



هيئة تنظيم الاتصالات
Telecommunications Regulatory Authority
Kingdom of Bahrain - مملكة البحرين

PROMULGATING THE NEW REGULATION AND CONDUCTING A PUBLIC CONSULTATION

A public consultation document issued by the Telecommunications Regulatory Authority of the Kingdom of Bahrain on the Requirement to ensure Internet Safety: (the “**Internet Safety Regulation**”).

15 December 2015

Ref: CSD/1215/131

The address for responses to this document is:

The General Director
Telecommunications Regulatory Authority
PO Box 10353
Manama
Kingdom of Bahrain

Alternatively, e-mail responses may be sent to CSD@tra.org.bh

The deadline for responses is 24 January 2016.

Purpose: to seek stakeholders' views on a proposed new Regulation on the Requirement to ensure Internet Safety: (the “**Internet Safety Regulation**”).

1 INSTRUCTIONS FOR SUBMITTING A RESPONSE

1.1 The Telecommunications Regulatory Authority (the “**Authority**”) invites comments on this consultation document from all interested parties. Comments should be submitted no later than 4pm local time on the 24th of January 2016

1.2 Responses should be sent to the Authority preferably by email (either Word or PDF format) or by fax or post to the attention of:

The General Director
CSD@tra.org.bh
Telecommunications Regulatory Authority,
P.O. BOX 10353, Manama, Kingdom of Bahrain
Fax: +97317532125

1.3 Responses should include:

- the name of the responding entity;
- the name of the principal contact person;
- full contact details (physical address, telephone number, fax number and email address);
- in the case of responses from individual consumers, name and contact details; and
- a brief statement explaining the interest of the responding entity.

1.4 The Authority seeks comments from stakeholders in the telecommunications industry, the business community and the general public on the proposed new Internet Safety Regulation (the “**New Regulation**”), attached at Annex 1. All comments should be supported as much as possible by detailed explanation, including, where relevant, references to the specific provisions of the Telecommunications Law¹ or Licences that the respondent is relying upon.

1.5 Further, the Authority invites respondents to provide comments in response to each of the questions listed for reference at Annex 2.

1.6 In the interests of transparency, the Authority intends to make all submissions received available to the public, subject to the confidentiality of the information received. The Authority will evaluate a request for confidentiality in line with the relevant legal provisions² and the

¹ The Telecommunications Law of the Kingdom of Bahrain, promulgated by Legislative Decree No. 48 of 2002

² Including Article 23 of the Telecommunications Law

Authority's published guidance on the treatment of confidential and non-confidential information³.

- 1.7 Respondents are required to mark clearly any information included in their submission that is considered confidential. Where such confidential information is included, respondents are required to provide both a confidential and a non-confidential version of their submission (in soft copies and not scanned copies). If part or all of the submission is marked confidential, reasons should be provided. The Authority may publish or refrain from publishing any document or submission at its sole discretion.

³ http://www.tra.org.bh/media/document/Confidentiality_Guidelines_Final.pdf

ANNEX 1:

DRAFT INTERNET SAFETY REGULATION

Article 1

Definitions

For the purposes of this Regulation, any word or expression shall have the meaning given to it in the Telecommunications Law, and the following terms and expressions shall have the following meanings, unless the context otherwise requires:

Central Management System means the system upon which the Prohibited Material List is updated from time to time.

Internet Services means all services provided to the public whose provision consists of interaction with the internet or the transmission of information to or over the internet.

ISP means a holder of an Internet Services Provider Class License or any Person that provides Internet Services either directly or indirectly in the Kingdom.

ISP System means all equipment, hardware and technology maintained and operated by the ISP and continuously connected to the Central Management System as part of the Unified Technical Solution.

Prohibited Material List means the list of Websites recorded on the Central Management System whose content is deemed illegal and/or prohibited in the Kingdom of Bahrain by the Relevant Public Authority, and which access to by any User, Subscriber or any other Person is prevented on a permanent basis.

Relevant Public Authority means the authority responsible for assessing Website content.

Unified Technical Solution means the technical solution chosen by the Authority from time to time to be implemented to achieve the objectives of this Regulation to include the Central Management System, the ISP System and the Unified Technical Solution Software.

Unified Technical Solution Software Costs means the cost of the software licence granted by the Unified Technical Solution Software Provider to be borne by the ISPs in accordance with the terms of Article 5 of this Regulation.

Unified Technical Solution Software Provider means the provider selected by the Authority from time to time to provide the software licence(s) necessary to operate the Unified Technical Solution.

Unified Technical Solution Software means the software provided by the Unified Technical Solution Software Provider.

