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# Regulatory Procedure

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## Consultations

Version 3.0

Issue Date: 6 May 2018

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Telecommunications Regulatory Authority (TRA)  
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**Version Control:**

<b>Version</b>	<b>Issue Date</b>	<b>Reason for Revision</b>
1.0	27 May 2006	Initial Publication
2.0	19 April 2012	Extensive revision to the procedures following three (3) rounds of Public Consultations
3.0	6 May 2018	Revision to adapt to revision of the Dispute Resolution Procedures and to address confidentiality. (TRA Board Resolution No15/2018)

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## 1. Definitions

- 1.1 In applying the Procedures set-out in this regulatory instrument, the following terms shall have the meanings ascribed herein unless the context requires otherwise.
- 1.1.1 “**Accelerated Consultation**” means a consultation conducted by the TRA and within a shorter timeframe than a Standard Consultation due to the specific circumstances surrounding such consultation as described in Article 8;
- 1.1.2 “**Closed Consultation**” means a consultation conducted by the TRA and involving a limited number of participants (Invitees) only, which participants will be determined by the TRA on a case-by-case basis depending on the nature and subject of the given consultation;
- 1.1.3 “**Closing Date**” means the date specified in a Consultation Document and being the latest date by which Stakeholders or Invitees (as the case may be depending on the type of consultation) may submit initial comments to the TRA regarding a given consultation;
- 1.1.4 “**Commencement Date**” means the date on which a given consultation starts;
- 1.1.5 “**Comments On Initial Response**” means a formal submission made in writing to the TRA by a Stakeholder or Invitee (as the case may be depending on the type of consultation) in response to an Initial Response submitted by another Stakeholder, and “**Comments On Initial Responses**” shall be construed accordingly;
- 1.1.6 “**Consultation Document**” means the document and any supporting material prepared and provided by the TRA to set out the details of the matter on which the TRA is consulting and seeking input from Stakeholders or Invitees (as the case may be depending on the type of consultation);
- 1.1.7 “**Deadline For Extension Request**” means the date specified in a Consultation Document and being the latest date by which Stakeholders or Invitees (as the case may be depending on the type of consultation) may submit a written request to the TRA for the purposes of requesting that the Closing Date for a specified consultation be extended to some later date;

- 1.1.8 “**Extended Consultation**” means a consultation conducted by the TRA and within a longer timeframe than a Standard Consultation due to the specific circumstances surrounding such consultation as described in article 8;
- 1.1.9 “**Initial Response**” means a formal submission made in writing to the TRA by a Stakeholder or Invitee (as the case may be depending on the type of consultation) in response to a consultation conducted by the TRA;
- 1.1.10 “**Invitee**” means a particular Stakeholder specifically invited by the TRA to participate in a particular Closed Consultation and “**Invitees**” shall be construed accordingly;
- 1.1.11 “**Licence**” means a licence granted by the TRA pursuant to the Telecommunications Law and its Executive Order which allows the Licensee to carry out any of the regulated activities as defined in the Telecommunications Law;
- 1.1.12 “**Licensee**” means any person who has been granted a Licence by the TRA;
- 1.1.13 “**Procedure**”, and derivatives of that term, means and refers to the procedure(s) as set out in this regulatory instrument according to which the TRA will conduct consultations with Stakeholders or Invitees;
- 1.1.14 “**Public Consultation**” means a consultation conducted in the public domain by the TRA and open to all Stakeholders in accordance with the Procedures set out in this regulatory instrument;
- 1.1.15 “**Respondent**” means any Stakeholder or Invitee (as the case may be depending on the type of consultation) responding to a consultation by providing the TRA with an Initial Response or Comments On Initial Response(s) according to the Procedures set out in this regulatory instrument;
- 1.1.16 “**Stakeholder**” means any person having an interest in the ICT sector in the United Arab Emirates and/or in the dealings of the TRA;
- 1.1.17 “**Stakeholder Initiated Consultation**” means a specific consultation which has been initiated by the TRA at the request of a Stakeholder in accordance with the provisions of Article 9;
- 1.1.18 “**Standard Consultation**” means the default method by which the TRA will conduct a consultation including the standard timeframe as set out in Article 8;
- 1.1.19 “**State**” or “**the State**” - see UAE;

- 1.1.20 “**Telecommunications Law**” means Federal Law by Decree No. 3 of 2003 Regarding the Organisation of the Telecommunications Sector, as amended;
- 1.1.21 “**TRA**” means the Telecommunications Regulatory Authority of the UAE; and
- 1.1.22 “**UAE**” or “**State**” or “**the State**” means the United Arab Emirates.

