

**Issue: Draft for Consultation**



**REPUBLIC OF LEBANON  
TELECOMMUNICATIONS  
REGULATORY AUTHORITY**

# **Access to Information Regulation**

**11 December 2008**

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**This document is issued by the Telecommunications Regulatory Authority of the Republic of Lebanon and is made publicly available via its website to allow interested parties to provide their views on the issues that it raises. Anybody who wishes to do so shall respond in writing to the Authority during the public consultation period. Responses must be received no later than 5.00pm on 11 January 2009.**

The address for responses to this Consultation is:

Telecommunications Regulatory Authority

Marfaa 200, Building

Beirut, Lebanon

Attention: The Chairman

Facsimile: +961 1 964 341

Alternatively, e-mail responses may be sent to the Authority's e-mail address at

[Accesstoinformation@tra.gov.lb](mailto:Accesstoinformation@tra.gov.lb)

As part of its process to develop a complete record and allow open public access to the information that forms a basis for its decisions, the TRA will generally publish all comments as received, unless respondents explicitly ask that their responses be treated as confidential, in total or in part. If any party wishes to have the whole or any part of its submission withheld, then it shall state this request, set out clearly the basis for its request of confidentiality, and enclose the information that it wants to be treated confidentially in a separate sealed envelope. If the Authority agrees that the circumstances warrant confidential treatment, then it will notify the respondent of the same and will open and consider the submission confidentially in this consultation process. If the Authority disagrees, then it will destroy the sealed materials without opening or reviewing them, not consider them in this consultation process, and notify the respondent of the same.

# **1-PURPOSE AND SCOPE OF THE REGULATION**

## **1.1 Background**

- 1- This draft Access to Information Regulation (the Regulation) is issued by the Telecommunications Regulatory Authority of Lebanon (the Authority) in accordance with the Telecommunications Law - Law 431/2002 (“the Law”), and is designed to invite comments from potential and current market participants as well as all other stakeholders regarding the Regulation of Access to Information.
- 2- The Authority will publish the final Access to Information Regulation on its website after the closure of the public consultation and the study of the responses submitted by interested parties.
- 3- This Regulation will be posted on the Authority’s website and will enter into effect on the date of its publication in the Official Gazette.
- 4- Once published in the Official Gazette, this Regulation will be a binding document that states the official procedures of the Authority related to the access to information. It may be subject to review and amendment following consultation and pursuant to promulgation processes. Such review and amendment may be undertaken periodically as deemed necessary by the Authority in light of the development of the Lebanese telecommunications markets, changes to Lebanese national laws affecting the telecommunications sector, or other factors.

## **1.2 Legal Basis**

- 5- Whereas the Telecommunications Regulatory Authority of the Republic of Lebanon (“Authority”) has, under article 5 (3) of the Telecommunications Law 431/2002 (“the Law”) and its Consultation Process, given notice of its proposal to make this Regulation and invited comments by the Providers of Telecommunications Services and those concerned with the development of such systems; and
- 6- Whereas the Authority, in preparing this Regulation, has had regard, to Article 12 (1) of Law 431/2002 (“the Law”) and the Article 26 of the Decree No 14264 dated 4 March 2005 (‘Administrative and Financial Regulation of the Authority’); and
- 7- Whereas the Authority without the need to rely on Article 12 (1) of Law 431/2002 (“the Law”) , currently makes information routinely available to the public in relation to its functions and activities and will continue to make such information available in the future;
- 8- Whereas this Regulation is designed to allow public access to information held by the Authority which is not routinely available through other sources; and

- 9- Whereas access to information under the Regulation is subject to certain exemptions and involves specific procedures and time limits;
- 10- The Authority, in exercising the powers conferred upon it by Article 5 of Law 431/2002 (“the Law”) and the Article 26 of the Decree No 14264 dated 4 March 2005 (‘Administrative and Financial Regulation of the Authority’), hereby makes the following Regulation: This Regulation may be cited as the Access to Information Regulation.

### **1.3 Interpretation**

- 11- Individual clauses containing the word “shall” are mandatory requirements and are binding on licensed providers of Telecommunications Services and applicants for such Licenses.
- 12- Individual clauses containing the word “may” are permissions or recommendations (depending on the context) to providers but are not mandatory.
- 13- Individual clauses containing the word “will” when applied to the Authority refer to its current intention as to how it will approach the matter referred to.

