



Republic of Lebanon
Telecommunications
Regulatory Authority

Improving Regulation through Transparency

TRA's Consultation and Access to Information

LTA Corporate Governance and Access
to Information Conference

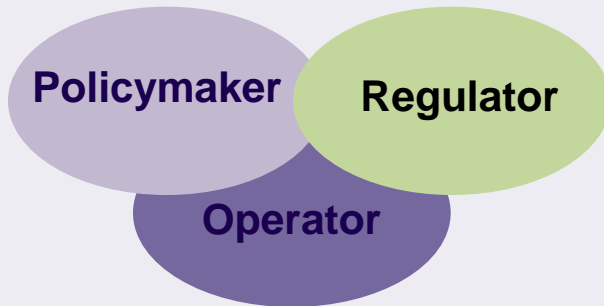
Phoenicia
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Chairman/ CEO
Telecommunications Regulatory Authority

The Telecommunications Law 431 creates the proper environment for a competitive telecommunications market

Before Telecom Law 431

Ministry of Telecommunications



- **Ministry of Telecommunications:** policymaker, regulator and service provider
- **Council of Ministers:** Arbitrary regulatory role (e.g. issuing all licenses)
- No formal regulatory regime

After Telecom Law 431

1 MoT: Policymaker

- Set the general guidelines of the telecom policy
- Approve
 - Recommendation of TRA on individual licenses
 - Pricing of radio frequency
 - TRA annual budget

2 TRA: Regulator

- Draft and implement regulations
- Award licenses for the provision of telecom services
- Ensure competition and prevent anti-competitive behavior
- Manage radio frequencies on behalf of GoL

3

Operator(s) [Incumbents & New Entrants]

- Provide telecom services to the public
- Install, own and manage telecom networks and facilities
- Abide by TRA rules, regulations and license terms

The TRA is mandated to regulate telecommunications in Lebanon and to take measures necessary to promote a competitive market and ensure market transparency

Legislative Role

- Take all decisions and measures required to implement the Telecom Law 431
- Prepare regulations to achieve the objectives of Telecom Law 431 / 2002
- Draft decrees and regulations related to the implementation of the telecommunications law, and refer these to the Minister

Competition

- Encourage competition in the telecom sector
- Monitor behavior that may limit competition and ensure market transparency
- Ensure that operators with significant market power do not abuse their market position

Licensing

- Issue licenses and monitor compliance with license terms and conditions
- Organize auctions and draft auction rules for the award of individual licenses
- Suspend or revoke licenses based on Telecom Law 431 / 2002

Interconnection

- Set regulations for interconnection
- Review interconnection agreements

Dispute Resolution

- Set standards and regulations for review of complaints and other disputes
- Act as a mediator / arbitrator in disputes between licensees
- Set regulations for the arbitration of disputes regarding interconnection agreements

In carrying out its functions, the TRA is mandated by Law 431 to adhere to the highest standards of transparency

Availability of Information

- ❑ The TRA is required to make available to any person that requests it any and all information which the TRA has and which has not been designated as confidential (Art. 12), although it is also required to maintain the confidentiality of reports and information submitted by the service providers (Art. 32)

Accountability

- ❑ The TRA is required to report on its activities and its finances. It is required to present annual reports to the Council of Ministers (Art. 5.4 and Art 33); its budget has to be approved by the ministers of telecom and finance; its finances are subject to internal and external auditing (Art. 11.6) and to the Audit Court auditing a posteriori (Art. 2)

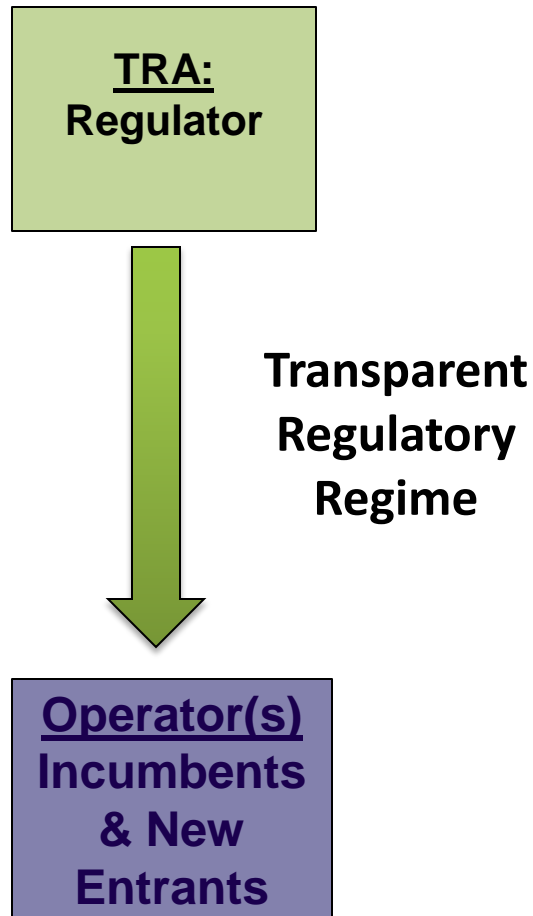
Licensing

- ❑ Licensing is to be conducted using well publicized, pre-announced competitive bidding rules and procedures, clear and simple criteria for evaluating bids, and a license award process that is open to public scrutiny. Bidders will be treated equally, with public receipt of all bids, rapid notification and public announcement of the winner (art.20)

Review and Appeal

- ❑ All TRA decisions are subject to review by the TRA within two months from their publication at the request of a concerned party (Art. 14.1). TRA decisions may be appealed to the Council of State but only on procedural grounds (Art. 14.2). TRA decisions imposing penalties may be appealed to the Court of Appeals (Art. 40). The start of a review or appeal process does not, by itself, justify suspension of the decision

