

Republic of Lebanon

Telecommunications Regulatory Authority

Decision No:/2009

Class and Frequency license Fees Regulation

The TRA, during its meeting held on 27/04/2009

Pursuant to law No 431 dated 22/07/2002 (Telecommunications Law), in particular Articles 5 and 11,

Pursuant to Decree No 14264 dated 4/03/2005 (Financial and administrative management of the Telecommunications Regulatory Authority),

Pursuant to Decree N° 1 dated 08/02/2007 (Appointment of the TRA Board),

And upon the advice of the Council of State (Opinion No. dated),

Issued the following regulation:

Chapter 1 Basis and Purpose of the Regulation

Article 1 Background

1. This Class and Frequency License Fees Regulation (the Regulation) is issued by the Telecommunications Regulatory Authority of the Republic of Lebanon (the Authority).

The Authority was established under the Telecommunications Law No. 431 dated 22 July 2002 (the Telecommunications Law) and Decree No. 14264 dated 4 March 2005.

2. This Regulation is a binding document that applies during its period of validity. It may be subject to review and amendment by the Authority. Such review and amendment may be undertaken periodically and 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, changes to costs of administering license applications, issuance of licenses, other regulatory costs or other relevant factors.
3. In preparing this Regulation, the Authority has had regard to international best practices for the regulation and management of Telecommunications Services and Radio Frequencies, as well as the Lebanese Constitution, general principles of law and other applicable laws and regulations.

Article 2 Legal Basis

1. Licensing under the Telecommunications Law

- a. The Telecommunications Law requires a Person wishing to provide or offer any Telecommunications Services (Article 20(4)) or to use Radio Frequencies (Part III) to have a License. A "License" is defined in the Telecommunications Law as an authorization granted by the TRA to provide Telecommunications Services and/or the use of Radio Frequency Spectrum" (Article 2).
- b. Article 5(1)(d) of the Telecommunications Law confers upon the Authority the responsibility "to organize concessions, issue Licenses, ensure compliance with License terms and conditions, monitor, amend, suspend and withdraw Licenses in accordance with the provisions of the present Law and its implementing decrees." The Telecommunications Law also provides for the Authority to issue regulations, including under Articles 5(1)(a) and 5(1)(i), and to create a procedure under Article 20 for the application and processing of Licenses.
- c. In accordance with the foregoing provisions and Parts III and IV of the Telecommunications Law generally, the TRA has issued:
 - the Service Provider Licensing Regulation, dated 27 April 2009; and
 - the Spectrum Management and Licensing Regulation, dated 27 April 2009.
- d. The aforementioned regulations provide for the licensing of Telecommunications Services and use of Radio Frequencies, respectively. Persons seeking such Licenses should read these two regulations, which are published in the Official Gazette (issue No. _____ and _____, respectively) and posted on the TRA's website at www.tra.gov.lb.

2. Fees Payable under the Telecommunications Law

The Telecommunications Law provides for various types of fees, including:

- a. “fees collected from licensing applications and annual fees paid by Licensees for the management, supervision, enforcement and implementation of the functions entrusted to the TRA, provided that the total amount of fees collected is commensurate with the actual total cost of regulating the sector and, when necessary, with the overall turnover of Public Telecommunications Services Providers” (Article 11(Second)(1)(a));
- b. “fees collected for Radio Frequency monitoring and management, which shall be determined by decree, upon proposal of the Minister and the recommendation of the TRA, based on studies of the actual cost of Radio Frequency management” (Articles 3(6), 11(Second)(1)(b)); and
- c. “spectrum right to use (RTU) fees, which are to be determined by decree, proposed by Minister at the recommendation of the TRA” (Articles 3(7), 11(Second)(1)(c) and 17).

Licenses (which as explained above are granted by the TRA) must include the basic obligations of Licensees, including fees (Article 20(3)).

3. Collection of Fees

Article 5(1)(h) of the Telecommunications Law mandates the TRA “to determine and collect tariffs and fees pursuant to the provisions of the present Law” except for spectrum RTU fees which are to be collected by the Ministry (Article 17).

4. Use of Fees

The TRA is entitled under the Telecommunications Law to draw its revenues from the fees referred to in paragraph a and paragraph b of article 2 of this regulation, and a percentage of the fees referred to in paragraph c of article 2 of this regulation, of this Regulation (Article 11(Second(1))).