## 2. Introduction

- 2.1 In keeping with its values of transparency and acting in accordance with best practice<sup>1</sup>, the TRA wishes to engage Stakeholders in the regulatory decision making process. The TRA acknowledges that the regulatory decision making process may generally benefit from taking into account a wider range of views and information. Consultations are therefore intended to enhance the decision making process through the transparent and active involvement and contribution of parties having a legitimate interest in the relevant matter at hand. By ensuring that interested parties can express their views about a particular topic, the related decision making process becomes better informed, more robust and more accountable.
- 2.2 This regulatory instrument sets out details of the manner in which the TRA will conduct Public Consultations and Closed Consultations for the purposes of involving Stakeholders and Invitees respectively in the regulatory decision making process. These Procedures are to be followed by the TRA and all persons participating in a given consultation.
- 2.3 The TRA considers that depending on the matter in hand there may be a wide range of interested parties in a given consultation. The TRA considers that any person, whether a natural or legal person, who shows an interest in the matter in question and takes the time to participate in a Public Consultation is by definition a Stakeholder. Accordingly, the TRA does not intend to limit participation in a Public Consultation. The TRA will publish all relevant documents and material related to a given Public Consultation on its website and all Stakeholders are free to participate in the consultation according to these Procedures and the instructions and schedule set out in the relevant Consultation Document.
- 2.4 From time to time and at its discretion, the TRA might determine that participation in certain consultations should be limited. In which case, the TRA will conduct a Closed Consultation and the TRA will not publish the documents and material related to that consultation. Nor will the TRA publish or otherwise generally announce the existence of a Closed Consultation. Participation in a Closed Consultation shall be limited to only those parties (Invitees) specifically identified and invited by the TRA. It shall be a condition of participation that Invitees maintain confidentiality regarding all aspects of any given Closed Consultation.
- 2.5 As a general principle and approach, consultations by the TRA will be conducted as Public Consultations. The TRA will only conduct Closed Consultations in limited and justified cases.

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<sup>1</sup> Including applying the regulatory principles: effectiveness, objectivity, non-discrimination, proportionality, legal certainty and legal justification

- 2.6 The TRA reserves the right to deviate from the Procedures set out in this regulatory instrument in cases where, in the reasonable opinion of the TRA, such deviation is necessary and justifiable. Circumstances which might justify such deviation include, but are not limited to: an urgent need to implement certain regulatory measures; circumstance where, in the reasonable opinion of the TRA, a consultation would or may be against the interests of the State; circumstances where, in the reasonable opinion of the TRA, a consultation would or may be against the general public interests; or circumstances where only minor amendments to existing regulatory instruments can be efficiently and appropriately resolved without consultation etc. In circumstances where the TRA reasonably considers it to be necessary to deviate from these Consultation Procedures, the TRA will justify its actions.
- 2.7 It should be noted that the TRA is not legally bound by the content of Consultation Documents nor do any provisions therein constitute any final, definitive positions of the TRA on any particular matter.
- 2.8 These Consultation Procedures shall not apply in matters that are expressly dealt with under other regulatory instruments such as the Dispute Resolution Procedures and any other dispute resolution procedures that the TRA might issue.