### **1.4 Purpose and scope of the Regulation**

- 14- The purpose of this Regulation is to develop the interaction between the Authority and the Public in order to ensure that all stakeholders in the Telecommunications sector are involved in the decision making process.
- 15- In aiming for transparency, the Authority defines in this Regulation how parties can have access to information and studies that underpin the Authority’s decisions and stresses on the fact that all parties will be equally treated in terms of having access, to the same information and at the same time.

## 2-DEFINITIONS

16- In this Regulation unless otherwise defined, any word, phrase or expression shall, unless the context requires otherwise, have the meaning given to it in Law 431/2002 (“the Law”) and the terms below shall have the following meaning:

“Additional Fees” shall have the meaning defined in article 27 of this Regulation;

“Applicant” shall mean the Person making an application for access to information pursuant to article 17 of this Regulation;

“Date of Receipt” shall mean

- (a) The day on which the Authority receives the request for information, and
- (b) The application fees have been paid, whichever is the latter in time;

“Form” shall mean the application form specified in Annex 1 of the Regulation;

“Information” shall mean data, documents, records and other information held by the Authority in conjunction with carrying out its duties pursuant to Law 431/2002 (“the Law”);

"Person" shall mean any legal or juristic Person having legal personality or any public authority;

“Procedure” shall mean the procedure prescribed herewith for accessing Information held by the Authority;

“Processing Fee” shall have the meaning defined in article 26 of this Regulation;

### **3-PROCEDURE FOR REQUEST FOR ACCESS TO INFORMATION**

- 17- Any Person requesting access to information held by the Authority shall apply in writing to the Authority by completing the Form specified in Annex 1 of this Regulation and by providing the required information specified therein.
- 18- The Applicant shall describe, in the Form, the information to which he requires access to. The description of the information applied for in the Form must be sufficient for the Authority to identify and locate the information required.
- 19- Where the description is not adequate for the Authority to identify the information requested the Authority may require such further information as it considers reasonable in order to identify and locate the information requested.
- 20- The Authority shall have no obligation to comply with an application under this Regulation for access to information where it has informed the applicant pursuant to section 3.3 of this Regulation that it requires such further information as it considers reasonable in order to identify and locate the information requested, unless it has been supplied with that further information.

### **4-CONSIDERATION BY AUTHORITY**

- 21- The Authority shall consider each application received and may decide to allow access to the information requested in full or in part, or refuse such access in accordance with this Regulation.
- 22- Where the Authority decides to grant access in part, it may, inter alia, edit parts of the information requested so as to comply with its obligations under Law 431/2002 (“the Law”) and Section 4.3 of this Regulation.
- 23- The Authority shall not disclose any information that it considers may jeopardize commercial confidentiality and competition.

### **5-ABILITY TO CONSULT**

- 24- The Authority will have no obligation to either notify or consult with any Person or give any Person an opportunity to express any views upon an application to disclose information even where the information to be disclosed relates, created or was submitted, directly or indirectly, to that Person. However, where the Authority considers it appropriate, in the exercise of its discretion, it may consult with any Person it considers appropriate, before deciding whether the information requested can be disclosed or not.

## **6-NOTIFICATION OF DECISION**

25- The Authority having decided upon a request for access to information shall send a notification of Decision by way of a recommended letter with receipt to the applicant stating:

- a) In cases where the application has been granted in full or in part, that:
  - i. The request has been granted and whether in full or in part,
  - ii. The reasons, if applicable, why the request has been granted only in part, and which part it relates to,
  - iii. The day on which access to the relevant information will be granted and the manner in which it will be granted,
  - iv. Details of the Additional Fees payable, if applicable,
  - v. Details of the means by which the information will be made available to the applicant and, if different to the expressed preferred form by the applicant, the reasons for such difference.
- b) In cases where the request is refused, that :
  - i. The request has been refused,
  - ii. The reasons for the refusal, in line with the criteria for refusal specified in Section 4.3,
  - iii. The rights of the applicant to request the review of the decision.

## **7-FEES**

26- An application for access to information shall be accompanied by a payment of a Processing Fee payable to the Authority. The Processing Fee will be published in a decision of the Authority posted on its web site. The Processing Fee may be modified by means of a decision of the Authority published on its web site.

