PUBLIC CONSULTATION

A Consultation on the Regulation concerning the requirements of National Security

A public consultation document issued by the Telecommunications Regulatory Authority of the Kingdom of Bahrain

25 February 2009

TOD/ICT/0209/003

Request for comments:

The Telecommunications Regulatory Authority invites comments on this consultation document from all interested parties.

Comments should be submitted before 4:00 p.m. on 26 March 2009.

Responses should be sent to TRA for the attention of the General Director preferably by e-mail (or by hand or post) to:

The General Director
consult@tra.org.bh
Telecommunications Regulatory Authority
P.O. Box 10353, Manama, Kingdom of Bahrain
PUBLIC CONSULTATION

A Consultation on the Regulation concerning the requirements of National Security

Instructions for submitting a response

i. The Telecommunications Regulatory Authority ("TRA") invites comments on this consultation document from all interested parties. Comments should be submitted by **4:00 p.m. on the 26th of March, 2009.**

ii. Responses should be sent to TRA for the attention of the General Director preferably by email (or by hand or post) to:

The General Director  
consult@tra.org.bh  
Telecommunications Regulatory Authority  
7th Floor, TAIB Bank Building, Diplomatic Area  
P.O. Box 10353, Manama, Kingdom of Bahrain

iii. Responses should include:

   a. the name of the company/institution/association, etc.;
   b. the name of the principal contact person;
   c. full contact details (physical address, telephone number, fax number and e-mail address); and
   d. in the case of responses from individual consumers, name and contact details.

iv. In the interest of transparency, TRA may make all submissions received available to the public, subject to the confidentiality of the information received. TRA will evaluate requests for confidentiality in line with relevant legal provisions and TRA's published guidance on the treatment of confidential and non-confidential information.¹

v. 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. If a part or a whole submission is marked confidential, reasons should be provided. TRA may publish or refrain from publishing any document or submission at its sole discretion.

vi. Once TRA has received and considered responses to this consultative document, TRA will issue a final version of a **Regulation requiring Licensees to provide Technical Resources to achieve the Requirements of National Security**, together with the report on the consultation.
PUBLIC CONSULTATION

A Consultation on the Regulation concerning the requirements of National Security

Regulation requiring Licensees to provide Technical Resources to achieve the Requirements of National Security

Article 1
Purpose

After perusal of the Constitution, Legislative Decree No. 48 of 2002 promulgating the Telecommunications Law, and Decree No. 14 of 2002 with respect to the Establishment of a National Security Agency, as amended, this Regulation shall be concerned with the following:

1- Requiring Licensees to enable Lawful Access in accordance with the requirements of national security and based upon Article 78 of the Telecommunications Law issued by Legislative Decree No. 48 of 2002.

2- Prohibiting Licensees to activate, market, or use any Telecommunications service before the implementation of Lawful Access.

3- Organizing the process of retaining, using and deleting Access Related Information through determining the period of time and the methodology for these processes.

4- Identifying the locations of wireless Subscribers (mobile, nomadic, and fixed wireless).

5- Providing the identity of the caller from any communications device and prohibiting the conveyance of any locally originated Call that does not include Calling Line Identification.

Article 2
Introduction

1- In accordance with Article 3(c)(1) of the Telecommunications Law, TRA is empowered to issue regulations related to all matters provided for in the Law, including Article 78 of the Telecommunications Law.

2- Licensees are required to comply with the regulations and decisions issued by TRA with respect to Lawful Access in accordance with Article 78 of the Telecommunications Law.

3- In the framework of cooperation between TRA and the organizations concerned with maintaining national security, this Regulation will
PUBLIC CONSULTATION

A Consultation on the Regulation concerning the requirements of National Security

determine certain technical requirements necessary to support security efforts in the Kingdom of Bahrain, and in particular Lawful Access.

4- As such, this Regulation, after consulting with concerned parties within the Kingdom of Bahrain, the Constitution, and the relevant laws, will determine security organizations that are entitled and authorized to Lawful Access.

Article 3
Definitions

1- Unless otherwise defined in this Regulation any word, or expression, shall have the meaning given to it in the Telecommunications Law.

2- References to a word or phrase in the singular encompass references to words or phrases in the plural.

3- References to a word or phrase in the plural encompass references to words or phrases in the singular.

4- 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.

5- The terms below shall have the following meanings:

3G: mobile third generation service

Access Capability Plan (ACP): a semi-annual plan that is prepared by each Licensee and states new Telecommunications services to be provided by the Licensee in the next half year. It also states, in detail, the steps to be taken by the Licensed Operator to provide Lawful Access for the proposed new Telecommunications services named in the same plan. In addition, the ACP shall include any changes that may occur to the Telecommunications services provided currently by the Licensee before being implemented, and any changes that may affect the retention of Access Related Information.

Access Implementation Plan (AIP): a Licensee’s plan for the implementation of Lawful Access for the first time. Such a plan includes all technical, administrative and financial details relating to the provision of Lawful Access in a manner that includes all Telecommunications services, in coordination, through TRA, with the security organizations named in this Regulation. The Access Implementation Plan also includes the Licensed Operator’s plan for the collection, retention, and access to Access Related Information.
A Consultation on the Regulation concerning the requirements of National Security

**Access Related Information (ARI):** all data, including messages, sounds, visual images and signals, which passes through the Telecommunications Network of a Licensee as a result of the provision of a Telecommunications service, excluding Call Content, and including, for example, Call party numbers, Call times, Call duration, User and server’s IP addresses, the type of protocol used and other data. For example, the website address http://www.tra.org.bh/ is considered Access Related Information while the website address http://www.tra.org.bh/en/Registration.asp constitutes the Call Content and can only be retained or accessed through Lawful Access procedures set forth below. Similarly, a mobile phone number is Access Related Information, but the telephone conversation is considered Call Content.

**ADSL:** Asymmetric Digital Subscriber Line

**Anonymization of Access Related Information:** is a process of removing identity information from a Call, communication, or record. Anonymization is achieved if a given Call, communication, or record can be narrowed down to no less than ten thousand (10,000) possibilities.

**Authentication Username:** is the data used for User identification to access an electronic service, software or server. The format of authentication usernames is usually in the form of a pseudonym, e-mail address, ID number or any other name.

**Call:** means communications conveying voice or data.

**Call Content (CC):** means the information transmitted between the parties during the Call or other communication, excluding Access Related Information, such as, but not limited to, the content of a telephone Call between two or more persons, a web page on the Internet, the content of an SMS, or the content of any other type of Call.

**Calling Line Identification (CLI) Service:** transmission of the identification number used by the party initiating the Call or other communication. The identification number may be a telephone number, IP address, authentication user name or other means of uniquely identifying Subscribers (by identifying a single Subscriber only).

**EMS:** Enhanced Messaging Service

**GPRS:** General Packet Radio Service

**IMEI:** International Mobile Equipment Identity number
PUBLIC CONSULTATION

A Consultation on the Regulation concerning the requirements of National Security

IMSI: International Mobile Subscriber Identity number

IP: Internet Protocol


Lawful Access: provision of access to the traffic sent via the Telecommunications Networks, Telecommunications Facilities and Telecommunications Equipment of the Licensee in order to achieve the requirements of national security. Such access includes the provision of all technical resources, including Telecommunications Equipment, systems, programs and communication links.

MMS: Multimedia Messaging Service

Proxy: means independent computer system or application software that works on behalf of the user to retrieve websites or electronic content on behalf of the user.

SMS: Short Message Service

Article 4
Scope

1- The provisions of this Regulation shall apply to all Licensees.

Article 5
Organizations Entitled and Authorized to Lawful Access under this Regulation

1- In accordance with Article 33(g) of the Constitution of the Kingdom of Bahrain with respect to the domestic tasks of the Bahrain Defence Force, Article (4) of Decree No. 14 of 2002 with respect to the Establishment of a National Security Agency and Article 78 of the Telecommunications Law, the following security organizations are deemed entitled and authorized to Lawful Access:

a) Bahrain Defence Force, Directorate of Military Intelligence
b) National Security Agency

Article 6
Implementation of Lawful Access

1- All Licensees shall provide Lawful Access to the security organizations named in Article 5 of this Regulation.
A Consultation on the Regulation concerning the requirements of National Security

2- Before the implementation of Lawful Access, each Licensee shall provide an Access Implementation Plan to TRA to obtain written approval. After consultation with the relevant security organizations, TRA shall provide an approval or rejection of the Access Implementation Plan with reasons within a maximum period of sixty (60) days from the date of submission of the Access Implementation Plan. Should TRA not respond within the mentioned timeframe, this will be considered a rejection of the Access Implementation Plan.