5. Repeal of prior legislation

- a. Prior to the enforcement of the Telecommunications Law, [Decree No. 377 of 1989] and set various fees relating to authorizations and licenses to use Radio Frequencies and provide Telecommunications Services.
- b. Pursuant to the powers granted to the Authority under the foregoing provisions of the Telecommunications Law, including without limitation Article 5(1)(h) as mentioned above, this Regulation repeals in their entirety Articles 39 – 49 of [Decree No. 377 of 1989] which concerned fees for applications for, issuance of and the holding of authorizations and licenses.

Article 3 Purpose of the Regulation

The purpose of this Regulation is to provide a framework for, and to set, fees payable in connection with applications for, and issuance and holding of, certain Licenses and applications for and issuances of approvals for the transfer of Licenses and Changes of Control of Licensees. It is therefore concerned only with the fees referred to in paragraph a of article 2.

The attached annexes are deemed to be an integral part of this regulation.

Article 4 Interpretation

Individual clauses containing the word “will” are mandatory requirements and are binding on licensed providers of Telecommunications Services and applicants for such Licenses.

Individual clauses containing the word “may” are permissions or recommendations (depending on the context) to providers but are not mandatory.

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.

Chapter 2 Definitions

Article 5 Definitions' Basis

In the event of conflict or ambiguity between the terms defined herein and the terms defined in a License or in the Telecommunications Law, the following order of precedence will apply:

- First, the Telecommunications Law,
- Second, this Regulation, and
- Third, the relevant License.

Article 6 Definitions

In this Regulation, the following terms have the following meanings:

Class License has the meaning provided in the Service Provider Licensing Regulation.

Gross Revenues means revenues earned by a Service Provider from the provision of Telecommunications Services after deducting amounts paid on an arms' length basis to domestic and foreign Service Providers for Telecommunications Services but before any deduction for costs, taxation, accounting or other purposes according to its audited financial statements.

Individual License has the meaning provided in the Service Provider Licensing Regulation.

Chapter 3 Scope of this Regulation

Article 7 Fees Subject to this Regulation

1. This Regulation provides for and sets fees payable in connection with applications for, and issuance and holding of:
 - a. the Service Provider Licenses set forth in Schedule A and available under the Service Provider Licensing Regulation; and
 - b. the Radio Frequencies Licenses set forth in Schedule B and available under the Spectrum Management and Licensing Regulation.
2. For the purposes of this Regulation, to the extent the Authority's approval is required (under the Service Provider Licensing Regulation, Spectrum Management and Licensing Regulation and the terms of any Licenses) for the transfer of a License or Change of Control (as such term is defined in the respective regulations) of a Licensee, the application for and issuance of the Authority's approval shall be considered as an application for or issuance of a License.

Article 8 Fees not covered by this Regulation

1. Individual Licenses

This Regulation does not provide for or set any fees relating to Individual Licenses. Such fees will be provided for and set in connection with and at the time of the licensing processes specific to such Individual Licenses.

2. Spectrum Management and Monitoring and Spectrum RTU fees

This Regulation does not provide for or set spectrum-related fees which must be determined by decree of the Council of Ministers, i.e.:

- a. spectrum management and monitoring fees referred to in paragraph b of article 2; and
- b. spectrum RTU fees referred to in paragraph c of article 2.

3. Fees for Licenses Replacing Interim Licenses with Spectrum

This Regulation also does not provide for or set the fees that will be payable in connection with the issuance of Licenses that will replace those of existing Service Providers currently licensed with Radio Frequencies on an interim basis by the TRA, and previously licensed by the Ministry of Telecommunications. The Authority will set such fees in connection with and at the time of the issuance of such Licenses. The replacement of interim Licenses without Radio Frequencies shall be subject to the issuance fees in Schedule 1 for National Broadband Licenses or Internet Service Provider Licenses as applicable.

4. Other Payment Obligations

The fees set forth in this Regulation are in addition to, and not in lieu of, all other obligations, fees, taxes, charges and levies payable to the Authority, the Republic of Lebanon, public or governmental authorities or any other Person from time to time under applicable law, including, without limitation, numbering fees, bid amounts payable under

any auction for a Service Provider or Radio Frequency License, revenue sharing obligations, excise taxes, value added taxes, sales taxes, use taxes, universal service fund contributions, property and ad valorem taxes, franchise taxes, and charges, compensations and fees for the use of public or private property.

Chapter 4 Types of Fees

The following types of fees will be payable in relation to Class Service Provider Licenses and Radio Frequency Licenses:

Article 9 License Application Fees

1. A Person applying for a Service Provider License or Radio Frequency License will at the time of application pay an application fee to the Authority in the amount applicable to the relevant License as set forth in Schedule A or Schedule B.
2. The Authority may refuse to consider any application which is not accompanied by the applicable application fee.
3. No time periods applicable to the Authority in the Service Provider Licensing Regulation, Spectrum Management and Licensing Regulation or otherwise for processing applications will run unless and until the Authority has received the applicable application fee.
4. Where an application is refused for any reason, the Authority will retain the application fee.