27- The Authority may also charge such Additional Fees as it considers appropriate in relation to recovering the cost of complying with the request for access to information, including but not limited to the search, retrieval and reproduction of the information released. Such Additional Fees shall be notified to the Applicant in the notification of Decision and shall be paid to the Authority in advance of access being granted to the information concerned.



## **8-TIMESCALES**

- 28- The Authority shall issue a notification of Decision for each valid request for access to information under this Regulation promptly and in any event not later than the thirtieth (30<sup>th</sup>) day following the Date of Receipt of such an application.
- 29- Where the Authority has notified the applicant pursuant to Section 3.3 of this Regulation that the description is not adequate for the Authority to be able to identify the information requested, the time that the Authority has for issuing a notification of Decision shall be extended by the same number of days as those that shall have elapsed between the day that the Authority notifies the applicant of the additional information requirements and the date it receives the applicant's reply. Where a reply is not received by the Authority within 10 days of the date of the notification of the clarification requirements to the Applicant, the application for access to information shall be deemed withdrawn by the applicant. Where the application is deemed withdrawn, the Processing Fee shall be retained by the Authority.
- 30- The Authority shall allow access to the information, where appropriate, promptly and in any event not later than the tenth day following the date of the notification of Decision, provided that any Additional Fees, if appropriate, have been paid by the applicant.

## **9-MEANS OF ACCESS**

- 31- On making a request for access to information, the applicant may express a preference for access by any one or more of the following means, namely:
  - (a) The provision of a copy of the information in a physical or electronic format, or
  - (b) The provision of a reasonable opportunity to inspect the records containing the information at the premises of the Authority.
- 32- The Authority shall, so far as reasonably practicable, give effect to the preference of the Applicant.
- 33- In determining for the purposes of this section whether it is reasonably practicable to provide access to the information by particular means, the Authority may have regard to all the circumstances, including the cost of doing so.
- 34- Where the Authority determines that it is not reasonably practicable to comply with the preference expressed by the applicant in making the request, the Authority shall notify the applicant, in the notification of Decisions, of the reasons for its determination and the method by which it shall provide him access to the said information.
- 35- The Authority may comply with a request by communicating information by any means which are reasonable in the circumstances.

## **10- REPEATED REQUESTS**

36- Where the Authority has previously complied with a request for access to information which was made by any Person, it is not obliged to comply with a subsequent identical or substantially similar request from that Person unless a reasonable period has elapsed between compliance with the previous request and the making of the new request or there have been changes in circumstances that warrant this new request.

## **11- APPEALS AGAINST A DECISION**

37- Where a Person is not satisfied with the decision of the Authority relating to an access to information request, he may, without prejudice to any other rights conferred to him by Law 431/2002 (“the Law”), ask the Authority for a review of its decision in accordance with Article 14 (1) of Law 431/2002 (“the Law”).

## **12- ENTRY INTO FORCE**

38- This Regulation will be posted on the Authority’s website and shall enter into effect on the date of its publication in the Official Gazette.

**ANNEX 1 OF THE ACCESS TO INFORMATION REGULATION OF 2008**

**Telecommunications Regulatory Authority  
Application form**

**Request for Access to Information under the Access to Information  
Regulation 2008**

**Details of Applicant**

**Surname:** \_\_\_\_\_  
**First Name:** \_\_\_\_\_  
**Postal Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Telephone Number(s)**

**Home:** \_\_\_\_\_  
**Business:** \_\_\_\_\_  
**Mobile:** \_\_\_\_\_  
**e-mail address:** \_\_\_\_\_

**If applying on behalf of a legal entity or public authority**

**Name of legal entity or public authority:**

\_\_\_\_\_  
**Position held in that entity:** \_\_\_\_\_

**Form of Access**

My preferred form of access is: *(please tick as appropriate)*

To receive copies of the records \_\_\_\_  
To inspect records at the Authority's premises \_\_\_\_  
Other \_\_\_\_ (please specify) \_\_\_\_\_

**Details of Request**

In accordance with the Access to Information Regulation, I request access to the following information:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Processing Fee:**

I enclose a check \_\_\_\_\_

I enclose proof of deposit at the Bank \_\_\_\_\_

**SIGNATURE** \_\_\_\_\_

**DATE** \_\_\_\_\_

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**FOR OFFICIAL USE ONLY**

Reference Number:

Date Received:

Payment Enclosed:

Case Officer:

Decision to allow access: Yes / No / Partial

Date applicant notified of Decision:

Date access allowed / information sent:

Other Comments: