the TRA has used at Article 3.2. “Shall” is mandatory, therefore this does not need amending to “must”.

### *Application Form*

A respondent has suggested that there should be an application form prepared by the TRA for Mobile Phone Jammers that outlines all the required information. The TRA considers this a helpful suggestion and has included an application form for Applicants to be used according to the procedures set out in Article 3 of the Regulation. Such form is attached as Annex A to the Regulation. It should be noted that the TRA has not made any changes of substance to the information required, the application form simply sets out the information required which was previously contained in Article 3 of the Draft Regulation, now moved into Annex A in the Regulation. This change of formatting has been made by the TRA to clarify the information required in applications.

### **Article 5 – Entry into force**

For clarity, and in line with other recent Regulations, the TRA has included a new Article 5 which provides the date of entry into force of the Regulation.