

TRA Board of Directors

**Resolution No. (7) of 2009
Promulgating a Regulation on the Wireless
Telecommunications Network Facility Sharing**

TRA's Board of Directors:

After perusal of:

The Telecommunications Law Promulgated by Legislative Decree No. (48) of 2002,

And on the basis on the proposal submitted by TRA's General Director,

And after the approval of TRA's Board of Directors,

The following is decided:

The First Article

The provisions of the Regulation on the Wireless Telecommunications Network Facility Sharing attached to this Resolution shall apply.

The Second Article

This Resolution and the Regulation attached hereto shall be published in the Official Gazette which shall take effect on the day following the date of publication.

**Chairman of TRA's Board of Directors
Mohammed Ahmed Al Amer**

**Issued on: 13 Ramadan 1430 (h)
Corresponding to: 3rd September 2009**

**Wireless Telecommunications
Network Facility Sharing Regulation**

Regulation No. 2 of 2009
Issued by the Telecommunications Regulatory Authority
LAU/0409/070

Purpose: Implement a Wireless Telecommunications Network Facility Sharing regime applicable to all Licensees that own, manage or lease Wireless Telecommunications Network Facilities.

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1. Preamble

- 1.1. On 3 June 2008, the Telecommunications Regulatory Authority of the Kingdom of Bahrain (“TRA”) issued a Statement on the Strategic and Retail Market Review announcing a comprehensive package of regulatory measures. One measure is the introduction of a third mobile telecommunications network operator (“MNO”). TRA indicated it would actively encourage the mast sharing and other relevant facilities for wireless telecommunications sites.
- 1.2. TRA’s objectives in issuing this Regulation on the sharing of Wireless Telecommunications Network Facilities are:
 - (a) to address the concerns of the public and the environmental and planning authorities over the environmental impact of multiplication of masts and towers;
 - (b) reduce the inefficient and unnecessary duplication of existing Wireless Telecommunications Network Facilities and infrastructure.
 - (c) promote more environmentally friendly practices, through the minimization of constructing and maintaining masts and antennas;
 - (d) reduce up-front and operating costs of all wireless telecommunications network operators;
 - (e) promote fair competition through the sharing of Wireless Telecommunications Network Facilities which are not easily replicable and whose multiplication raises environmental and general public concerns;
 - (f) encourage socially efficient investment in infrastructure and avoid wasteful replication of infrastructure;
 - (g) ultimately, to provide benefits to consumers in terms of price, quality and availability of services and attempt to alleviate their concerns regarding the safety of the environment.

2. Introduction

- 2.1. This Regulation is issued by the Telecommunications Regulatory Authority (TRA) of the Kingdom of Bahrain under the following sections of the Telecommunications Law promulgated by Legislative Decree No. 48 for the year 2002 (“the Law”).
- 2.2. Section 3(b)(2) of the Law requires TRA to carry out its duties in a manner best calculated to, amongst other things, promote effective and fair competition among new and existing Licensed Operators.
- 2.3. Section 3(c)(1) of the Law grants TRA power to issue Regulations as may be necessary for the implementation of the provisions of the Law.
- 2.4. Section 3(c)(13) of the Law grants TRA the power to, where necessary, enforce the sharing by Public Telecommunications Operators of facilities and property.

3. Definitions

- 3.1. Unless otherwise defined in this Regulation any word, or expression, shall have the meaning as defined in the Telecommunications Law.
- 3.2. References to a word or phrase in the plural encompass references to words or phrases in the singular and vice versa.
- 3.3. References to a word or phrase in a different grammatical conjunction from the grammatical conjunction of a word or phrase defined below will, as far as possible, have the same corresponding meaning as the defined word or phrase.
- 3.4. The terms below shall have the following meanings:

“Sharing Agreement” means an agreement between an Owing Licensee and a Sharing Licensee for sharing the Owing Licensee’s Wireless Telecommunications Network Facilities.

“Referring Party” means the Negotiating Licensee that refers a dispute to TRA, in accordance with Article (13) of this Regulation.