### 3. Consultation Principles

- 3.1 When undergoing a consultation the TRA will do so in accordance with the principles and Procedures set out in this regulatory instrument. The TRA will conduct all consultations in one of the following manners:
- 3.1.1 Public Consultation – participation is open to any Stakeholder; and
  - 3.1.2 Closed Consultation – participation will be limited to Invitees only.
- 3.2 In order to provide all Stakeholders with a fair and equal opportunity to participate in the regulatory decision making process, the TRA will as a general principle conduct Public Consultations.
- 3.3 The TRA may, however, at its discretion conduct Closed Consultations in circumstances where the TRA reasonably determines it to be appropriate to do so. Such circumstances include but are not limited to:
- 3.3.1 matters involving particularly sensitive information; or
  - 3.3.2 matters involving a limited field of concerned parties (e.g. parties to a dispute<sup>2</sup>).
- 3.4 In circumstances where the TRA determines it appropriate to conduct a Closed Consultation, the TRA will invite certain parties only and will inform those parties (the Invitees) why the TRA has elected to conduct a Closed Consultation and on what basis the TRA has selected the limited field of participants. Each party invited to participate in a Closed Consultation will be informed of the full list of Invitees.
- 3.5 Invitees shall maintain each Closed Consultation as confidential. To that end, no Invitee shall disclose: any details relating to the mere existence of, or the particular subject matter of, a Closed Consultation; or the content of any document(s) related to the Closed Consultation in full or in part to any person other than the TRA or another Invitee, without the prior express consent of the TRA.
- 3.6 As a general principle no Licensee shall be prevented from participating in a Closed Consultation.
- 3.7 Public Consultations will as a general principle involve:
- 3.7.1 publication of the Consultation Document(s);
  - 3.7.2 publication of all non-confidential Initial Responses;

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<sup>2</sup> Excluding disputes which are specifically handled under other regulatory instruments such as the Dispute Resolution Procedures.

- 3.7.3 a request for the submission of Comments On Initial Response(s);
  - 3.7.4 publication of all non-confidential Comments On Initial Responses; and
  - 3.7.5 publication of a TRA Consultation Response Document.
- 3.8 Closed Consultations will as a general principle involve:
- 3.8.1 determination by the TRA of the list of Invitees;
  - 3.8.2 invitation to participate and submit Initial Responses on the specific matter for consultation;
  - 3.8.3 provision of all non-confidential Initial Responses to all Invitees for review and comment;
  - 3.8.4 provision of all non-confidential Comments On Initial Responses to all Invitees; and
  - 3.8.5 the provision of a TRA Consultation Response Document to all Invitees.
  - 3.8.6 Notwithstanding the provisions of 3.8.1 to 3.8.5 inclusive, in certain Closed Consultations, the TRA may at its reasonable discretion determine that specific information is germane to the consultation itself and the associated regulatory decision making process. Accordingly, the TRA shall determine the content and information to be provided in the Consultation Document and the Consultation Response Documents.
- 3.9 The TRA may at its reasonable discretion, add or remove stages to the Procedures for Public Consultations or Closed Consultations. The TRA may for example include additional consultation rounds or conduct workshops/meetings with Invitees/Stakeholders in circumstances where it is deemed appropriate to do so. Such instances may be where the TRA substantially deviates from an earlier proposal. Similarly, the TRA may also choose to remove a consultation round such as a request for Comments On Initial Responses e.g. if no Initial Response have been submitted according to these Procedures. In circumstances where the TRA elects to add or remove stages to the Procedures for Public Consultations or Closed Consultations, the TRA shall justify its rationale for doing so.
- 3.10 The TRA will announce Public Consultations and will publish the relevant Consultation Document on its website.

- 3.11 The TRA will maintain an e-mail distribution list containing the e-mail addresses of Stakeholders who request to be included on such distribution list. In addition to the provisions of 3.10 above, the TRA will distribute notifications, Consultation Documents and related material, including news of amended schedules for all Public Consultations to the entire e-mail distribution list. The registered contact point for all Licensees will automatically be included in this distribution list by the TRA.
- 3.12 The TRA shall not be responsible for the accuracy of the contact information provided by Stakeholders registering for the e-mail distribution list nor shall the TRA be responsible for the successful transmission and receipt of such messages and/or documents used for this purpose.
- 3.13 Participants submitting Initial Responses or Comments On Initial Responses by e-mail should request a delivery receipt.
- 3.14 The TRA will only accept one submission<sup>3</sup>, in any given round of a consultation, from a single entity. In the event of multiple responses being received from a single entity, the TRA will request that entity to identify its official submission. All other submission made by that entity will be rejected. However, an entity may make a submission in its own right and/or as part of one or more industry association(s) or industry group(s).
- 3.15 Consultations shall end with the publication of a Consultation Response Document. The Consultation Response Document shall contain a section to record the decision of the TRA and provide advice as to the next steps to be taken. Such decision may be, but is not limited to, one of the following:
- the TRA may decide to take no further action in the matter at hand;
  - the TRA may decide that the matter at hand is inconclusive and the TRA may decide to consult further on the matter; or
  - the TRA may decide to issue a new or an amended regulatory instrument. etc.
- 3.16 As a general principle the TRA will conduct consultations in English and will prepare Consultation Documents in English. In instances where a consultation is conducted in Arabic the TRA will as a general principle in addition provide an English version of the relevant Consultation Documents. The TRA will announce Public Consultations in both Arabic and English on its website.