Article 10 License Issuance Fees

1. Prior to issuing a Service Provider License or Radio Frequency License, the Authority will notify the applicant of its intention to issue such License or approval.
2. In connection with the issuance of a License, the applicant will pay an issuance fee to the Authority in the amount applicable to the relevant License as set forth in Schedule A or Schedule B within fourteen (14) days of the date of the notice provided by the Authority under the previous paragraph.

The Authority will not issue the License unless it has received the required issuance fee.

Article 11 Annual Administrative Fees

1. Annual administrative fee

Each Class Service Provider Licensee or Radio Frequency Licensee will pay an annual administrative fee in the amount applicable to the relevant License as set forth in Schedule A and Schedule B.

2. Payment of Fees Set by Fixed Amount

Annual administrative fees which are set as a fixed amount of Lebanese pounds in Schedule A or Schedule B are payable:

- a. for the first year along with the issuance fee in connection with issuance of the License; and
- b. thereafter on or before the anniversary of the date of issuance of the License.

3. Payment and Audit of Fees Set According to Gross Revenues

- a. Annual administrative fees which are set as a percentage of Gross Revenues according to Schedule A or Schedule B are payable as follows:
 - I. Such fees will be paid in two (2) equal instalments on or before 30 June and 31 December of each year based on the Licensee's annual administrative fee for the previous financial year.
 - II. Within fourteen (14) days of finalizing its audited financial statements for the relevant financial year, the Licensee will pay the Authority (or the Authority will pay the Licensee, as applicable) the amount required to true-up the total annual administrative fee payable in respect of such financial year.
 - III. If the Licensee's audited financial statements are not finalized within four months of the end of the Licensee's financial year:
 - the Licensee will pay the Authority (or the Authority will pay the Licensee, as applicable) on or before the last day of such fourth month a provisional amount required to true-up the total annual administrative fee;
 - such provisional amount will be calculated to make the true-up on the basis of the Licensee's results of the first half of the relevant financial year, grossed up on an annualized basis for such financial year; and
 - IV. within fourteen (14) days of finalizing its audited financial statements for the relevant financial year the Licensee will pay the Authority (or the Authority will pay the Licensee, as applicable) the amount required to true-up the total annual administrative fee payable in respect of such financial year in light of such finalized results.
- b. The Licensee's Gross Revenues will be certified on an annual basis by an independent audit firm of international standing licensed to provide services in the Republic of Lebanon, approved in advance by the Authority and retained and compensated by the Licensee, subject to further independent verification by the Authority.
- c. The auditor will set forth as part of its certification the scope of its annual audit pertaining to the calculation of the Gross Revenues, and at a minimum that the scope of audit review was performed to ensure that the financial data was properly recorded and that adequate operational procedures existed, including without limitation around cash receipts, and that the Gross Revenues were materially accurate.
- d. The Authority will treat confidentially all non-public financial information provided to it for the purposes of this Regulation by a Licensee or its auditors.
- e. If the period in respect of which any annual administrative fee based on a percentage of Gross Revenues is payable is not a complete financial year (whether due to the commencement or termination of the relevant License during the calendar year), the fee for such financial year will be prorated for the period of the year during which the License was effective.
- f. A Licensee holding more than one License the annual administrative fees of which are set by percentage of annual Gross Revenues is not required to pay such percentage more than once by virtue of holding more than one License.

4. Default in Payment of Annual Administrative Fees

In the event of a default by a Licensee in the payments of annual administrative fees when due, the Licensee will pay interest on the amount from time to time due and unpaid from the period beginning on its due date and ending on the date of its payment in full, which interest will accrue from day to day and will be calculated on the basis of the actual number of days elapsed and a 365 day year. The applicable rate of interest will be the average of the prevailing prime lending rates of the banks and finance companies quoted and published by the Central Bank of the Republic of Lebanon.

5. Publication Expenses for Licensing of Radio Frequencies

- a. An applicant will bear the expense of publication in the Official Gazette of:
 - in the case of a Class License with Radio Frequencies or a Radio Frequency License, its application (as required under Article 15(3) of the Telecommunications Law); and
 - in the case of any License, the Authority's decision to issue the License (as required under Article 13 of the Telecommunications Law).
- b. The Authority will notify the applicant in advance of incurring the expense referred to in the previous paragraph and the applicant will pay such amount to the Authority within fourteen (14) days.