“Requesting Licensee” means a Licensee that submits a Sharing Request to an Owing Licensee.

“Owning Licensee” means a Licensee that owns, manages or leases a Wireless Telecommunications Network Facility.

“Sharing Licensee” means a Licensee that shares the Wireless Telecommunications Network Facility of an Owning Licensee subject to a Sharing Agreement.

“Negotiating Licensees” means a Requesting Licensee or Licensees and Owning Licensee negotiating a Sharing Agreement.

“Site” means a place where a Wireless Telecommunications Network Facility or group of similar facilities is located.

“Sharing Request” means a written request from the Sharing Licensee to the Owning Licensee to share a Wireless Telecommunications Network Facility.

“Wireless Telecommunications Network Facility” means any part or parts of the infrastructure required for the operation of a wireless telecommunications network as stipulated in Article 5 of this Regulation.

4. Scope

- 4.1. This Regulation implements a Wireless Telecommunications Network Facility sharing regime that enables the sharing of the applicable Wireless Telecommunications Network Facilities between the Requesting Licensees, Sharing Licensees and the Owning Licensees.

5. Wireless Telecommunications Network Facilities

- 5.1 Any Licensee that owns, leases or manages the following Wireless Telecommunications Network Facilities is obliged to negotiate and enter into a Sharing Agreement, upon request, with respect to these facilities:
- (a) wireless telecommunications Sites, including but not limited to land, space and access to such Sites;
 - (b) masts, towers and poles and other similar structures used in the Site;

- (c) buildings, shelters and rooms in the Sites, including access to such premises;
- (d) utilities required for the operation of Sites, including but not limited to power, cooling, fire protection and earthing;
- (e) cable access, including but not limited to ducts, routes and trays.

6. Obligations to Share Facilities

- 6.1 Licensees wishing to share Wireless Telecommunications Network Facilities shall have the right to negotiate and come to agreement on terms and conditions of a Sharing Agreement. The terms and conditions of such Sharing Agreements shall be in accordance with the principles and conditions stipulated by this Regulation.
- 6.2 The Owing Licensee shall be obliged to share Wireless Telecommunications Network Facilities with other Licensees on a first-come, first-served basis, determined by the chronological order in which it receives requests for sharing its Wireless Telecommunications Networks Facilities.
- 6.3 Wireless Telecommunications Network Facility sharing shall be provided based on the principles of impartiality and non-discrimination.
- 6.4 All negotiations for Sharing Agreements must be conducted by all parties in utmost good faith. The Owing Licensee of the facility must not:
 - (a) Obstruct or delay negotiations;
 - (b) Refuse to provide information relevant to an agreement, including information necessary to identify the Wireless Telecommunications Network Facilities needed.
- 6.5 Negotiating Licensees should provide sufficient information to each other during the negotiation process on issues related to the facility sharing. Such information shall be treated as confidential by the negotiating parties at all times. Response to any such request should be prompt to avoid delay.
- 6.6 Every Sharing Agreement shall be in writing and shall specify the contractual terms and conditions agreed on by the parties.

- 6.7 To facilitate improved co-ordination and compatibility of the provisions of sharing facilities, the Sharing Agreement must employ standard provisions for the establishment and operation of such facilities under the Sharing Agreement. The provisions should cover at least the areas of:
- (a) the Sharing Licensee's physical access and visiting rights to the Telecommunications Facility;
 - (b) maintenance, safety and cleaning;
 - (c) fault clearance including urgent faults;
 - (d) security.
- 6.8 The parties to the Sharing Agreement must submit to TRA an original executed final Sharing Agreement within 3 working days of execution of the Sharing Agreement. The submitted Sharing Agreement must be accompanied by a written declaration signed by both parties that the Sharing Agreement complies with the Law and the Regulation.
- 6.9 TRA may examine negotiated Sharing Agreements to ensure compliance with the Telecommunications Law, Licenses, this Regulation and any other related Regulation, and in particular to ensure that:
- (a) the agreement is efficient; and
 - (b) each party substantively retains its own network identity from both a commercial and technical perspective.
- 6.10 TRA may require that any Sharing Agreement is amended to rectify any failure to comply with this Regulation. TRA must provide written reasons for its decision to amend the Sharing Agreement. Any decision of TRA that a Sharing Agreement should be amended, shall be implemented by the parties within the time as specified in TRA's decision.
- 6.11 For the purpose of facilitating efficient and balanced Sharing Agreements between the Owning Licensees and Sharing Licensees, a sample Sharing Agreement will be published on TRA's web site.

7. Sharing Agreement Negotiation Procedure

- 7.1. The Owing Licensee must have a Sharing Request form that can be instantly provided to the Requesting Licensee. The form should contain all details and any other information required by the Owing Licensee to start the feasibility study.
- 7.2. The Requesting Licensee wishing to share the Wireless Telecommunications Network Facility must complete and submit a Sharing Request form to the Owing Licensee.
- 7.3. Within 21 working days from the date of submission of the form by the Requesting Licensee, the Owing Licensee must complete the feasibility study and provide a decision to the Requesting Licensee in writing. The decision may be to:
 - (a) confirm the availability of the facility and proposal to start the procedure to complete a Sharing Agreement;
 - (b) confirm the availability of the facility subject to suggested reasonable amendments to the application and proposal and date to start the procedure to complete a Sharing Agreement; or
 - (c) reject a Sharing Request.
- 7.4. Once the feasibility study has been completed and availability of the facility is confirmed, the time frame for completing a Sharing Agreement should not exceed 21 working days from:
 - (a) in case of decision issued under Article 7.3(a) of this Regulation, the date of the acceptance letter of the Owing Licensee; or
 - (b) in case of decision issued under Article 7.3(b) of this Regulation, the date the Owing Licensee receives the letter from the Requesting Licensee accepting the suggested amendments.
- 7.5. The commencement date for sharing the requested Wireless Telecommunications Network Facility must be within a reasonable time from the date of signing the Sharing Agreement by both parties, taking into account the reasonable time to develop or alter the requested Wireless Telecommunications Network Facility, if required.
- 7.6. The cost incurred by the Owing Licensee to develop or alter the requested Wireless Telecommunications Network Facility shall be settled in line with the conditions of this Regulation.

- 7.7. Upon execution of a negotiated Sharing Agreement the parties shall forward the agreement to TRA in accordance with Article 6.8 of this Regulation.

8. Redevelopment and Alteration of Facilities

- 8.1 Licensees are encouraged to pursue a policy of facility sharing within the constant development and upgrading of their networks facilities so as to make adequate capacity and space available to other licensees for the sharing of facilities.
- 8.2 Licensees (both Owing and Sharing) shall ensure that existing facilities are used efficiently and shall expediently free up the space on the facilities by removing any equipment, which is no longer necessary for the business of the respective Licensee.
- 8.3 Where the Requesting Licensee requests facility sharing on or in Wireless Telecommunications Network Facilities and the existing capacity is fully utilized (taking into account the obligation to remove unnecessary equipment in Article 9.3 of this Regulation), the Owing Licensee shall extend the facility to allow for sharing, provided the facility is technically capable of withstanding the additional loads.
- 8.4 Where the mast and towers require extension, the work shall be carried out in such a way that ensures clearance angles and minimum separation distances between antenna systems of different operators are respected and kept clear of obstacles. Each licensed operator may decide on the antenna configuration and positioning within its allocated space in or on the Wireless Telecommunications Network Facilities, as long as clearances and distances from other licensed operator(s) are not violated.
- 8.5 The Requesting Licensee shall be obliged to pay to the Owing Licensee a one-off payment to compensate for the proportion of costs efficiently incurred by the Owing Licensee in carrying out the upgrade and alteration works to the facilities requested for sharing. The proportion of costs shall be calculated to the amount of the benefit incurred by the Requesting Licensee because of the upgrade or alteration compared with the benefit incurred by the Owing Licensee and any other Sharing Licensees currently or in the future.
- 8.6 The development or alteration required and the related cost should be jointly assessed by the parties or, where the parties cannot agree or consider it to be most practical, then by an independent third party

expert appointed by agreement of the parties or failing such agreement, by TRA, and shared at the percentage agreed by all parties, or in the case of failure to agree, set by the independent third party expert.