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<sup>3</sup> In this context, “one submission” means one Initial Response and one Comment on Initial Response per Stakeholder/Invitee, it does not mean that such submissions are mutually exclusive.

#### 4. Overview of The Procedure For Public Consultations

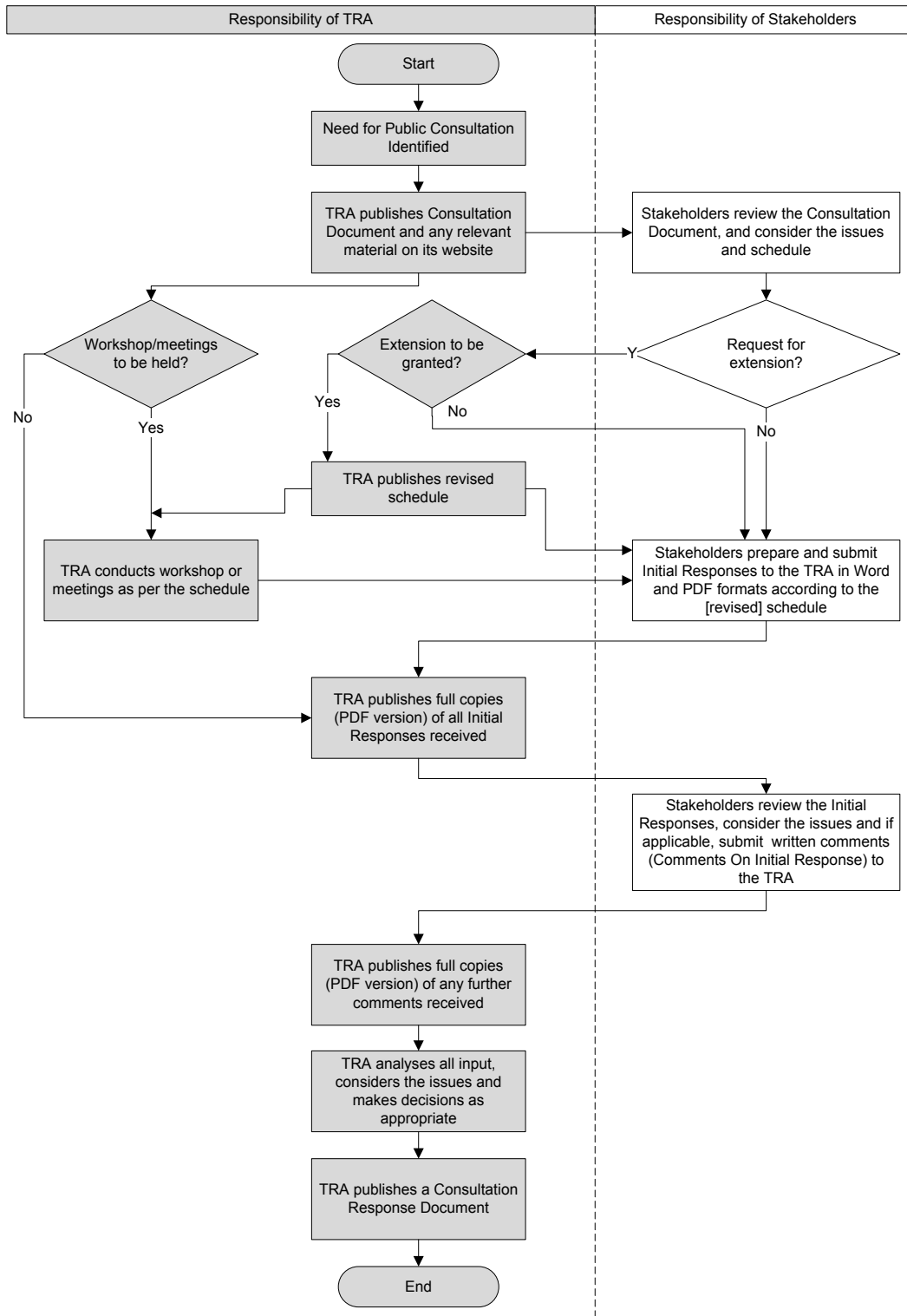


Figure 1: Overview of the Procedure for Public Consultations

## 5. Overview of The Procedure For Closed Consultations

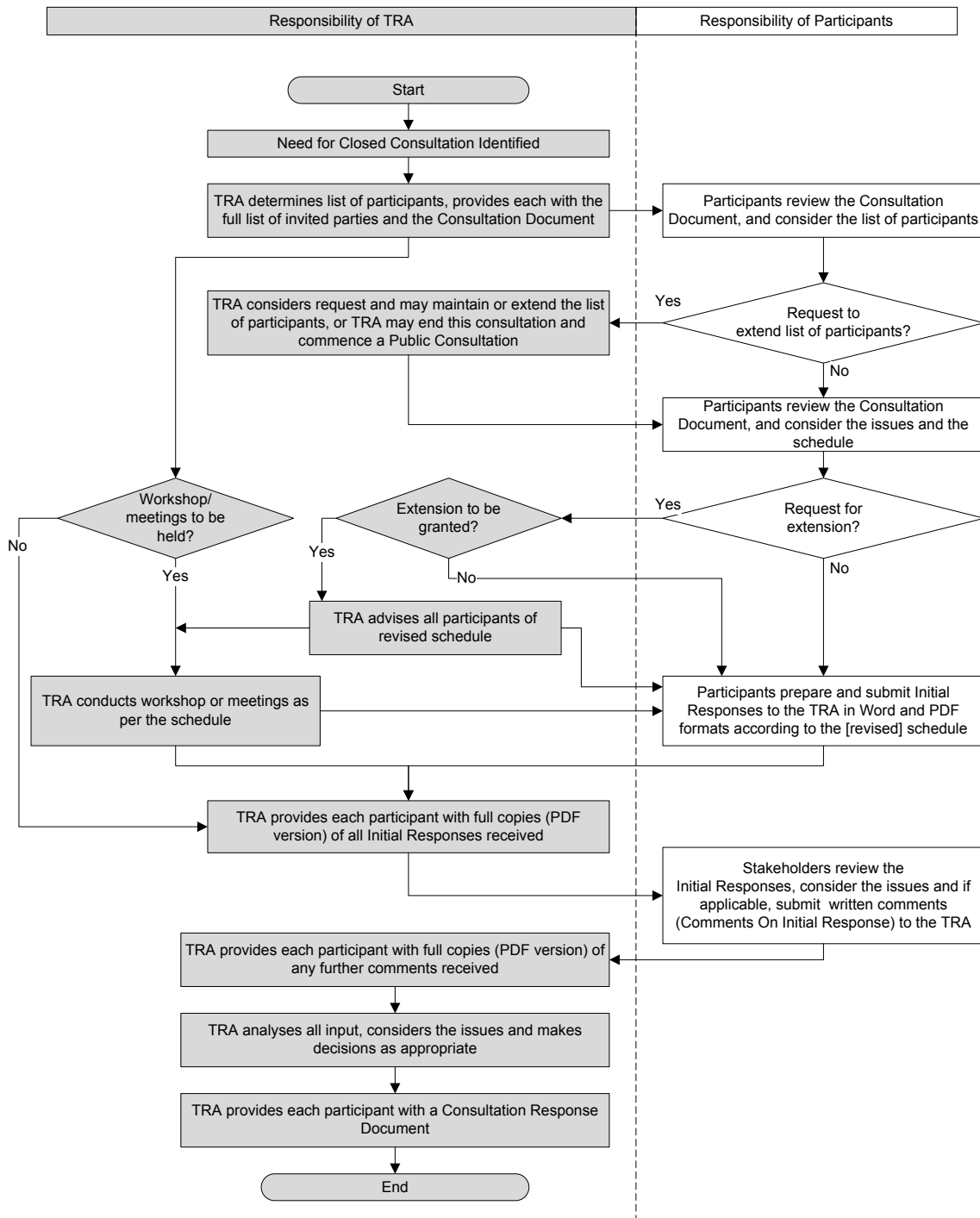


Figure 2: Overview of the Procedure for Closed Consultations

## 6. Consultation Procedure

- 6.1 Having identified the need for a consultation, the TRA will prepare a Consultation Document and any relevant material. As soon as is practicable, the TRA will, in the case of a Public Consultation, send a communication (for example, an e-mail) to the distribution list referenced in section 3.11 above to provide all registered Stakeholders with advanced notification of the pending Public Consultation. In the case of a Closed Consultation, the TRA will as soon as is practicable, send a communication to those parties who are to be invited to participate in the Closed Consultation in order to give those Invitees advanced notification of the pending Closed Consultation.
- 6.2 Consultation Documents shall clearly and unambiguously specify the Closing Date for receipt of Initial Responses and/or Comments On Initial Responses.
- 6.3 The TRA will provide explanatory text to introduce the purpose and the objectives of the particular consultation in order to ensure that Stakeholders/Invitees are given relevant background information and an understanding of the TRA's purpose and schedule for the consultation.
- 6.4 In the case of a Closed Consultation the TRA will inform each Invitee of the full list of parties invited to participate in the Closed Consultation<sup>4</sup>. Further the TRA will where relevant provide an explanation as to why the TRA considers that the specific matter in hand is more appropriate for Closed Consultation rather than Public Consultation. In the event that any Invitee considers that further parties should be invited to participate in the Closed Consultation, or considers that the TRA should run a Public Consultation then such Invitee may submit a request with justification that the TRA amends the scope of the planned consultation accordingly. The TRA will consider any such request received and will take appropriate action including informing the Invitee(s) making such request(s) of the TRA's decision on the matter.
- 6.5 In the case of a Closed Consultation, no Invitee may request that another Invitee be removed from the list of Invitees.

- 6.6 Subject to the provisions of 6.7 and 6.8 below, in the case of a Public Consultation any Stakeholder, and in the case of a Closed Consultation any Invitee, may request that the TRA extends the duration of the consultation. Any party making a request for an extension to a consultation shall suggest a reasonable revised Closing Date and shall provide a justification for such request. The TRA will consider any such request received and will take appropriate action. In the event that the TRA agrees to the extension, the TRA will in the case of a Public Consultation place a notice on its website and send an e-mail to the distribution list referenced in section 3.10 advising Stakeholders of the revised Closing Date and schedule. In the case of a Closed Consultation, the TRA will inform all Invitees of the revised Closing Date and schedule. In the event the TRA rejects a request for extension the TRA will inform the requesting Stakeholder/Invitee of its decision and will provide a justification as to why the TRA has rejected the request.
- 6.7 The TRA will reject a request for extension if in the opinion of the TRA such request lacks sufficient justification, is capricious, or has been submitted with the intention of merely delaying the regulatory decision making process. When considering any request for an extension, the TRA will be mindful of the interests of all parties and not just the party submitting the request for extension. The TRA will notify the requesting Stakeholder/Invitee that the TRA has rejected the request for extension based on the provisions set out in this Article.
- 6.8 The Consultation Document shall clearly and unambiguously state a Deadline for Extension Request. Except under exceptional circumstances, any request for extension received by the TRA after the Deadline for Extension Request shall be rejected. The TRA will notify the requesting Stakeholder/Invitee in the event that the TRA has rejected a request for extension based on the provisions set out in this Article.
- 6.9 Stakeholders or Invitees who wish to respond to a consultation shall do so in writing by sending an e-mail in the format specified in the Consultation Document together with any required supporting documentation to the stated TRA e-mail address on or before the Closing Date stated on the front cover of the relevant Consultation Document.
- 6.10 Responses to consultations shall be made by e-mail and according to the instructions provided in the relevant Consultation Document and shall be provided electronically in Microsoft Word format and Adobe PDF format, on or before the Closing Date. Respondents are advised to request a delivery receipt at the time of sending such e-mail.
- 6.11 Submissions to a consultation must identify the Respondent and be accompanied by the full contact details (contact name, e-mail address and phone and fax numbers) of the Respondent.

- 6.12 The TRA shall consider all justified requests that a submission or parts thereof made to the TRA in response to a consultation is kept confidential and in the event that any submission contains confidential information, it shall be the responsibility of the Respondent to clearly mark any information, which is considered to be of a confidential nature. The Respondent shall be required to submit two versions of its response to the TRA as follows:
- 6.12.1 A full copy of its submission in Microsoft Word format with any confidential information clearly marked but not redacted. The TRA will not publish the Word document and will only use it for internal purposes.
- 6.12.2 A publishable version, redacted as appropriate, of its submission in Adobe PDF format. The TRA will publish the PDF version in its entirety and shall not be responsible for the accuracy of any redactions in the Adobe PDF document. Thus, the Respondent should take care to redact any commercially sensitive and confidential information in the PDF version of its response.
- 6.13 By participating in a Public Consultation and by providing a PDF version of its submission (Initial Response and/or Comments On Initial Response) the Respondent expressly authorises the TRA to publish the submitted PDF version of its submission(s) in full.
- 6.14 By participating in Closed Consultation and by providing a PDF version of its submission (Initial Response and/or Comments On Initial Response) the Respondent expressly authorises the TRA to share the submitted PDF version of its submission(s) in full with all other Invitees to the Closed Consultation.
- 6.15 Responses or comments which are contained in any submission to a consultation shall, where applicable be clearly annotated with respect to the specific question or section in the relevant Consultation Document to which such responses or comments refer.
- 6.16 Any comments which are of a general nature and not specifically in response to a particular question or section of a Consultation Document should be clearly identified as such.
- 6.17 The TRA will consider the full text of all submissions made in response to the consultation. Where appropriate, a Respondent may provide supporting information and/or references with its submission.
- 6.18 The TRA will consider all comments submitted to it, but reserves the right to reject any comments which in the opinion of the TRA are capricious or lack sufficient substantiation, explanation and/or reasoning. However, the TRA will provide its justifications as to why it considers that certain comments has not been sufficiently substantiated, explained and/or reasoned.
- 6.19 The TRA will accept submissions in either Arabic or English.



- 6.20 As a general principle, the TRA will prepare a Consultation Response Document and in the case of a Public Consultation, publish that document. In the case of a Closed Consultation, the TRA will provide each Invitee with a copy of the Consultation Response Document. In certain instances the TRA may elect not to publish a Consultation Response Document if the TRA considers it reasonable not to do so. In such circumstances the TRA will communicate such with all Respondents.
- 6.21 It should be noted that a Consultation Document is not intended to convey the formal decisions of the TRA. In the view of the TRA, a Consultation Document contains inter alia: draft proposals, ideas and discussion items and none of the ideas or proposals expressed, or comments made by the TRA, in any Consultation Document will necessarily result in formal decisions by the TRA and nothing contained therein shall limit or otherwise restrict the TRA's powers to regulate the telecommunications sector at any time.

## **7. Publication / Exchange of Submissions to a Consultation**

- 7.1 As set out above, the TRA will in the case of a Public Consultation publish the full PDF version of any Initial Response(s) submitted in response to the consultation. The TRA may invite Stakeholders to submit Comments On Initial Responses and in which event any Stakeholder may submit comments on any of the Initial Responses. That is to say that the submission of Comments On Initial Responses will not be limited only to those Stakeholders who participated in the earlier round(s) of the consultation.
- 7.2 In the case of a Public Consultation, the TRA will publish the full PDF version of any Comments On Initial Responses received by the TRA in response to the consultation.
- 7.3 As set out above, the TRA will in the case of a Closed Consultation provide each Invitee to the Closed Consultation with the full PDF version of any Initial Responses submitted in response to the consultation. The TRA may invite Invitees to submit Comments On Initial Responses received by the TRA and in which event, any Invitee may submit comments on any of the Initial Responses. That is to say that the submission of Comments On Initial Responses will not be limited only to those Invitees who participated in the earlier round(s) of the Closed Consultation.
- 7.4 In the case of a Closed Consultation, the TRA will provide each Invitee with the full PDF version of any Comments On Initial Responses received by the TRA in response to the Closed Consultation.