Website means any collection of material placed in a computer server-based file archive so that it is accessible, over the internet, using hypertext transfer protocol (or any successor protocol or analogous system) or any network port, application or protocol used to transmit data over an internet connection.

Website Compliance Request means a communication sent in any form by the Authority to an ISP identifying a Website (or Websites) that the ISP must prevent access to by any User, Subscriber or any other Person on a permanent basis or until otherwise directed by the Authority.

Article 2

Objectives of this Regulation

The objectives of this Regulation are to:

- 2.1 Require ISPs to implement and maintain the ISP System as part of the Unified Technical Solution selected and enforced by the Authority, in accordance with the terms of this Regulation.
- 2.2 Require ISPs to comply with any Website Compliance Request within the timeframe specified by the Authority.
- 2.3 Require ISPs to meet the costs of implementing the objectives of this Regulation as described in Article 5 of this Regulation.

Article 3

The Authority's Obligations

- 3.1 The Authority shall select the Unified Technical Solution Software Provider.
- 3.2 The Authority shall monitor compliance with the terms of this Regulation in order to ensure that the Unified Technical Solution is implemented, maintained and operated in accordance with the terms of this Regulation at all times.

Article 4

ISP Obligations

- 4.1 The ISP shall ensure that the ISP System is continuously connected to the Central Management System and is capable of automatically preventing access to all Websites (or other content) recorded on the Prohibited Material List.
- 4.2 The ISP shall pay the Unified Technical Solution Software Costs in accordance with the terms of Article 5 of this Regulation.
- 4.3 The ISP shall comply with all Website Compliance Requests issued in accordance with the terms of this Regulation within 24 hours of receipt of such a request.
- 4.4 The ISP shall provide the Authority with all information that it may require to affect the implementation of the objectives of this Regulation, including (but not limited to):

- a) all information requested by the Authority relating to the provisions of this Regulation within the time limits required by the Authority from time to time; and
 - b) the ISP shall provide all information regarding any failure of the Unified Technical Solution to achieve the objectives of this Regulation within 12 hours of the ISP becoming aware of the same.
- 4.5 Following a notification being provided by an ISP to the Authority pursuant to Articles 4.4 (a) and (b) above, the ISP shall rectify any issues pertaining to the notification within the period specified to it by the Authority.
- 4.6 The ISP shall not perform any action in relation to the ISP System which may negatively affect the Unified Technical Solution's ability to meet the objectives of this Regulation.
- 4.7 The ISP shall liaise solely with the Authority in relation to all matters relevant to the outcomes and objectives of this Regulation unless otherwise directed by the Authority.

Article 5

Financing of the Unified Technical Solution

- 5.1 The ISP shall pay:
- (a) the Unified Technical Solution Software Costs;
 - (b) the ongoing costs of purchasing, maintaining and operating the ISP System; and
 - (c) the cost of connecting the ISP System to the Central Management System as part of the Unified Technical Solution.
- 5.2 The Unified Technical Solution Software Costs shall be calculated based upon the volume of internet traffic accessed over the individual ISP's respective network(s) during a billing period or in such other manner as may be directed by the Authority from time to time.
- 5.3 The ISP shall pay the Unified Technical Solution Software Costs in accordance with the standard payment terms of the Unified Technical Software Provider or in accordance with such other terms as may be negotiated by the Authority.

Article 6

Enforcement

- 6.1 The measures set out under this Article are without prejudice to the powers conferred on the Authority by Articles 35 and 78 of the Telecommunications Law.
- 6.2 In the event that an ISP fails to abide by any of the terms of this Regulation (or undertakes any measures to circumnavigate either the ISP's obligations or the Regulation's objectives) the Authority may issue an emergency order requiring the ISP to rectify the breach of this Regulation identified in a time limit to be determined by the Authority.
- 6.3 The breach of any provisions of this Regulation by the ISP shall also be deemed to constitute a severe breach of its Licenses and the provisions of the Telecommunications Law.

ANNEX 2: CONSULTATION QUESTIONS

1 ARTICLE 1: DEFINITIONS

1.1 Article 1 provides a list of definitions used within the New Regulation. These are non-exhaustively outlined below:

1.1.1 "Internet Services" has been defined as widely as possible to include the provision of all and any services which are delivered, used or viewed in any way whatsoever over the Internet.

1.1.2 "ISP" has been defined to ensure that it is as inclusive as possible in respect of the supplying party.

1.1.3 "ISP System" has been defined to ensure that it is clear that this must be continuously connected to the Central Management System in order to achieve the objectives of the New Regulation.

1.1.4 "Prohibited Material List" has been defined so as to ensure that ISPs are aware that this will be recorded on the Central Management System and that all Users, Subscribers or any other Person must be prevented from accessing the Websites therein.

1.1.5 "Unified Technical Solution" has been defined as the solution chosen by the Authority and inclusive of the Central Management System, ISP System and the Unified Technical Solution Software.

1.1.6 "Website" has been defined so as to include all current and future systems relating to online content (howsoever accessed) that may come into existence and therefore avoid the risk or the need to amend the New Regulation to continue to achieve its obligations.

1.1.7 "Website Compliance Request" has been included to ensure a failsafe should the Central Management System be unable to achieve the objectives of the New Regulation for any technical reason. It has also been included to provide the Authority with a mechanism by which to assist it in ensuring that the Unified Technical Solution is implemented, maintained, operated and functioning.

1.2 **Question:** *Do you consider the definitions of Article 1 of the New Regulation sufficient? If not, please give reasons and state which terms you think should be added or omitted.*

2 **ARTICLE 2: OBJECTIVES OF THE NEW REGULATION**

- 2.1 The New Regulation applies to all ISPs. The New Regulation makes it clear that ISPs shall be responsible for maintaining the ISP System.
- 2.2 The New Regulation requires all ISPs to comply with any Compliance Request within the timeframe given by the Authority.
- 2.3 Any costs incurred in implementing the objectives of the New Regulation shall be borne by the ISP in accordance with Article 5.
- 2.4 **Question:** *Do you agree with the provisions and objectives of Article 2 of the New Regulation? If not, please provide reasoning as to what you do not agree with and why.*

3 **ARTICLE 3: THE AUTHORITY'S OBLIGATIONS**

- 3.1 Article 3 outlines the obligations of the Authority in respect of implementing the objectives of the New Regulation. The Authority shall be responsible for choosing the Unified Technical Solution Software Provider and monitoring ISP compliance with this.
- 3.2 **Question:** *Do you agree with the provisions of Article 3 of the New Regulation? If not, please provide reasoning as to what you do not agree with and why.*

4 **ARTICLE 4: ISP OBLIGATIONS**

- 4.1 Article 4 sets out the ISPs' obligations with regards to the New Regulation.
- 4.2 The New Regulation requires ISPs to ensure that the ISP System is continuously connected to the Central Management System. Additionally, the ISP System must, at all times, be capable of automatically preventing access to those Websites on the Prohibited Material List.
- 4.3 Under Article 4.3, the ISPs are required to respond to (and satisfy) all Website Compliance Requests within 24 hours of receiving such a request.
- 4.4 Article 4.4 sets out the obligations of the ISP to provide information to the Authority in various contexts, including the manner in which this should be done and, where relevant, the time limits in which such information should be provided and/or disclosed to the Authority.
- 4.5 In addition to compliance with Website Compliance Requests, the ISP is required to correspond solely with the Authority in respect of matters concerning the outcomes and objectives of the New Regulation.
- 4.6 **Question:** *Do you agree with the provisions of Article 4? In particular:*
- 4.6.1 *Do you agree that compliance with all Website Compliance Requests can be made within 24 hours of receipt of such a request? If not, please give your reasons.*

4.6.2 *Do you agree with the time limits set out at Article 4.4 (a) – (b)? If not, please give your reasons.*

4.6.3 *Do you agree with Article 4.7 that ISPs shall correspond solely with the Authority in relation all matters covered under the New Regulation?*

5 **ARTICLE 5: FINANCING OF THE UNIFIED TECHNICAL SOLUTION**

5.1 Article 5 outlines what elements of the Unified Technical Solution are to be paid for by the ISPs.

5.2 The New Regulation requires that all costs associated with the ISP System (including its connection to the Central Management System) and the costs of the Unified Technical Solution Software chosen by the Authority will be borne by the ISPs.

5.3 **Question:** *Do you agree with the provisions of Article 5? In particular:*

5.3.1 *Do you agree with the requirement that ISPs bear the costs of the ISP System (including its connection to the Central Management System) and the Unified Technical Solution Software Costs? If not, please give your reasons.*

6 **ARTICLE 6: ENFORCEMENT**

6.1 Under Article 6.2, where the Authority finds that an ISP has failed to abide by the terms of the New Regulation, it may issue an emergency order requiring the ISP to rectify any breach within a time limit to be determined by the Authority.

6.2 This is to incentivise the ISPs to comply with the New Regulation and to allow the Authority to rectify any noncompliance in the most expedient manner possible.

15.3 **Question:** *Do you agree with the provisions of Article 6? If not, please give reasons as to why.*