- 8.7 The Owing Licensee shall give adequate written notice to Sharing Licensees of its intention to develop and/or alter Wireless Telecommunications Network Facilities. The notice period shall not be less than six (6) months for Wireless Telecommunications Network Facilities development and twelve (12) months for collocation change.
- 8.8 A Requesting Licensee may request a site inspection if it is deemed necessary by it for the purpose of assisting that party to reach an informed decision.

9. Capacity Issues

- 9.1 Capacity or space shall be considered available where the existing facility or site is technically and physically capable of accommodating extra Wireless Telecommunications Network Facilities and equipment (taking into account the obligation to remove the unnecessary equipment in Article 9.3 of this Regulation).
- 9.2 The Owing Licensee shall have the right to reserve reasonable capacity or space for future use, provided the Owing Licensee has a clearly demonstrable and reasonable development plan to use such capacity or space within one year of reserving the capacity or space.
- 9.3 Owing Licensees must remove from any space or facility that can be shared any unnecessary, abandoned or obsolete equipment or facilities which is or will be no longer necessary for the business of the Owing Licensee and/or any Sharing Licensee.

10. Assessment of Sharing Feasibility

- 10.1 An Owing Licensee shall have the right to refuse a Sharing Request in the following cases:
- (a) where the available space is either fully occupied (taking into account the obligation to remove the unnecessary equipment in Article 9.3 of this Regulation) or the remaining space is reserved for

the Owning Licensee's or another Requesting Licensee's use, as specified within this Regulation;

- (b) where the sharing of a facility is not technically or economically feasible;
- (c) where the Sharing Request, if granted, will constitute a threat to safety or affect the reliability of the Owning Licensee's network or services.

10.2 The Owning Licensee must provide detailed written reasons and justifications to the Requesting Licensee in case of sharing refusal. If possible, the Owning Licensee shall propose amendments to the requested sharing in order to overcome the reasons for possible rejection of the Sharing Request. A copy of the response must be sent to TRA.

11. Safety and Protection Arrangements

11.1 Without prejudice to Article 14.1 of this Regulation, Licensees shall keep the apparatus safe and in a good state of repair and condition throughout the term of sharing and shall comply with:

- (a) the recommendations and requirements of the International Commission on Non-Ionising Radiation Protection as published from time to time; and
- (b) any other requirements and recommendations issued by the relevant Government agencies or public bodies of the Kingdom of Bahrain related to the emissions of radio frequency radiation from the use of Radiocommunications Equipment.

11.2 All parties to a Sharing Agreement shall make every effort to ensure the efficient and safe use of spaces as a result of Sharing Agreements.

11.3 Mast and tower sharing shall require consideration of load bearing capacity, azimuth angle of different Licensees, tilt of the antenna, and height of the antenna before an agreement can be executed.

11.4 The Licensees working on masts and towers shall be responsible for informing their staff and protecting them from any possible danger as a result of their work.

- 11.5 Negotiating Licensees may request some form of physical separation of their Telecommunications Equipment to ensure internal and external security, reduce interference and limit damage to each other's Telecommunications Equipment.
- 11.6 The degree to which separation of Telecommunications Equipment will be necessary will be determined, among other things, by:
- (a) prevailing local circumstances;
 - (b) available space;
 - (c) special requirements of Requesting Licensee;
 - (d) level of standardization of Telecommunications Equipment; and
 - (e) risk of damage to Telecommunications Equipment.

12. Sharing Facilities and Component Pricing

- 12.1 Prices for sharing Wireless Telecommunications Network Facilities shall be fair and reasonable and based on cost.
- 12.2 TRA may require any Licensee to provide justification for their sharing facilities and component prices and may, where appropriate, require that any or all prices be adjusted so that they are in accordance with the provisions of the Telecommunications Law and conditions stipulated by this Regulation.