If the applicant does not pay such amount to the Authority within the prescribed period, the Authority may refuse to consider its application or issue its License.

Chapter 5 Miscellaneous

Article 12 Amendments

1. The Authority may amend this Regulation, including the amounts of the fees, from time to time as it considers appropriate in accordance with the Telecommunications Act and regulations then in force.
2. An amendment to the amount of an issuance fee listed in Schedule A or Schedule B will only apply to applicants whose applications are submitted after such amendment takes effect.
3. An amendment to the amount of an annual administrative fee for a License listed in Schedule A or Schedule B will apply to any Person holding the relevant License as of the date on which such amendment takes effect or subsequently.

Article 13 Payment arrangements

All payments of fees under this Regulation will be made to the following account:

[insert bank details]

Article 14

This Regulation will be published and entered into force upon its publication in the Official Gazette.

Beirut, 27 April 2009

Signed: Kamal S. Shehadi,
Chairman and CEO

For and by authority of the Telecommunications Regulatory Authority

Schedule A

<i>Type of Service Provider License¹</i>	<i>Application fees</i>	<i>Issuance fees</i>	<i>Annual administrative fees²</i>
1. Class Service Provider Licenses without Radio Frequencies			
a. National Broadband Licenses without spectrum	LBP /3,750,000/	LBP /3,750,000/	1% of Gross Revenues
b. ISP	LBP /750,000/	LBP /750,000/	1% of Gross Revenues
c. Public Telecommunications Office	LBP /750,000/	LBP /750,000/	LBP /750,000/
2. Class Service Provider Licenses with Radio Frequencies			
a. Pager services	LBP /750,000/	LBP /750,000/	LBP /750,000/
b. VSAT services (for each VSAT terminal)	LBP /750,000/	LBP /750,000/	LBP /750,000/

¹ References in the table above to types of Class Licenses are references to the list in Schedule A to the Service Provider Licensing Regulation.

² Annual administrative fees will be repeated in the terms and conditions of the Class Licenses as required under Article 20(3) of the Telecommunications Law.

Schedule B

<i>Type of Frequency License</i>	<i>Application fees</i>	<i>Issuance fees</i>	<i>Annual administrative fees</i>
3. Frequency Licenses			
<i>Private Mobile</i>			
a. Private Mobile Radio (PMR) operator	LBP /750,000/	LBP /750,000/	LBP /750,000/
b. Private Mobile Radio (PMR) user	LBP /37,500/	LBP /37,500/	LBP /37,500/
<i>Amateur</i>			
c. Amateur frequency license	LBP /37,500/	LBP /37,500/	LBP /37,500/
d. Citizens band radio	LBP /37,500/	LBP /37,500/	LBP /37,500/
<i>Wireless</i>			
e. Wireless fixed closed user group license	LBP /750,000/	LBP /750,000/	LBP /750,000/
f. Low power wireless networks	LBP /750,000/	LBP /750,000/	LBP /750,000/
<i>Maritime</i>			
g. Ship Radio License	LBP /750,000/	LBP /750,000/	LBP /750,000/
h. Coastal Station Radio for Yacht Clubs	LBP /750,000/	LBP /750,000/	LBP /750,000/

Type of Frequency License	Application fees	Issuance fees	Annual administrative fees
i. Coastal Station Radio for Port Operations	LBP /750,000/	LBP /750,000/	LBP /750,000/
j. Coastal Station Radio for Commercial Communications	LBP /750,000/	LBP /750,000/	LBP /750,000/
<i>Aeronautical</i>			
k. Aircraft License	LBP /750,000/	LBP /750,000/	LBP /750,000/
l. Aeronautical Ground Station (G/A) for Aeronautical Mobile Communications	LBP /750,000/	LBP /750,000/	LBP /750,000/
m. Aeronautical Ground Station (G/A) for Airlines Mobile Communications	LBP /750,000/	LBP /750,000/	LBP /750,000/
n. Aeronautical Navigation Aids and Radar	LBP /750,000/	LBP /750,000/	LBP /750,000/
<i>Satellite</i>			
o. Satellite News Gathering (SNG)	LBP /750,000/	LBP /750,000/	LBP /750,000/
p. Closed User Group VSAT	LBP /1,500,000/	LBP /1,500,000/	LBP /1,500,000/
q. Fixed Earth Station (receive only)	LBP /750,000/	LBP /750,000/	LBP /750,000/

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