## 8. Standard Timeframes for Consultation Stages

8.1 As far as is practicable and in order to provide Stakeholders/Invitees with a measure of certainty, the TRA will conduct consultations according to the minimum timeframes as set out in the following table:

	<b>Accelerated Consultation</b>	<b>Standard Consultations</b>	<b>Extended Consultations</b>
Period for the submission of Initial Comments	2 calendar weeks	4 calendar weeks	Up to 8 calendar weeks (Minimum 6 calendar weeks)
Period for the submission of Comments On Initial Responses.	1 calendar week	2 calendar weeks	Up to 4 calendar weeks (Minimum 3 calendar weeks)
Period for further submission of comments in further rounds of consultation if applicable.	Up to 2 calendar weeks (Minimum 1 calendar week)	Up to 4 calendar weeks (Minimum 2 calendar weeks)	Up to 8 calendar weeks (Minimum 4 calendar weeks)

8.2 Accelerated Consultations will be undertaken:

- In matters of disputes between Licensees<sup>5</sup>,
- Where an urgent outcome is required,
- Where a proposal entails only limited or minor amendments to an existing regulatory instrument, or
- Where the matter at hand has already been the subject of an earlier consultation.

8.3 Standard Consultations will be the general process for conducting consultations.

8.4 Extended Consultations will be undertaken:

- Where key policy initiatives and/or matters of interest to a wide range of Stakeholders are under consideration.
- Where extensive revisions to existing regulatory instruments are under consideration.

<sup>5</sup> Excluding disputes specifically covered by other regulatory instruments such as the Interconnection Dispute Resolution Procedures.

- 8.5 The timeframes given above are considered as defaults, and when circumstances allow or dictate, the TRA may make adjustments accordingly.
- 8.6 In setting the timeframe for any given consultation, the TRA will take known public holidays into account and will extend the timeframes accordingly. Further, when setting the timeframe for any given consultation, the TRA will take into account any other consultations which might be being conducted at the same time.

## **9. Stakeholder Initiated Consultations**

- 9.1 Stakeholders may at any time submit a written request for the TRA to initiate a formal consultation on any relevant matter within the scope of the regulatory framework.
- 9.2 A request for the TRA to open a formal consultation procedure shall contain:
- 9.2.1 a detailed explanation regarding the issue in question;
  - 9.2.2 a justification as to why a consultation should be undertaken;
  - 9.2.3 if relevant, a justification as to why a Closed Consultation is requested; and
  - 9.2.4 any supporting material considered to be relevant by the Stakeholder making the request.
- 9.3 The TRA shall within 30 working days consider all justified requests for initiating a consultation together with any relevant material and/or references related thereto. Having considered the request, the TRA may request further information from the Stakeholder making the request and/or invite the requesting Stakeholder to meet with the TRA in order that the TRA may be given a full understanding of the request, its purpose and objectives.
- 9.4 The TRA may at its discretion elect to:
- 9.4.1 reject the request, in which case the requesting Stakeholder will be informed of the TRA's decision and the reasons therefore;
  - 9.4.2 accept the request and commence a consultation as appropriate; or
  - 9.4.3 accept the request but postpone the consultation subject to other planned work, in which case the requesting Stakeholder will be informed of the TRA's decision and the reasons therefore.
- 9.5 In reviewing requests for Stakeholder Initiated Consultations, the TRA shall be mindful of the interests of all Stakeholders and not just the Stakeholder submitting the request.
- 9.6 In the event the TRA accepts the request for opening a consultation the TRA will initiate the consultation process according to the Procedures set out in this regulatory instrument.

**10. Effective Date and Publication**

This Regulatory Procedure shall be effective from the date of issuance. The TRA shall publish this Regulatory Procedure on its website and the TRA will procure the publication of this Regulatory Procedure in the Official Gazette of the State.

**11. Revocation of Earlier Versions**

These Procedures replace the TRA's Consultation Procedures Version 2.0 issued 19 April 2012, which are hereby revoked.