3- TRA may not approve or reject any Access Implementation Plan unless it is based on a written statement from the relevant security organization.

4- In the case of rejected Access Implementation Plans, the Licensee shall take into account the reasons for rejection and submit another Access Implementation Plan.

5- All Licensees shall be prohibited to market or activate any Telecommunications service before the provision of Lawful Access for the said service.

6- After six months have passed from the date of implementing the approved Access Implementation Plan, and every 6 months after that, Licensees are required to submit their Access Capability Plan to TRA for written approval.

7- The same procedures, durations, and timeframes required for the Access Implementation Plan indicated above shall also apply to the Access Capability Plan.

Article 7
Lawful Access Procedures

1- Lawful Access procedures shall be determined by agreement between security organizations that are entitled to Lawful Access (according to Article 5 of this Regulation) and Licensees.

2- Lawful Access must be provided without prejudice to the provisions of the Constitution, the Telecommunications Law, and the Services Licenses granted to the Licensees.

3- For the purpose of implementing the provisions of this Regulation, all Licensees shall verify the identity of relevant authorized persons in each security organization that is entitled and authorized to Lawful Access, as listed in Article 5 above, and shall not disclose any information relating
PUBLIC CONSULTATION

A Consultation on the Regulation concerning the requirements of National Security

to Lawful Access or Subscriber details to any unauthorized person within the said security organizations.

4- Security organizations entitled to Lawful Access shall verify the identity of relevant authorized persons within each Licensee, and not disclose any information relating to Lawful Access or subscriber details to any unauthorized person within Licensees.

5- Authorization of persons involved in Lawful Access, whether from within the Licensees or from within the security organizations listed above, shall be in the form of a written authorization from the most senior member of staff within the respective Licensee or security organization.

Article 8
Financing of Lawful Access

1- Every Licensee shall undertake to provide, at its own expense, all technical resources, including Telecommunications Equipment, systems, programs and communications links and all that is necessary to provide a comprehensive and integrated Lawful Access facility for all Telecommunications services provided by the Licensee, regardless of the physical location of any Lawful Access equipment.

Article 9
Retention of Access Related Information

1- Each Licensee shall retain all Access Related Information listed below for a period of not less than one year and not more than three years from the date of each Call.

2- The Licensee shall be prohibited to access the Call Content of any Subscriber when the Subscriber uses any Telecommunications service.

3- Access Related Information shall be retained according to the relevant Telecommunications service, as follows:

a) Access Related Information for fixed and wireless voice Calls:

   I. All numbers and identifiers associated with a voice Call, for all parties of a voice Call (including other identifications that could be used for CLI), including local, international or other CLI numbers, information of the wireless phone used (IMEI, IMSI), branch exchange numbers and forwarded numbers;
   II. Date and time of the start and end of the voice Call;
III. Call duration;
IV. The type of voice Call (if any – such as video, voice or other type of Call);
V. The Call parties’ location when starting and ending the Call (in the form of address (in case of fixed services) or longitude and latitude numbers (in case of wireless Telecommunications services);
VI. Telecommunications base stations used.

b) Access Related Information with regard to data Calls of 3G, GPRS and other data communications technologies usually, but not necessarily, made available through subscriber identity module (SIM) cards:

I. Date and time of the Call;
II. Caller IMSI number;
III. IP (or other relevant) address used;
IV. Wireless phone traffic data exchanged with Licensees in other countries.

c) Access Related Information of SMS, EMS and MMS Calls:

I. Caller number;
II. Caller IMEI number;
III. Receiver number;
IV. Receiver IMEI number;
V. Date and time of the Call;
VI. Message delivery report (if any);
VII. Data of the Call parties’ physical locations when sending or receiving the Call (in the form of longitude and latitude numbers).

d) Access Related Information of e-mail:

I. E-mail access data (authentication username, date and time of login and logout, IP address logged in from);
II. Data of the e-mail sent (authentication username, e-mail addresses used in all the fields (From/To/CC/BCC), date and time of sending the e-mail);
III. Data of the e-mail received (authentication username, e-mail addresses used in all the fields (From/To/CC), date and time of receiving the e-mail).