13. Dispute Resolution

- 13.1 The dispute resolution process and procedure in this Regulation will be a paper only process, except when TRA determines that an oral hearing is necessary in order to determine the dispute.
- 13.2 TRA may resolve the following disputes arising between the parties in accordance with the provisions of this Article if such a dispute is referred to TRA within the deadlines stipulated in each respective subparagraph of this Article below:
- (a) The Owning Licensee does not reply to a Sharing Request within the timeframe prescribed by Article 7.3 of this regulation.

Submission of the dispute to TRA must occur within 15 working days of the deadline for the reply;

- (b) The Requesting Licensee wishes to dispute:
- (i) the Owing Licensee's letter proposing amendments, issued under Articles 7.3(b) and Article 10 of this regulation. Submission of the dispute to TRA must occur within 15 working days from the date of the Requesting Licensee receiving that letter; or
 - (ii) a rejected Sharing Request issued under Articles 7.3(c) and Article 10 of this regulation. Submission of the dispute to TRA must occur within 15 working days from the date of receiving that letter.
- (c) The parties do not enter into a Sharing Agreement in accordance with Article 7(a). Submission of the dispute to TRA must occur within 15 working days of the deadline for finalizing the Sharing Agreement in accordance with Article 7.4(a) of this regulation;
- (d) After the Requesting Licensee has accepted the Owing Licensee's proposed amendments in accordance with Article 7.4(b) and the parties do not enter into a Sharing Agreement in accordance with Article 7.4(b). Submission of the dispute to TRA must occur within 15 working days of the deadline for finalizing the Sharing Agreement in accordance with Article 7.4 of this regulation;
- 13.3 The Referring Party must submit its complaint in writing to TRA with all supporting documentation and evidence, including correspondence between the parties and statements from any witnesses it wishes to rely upon.
- 13.4 TRA must acknowledge receipt of the submission within 1 working day of receipt of the submission.
- 13.5 Within 7 working days of receipt of the submission TRA must determine if the Referring Party has a valid complaint or not. If TRA determines that the Referring Party does not have a valid complaint it must write to the Referring Party within 15 working days of receipt of the submission explaining in detail its reasons for considering the Referring Party's submission and case to be invalid.
- 13.6 If TRA determines that the Referring Party has a valid complaint it will forward the dispute to the Other Party and request a response within

15 working days from the date of TRA forwarding the dispute to the Other Operator, unless TRA specifies otherwise.

- 13.7 The Other Party must respond to TRA within 15 working days from the date on which TRA forwarded the dispute to the Other Operator, unless TRA specifies otherwise.
- 13.8 The Other Party's response must respond to each point raised by the Referring Party and must provide full supporting documentation and evidence, including correspondence between the parties that may not have been relied upon by the Referring Party and statements from any witnesses it wishes to rely upon.
- 13.9 Upon receipt of the Other Party's response TRA will consider whether further documentary evidence is required and make written requests for same from either or both parties.
- 13.10 Upon receipt of all required documentary evidence TRA will notify the parties of the expected date of its decision on the resolution of the dispute.
- 13.11 Should TRA determine that the Owning Licensee should share the Wireless Telecommunications Network Facilities in question, the parties must enter into a Sharing Agreement following the procedures outlined in Article 7.4 of this Regulation above.
- 13.12 TRA's power to issue decisions includes an order imposing Telecommunications Facility sharing arrangements between the parties.

14. Adherence to Other Rules and Regulations

- 14.1 Without prejudice to the provisions of this Regulation, the Licensees shall adhere to all other laws and Regulations issued by TRA, Governmental agencies and other public bodies of the Kingdom of Bahrain with regard to health and safety at work and the deployment of infrastructure in the Kingdom of Bahrain.

15. Enforcement and Penalties

- 15.1 Licensed Operators that materially or persistently fail to comply with the provisions of this Regulation will be deemed in material breach of the

Telecommunications Law and will be subject to enforcement action under the relevant provisions of the Telecommunications Law.

16. Entry Into Force

- 16.1 This Regulation shall enter into force from the day following publication in the Official Gazette.