e) Access Related Information of Internet Service Providers in general:

I. Authentication username;
II. Date and time of login and logout;
III. IP address used;
A Consultation on the Regulation concerning the requirements of National Security

IV. Telephone number used (for dial-up subscribers);
V. Call termination point and, for ADSL subscribers, Media Access Control (MAC) Address.

f) Access Related Information of Internet browsing:
   I. Proxies record data (time/date, IP addresses used by all parties, website addresses visited, services used, the type of protocol used).

g) Access Related Information with regard to instant messaging:
   I. Date and time of login and logout, authentication username, IP address logged in from, IP address of instant messaging server.

4- Licensees shall retain all data used to read or interpret Access Related Information, for example, the clarification or mapping of relationship between telephone numbers and IMEI numbers, the mapping between MAC addresses and telephone numbers used in an ADSL connection, and similar data.

5- A Licensee shall, when retaining Access Related Information, provide the ability to search electronically in all retained information.

6- In providing electronic search capabilities for Access Related Information, Licensees shall support the requirements of security organizations by providing the requested Access Related Information in the least amount of time possible. In all cases, Licensees shall provide the required Access Related Information in a period not exceeding 24 hours from the time the request has been made.

7- A Licensee shall be responsible for retaining Access Related Information securely, and may electronically store a copy or more of the retained data. Licensees shall implement recognized best practices for the safe storage of electronic data, including the provisioning of reasonable and necessary precautions to protect Access Related Information from different types of damage, such as fire, loss of electric power, natural disasters and other risks.

8- A Licensee shall, when retaining Access Related Information, maintain the privacy and confidentiality of retained Access Related Information and maintain records of all access times and dates, and records of all persons that have had access to retained Access Related Information.

9- A Licensee shall either delete all Access Related Information that exceeds the maximum retention duration stated in Article 9(1) above, or
anonymize the parts of Access Related Information that can be used to personally identify Subscribers.

10- Access Related Information used for billing purposes, or for Interconnection or Access purposes as defined in the Telecommunications Law, is exempt from Article 9(9) above.

11- Access Related Information, with the exception of any information used, obtained or derived from an Interconnection or Access (as defined in the Telecommunications Law) negotiation or transaction with other licensees, may be used by Licensees for marketing purposes or to provide value added services to their Subscribers, only after obtaining the consent of the Subscriber.

**Article 10**

**Requirement of CLI in all Telecommunications Services**

1- When a Call leaves a Licensee’s Telecommunications Network, the originating Licensee shall ensure that CLI information is supplied with the Call.

2- All Licensees shall ensure that CLI information is always transmitted together with a Call or other communication, and shall not strip CLI information from any call originating from, passing through, or terminating on their Telecommunications Networks.

3- When a Call arrives at a Licensee’s Telecommunications Network that does not include CLI information, whether it originated from within the Licensee’s own Telecommunications Network or from another Licensee’s Telecommunications Network, the terminating Licensee shall block the said Call from being conveyed to its destination, and Licensees may provide an automated message that clarifies the reason for blocking the Call.

4- Incoming international voice calls are exempt from the provisions of this Article.

5- CLI is an essential service that is directly concerned with national security, and as such, Licensees may not demand any kind of compensation or remuneration from any Person in return for providing this service.
PUBLIC CONSULTATION

A Consultation on the Regulation concerning the requirements of National Security

Article 11
Transitional Provisions

1- All Licensees extant at the date of promulgation of this Regulation must, within two months of the effective date of this Regulation, submit to TRA their first Access Implementation Plan.

2- Without derogating from the articles of this Regulation, Licensees extant at the date of promulgation of this Regulation must provide Lawful Access in a maximum period of six months from the effective date of this Regulation.

3- Licensees shall ensure that the requirement related to the transmission of CLI information is met within a maximum period of three months from the effective date of this regulation.

Article 12
Enforcement and Penalties

1- Licensees that materially or persistently fail to comply with the provisions of this Regulation will be deemed in material breach of article 78 of the Telecommunications Law and this Regulation, and will be subject to enforcement action under the relevant provisions of the Telecommunications Law.

Article 13
Entry into force

1- This Regulation shall enter into force on the date following its publication in the Official Gazette.

Alan Horne
General Director of the Telecommunications Regulatory Authority