A transparent regulatory framework is key to the development of the telecommunications market by reducing regulatory risks



Transparency Refers to:

- Making all regulatory procedures transparent to stakeholders
- Engaging the public in the decision making process
- Provide rationale to decisions and regulatory approaches
- Define all necessary processes in an independent and efficient way
- Engaging investors in consultations on all regulatory matters of interest to them

Transparency Results in:

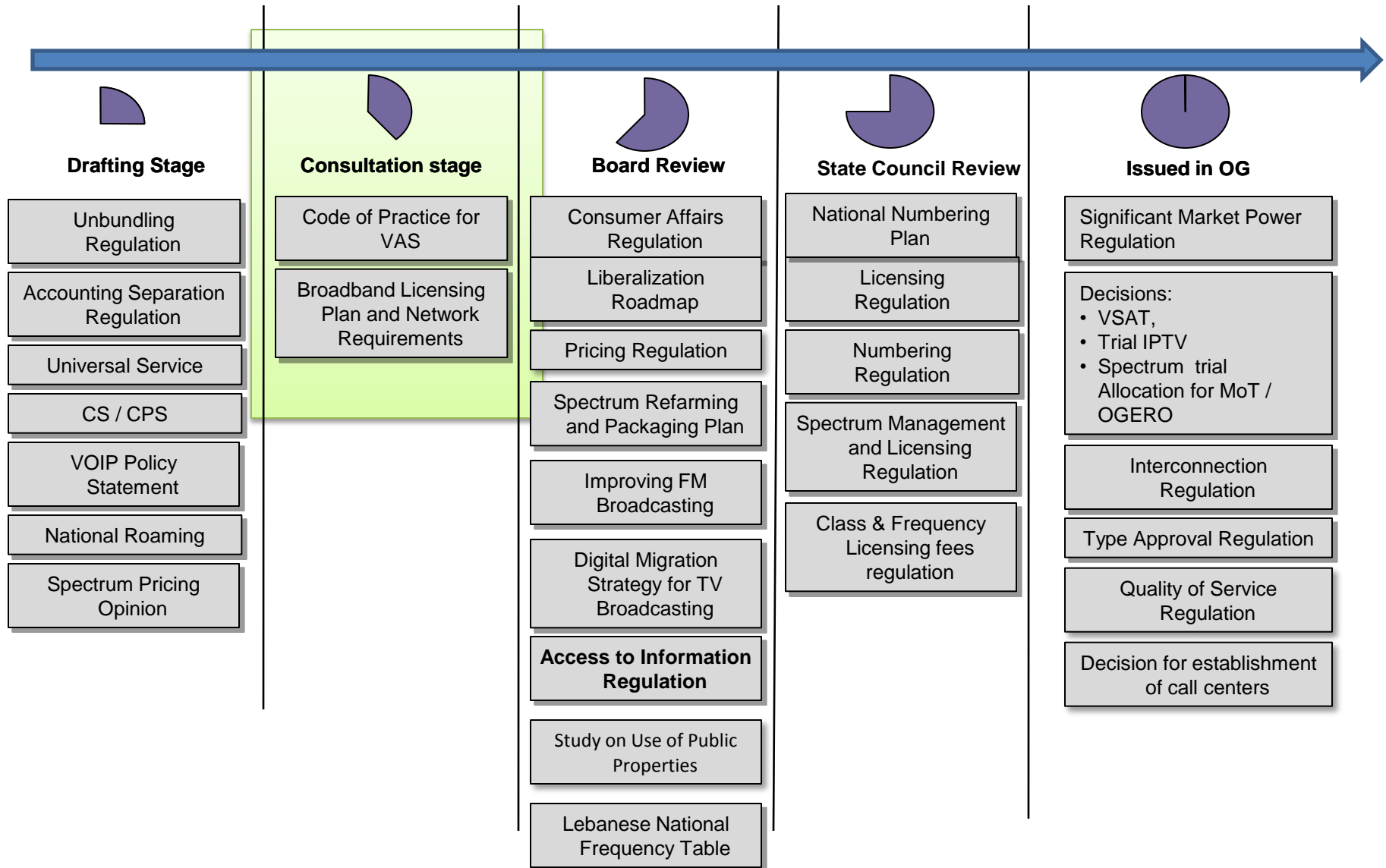
- Less regulatory risk by making regulatory decisions predictable
- Effective and equal participation in regulatory processes
- Ensure non-discrimination between stakeholders
- Increase investments in the sector by reducing risks and costs

The TRA has conducted more than 20 consultations to date and has provided a rationale for all its decisions and makes public all non confidential information

Current TRA Practices in Public Consultation and Access to information

- TRA is required by law (Law 431/2002, Art. 5) to consult stakeholders or the public
 - TRA has consulted so far on 20 regulations and decisions, among which the liberalization roadmap
- TRA decisions have to be reasoned and the reasoning has to be made available to the public
 - TRA provides to the public the rationale behind any decisions, opinion or regulation most of the time based on the combination of international best practice and Lebanese market conditions
- TRA has the obligation to provide information to the public about the telecom sector except for confidential information
 - All regulations, decisions and documents are available to the public; very few confidential information are not publicized (for instance information pertaining to strategic position of a particular operator)

Public or restricted consultation is an important part of establishing the regulatory framework



In issuing regulations, the TRA has the obligation to carry out consultations in a transparent manner, which may be limited to stakeholders or open to the wider public

Stakeholder Consultation

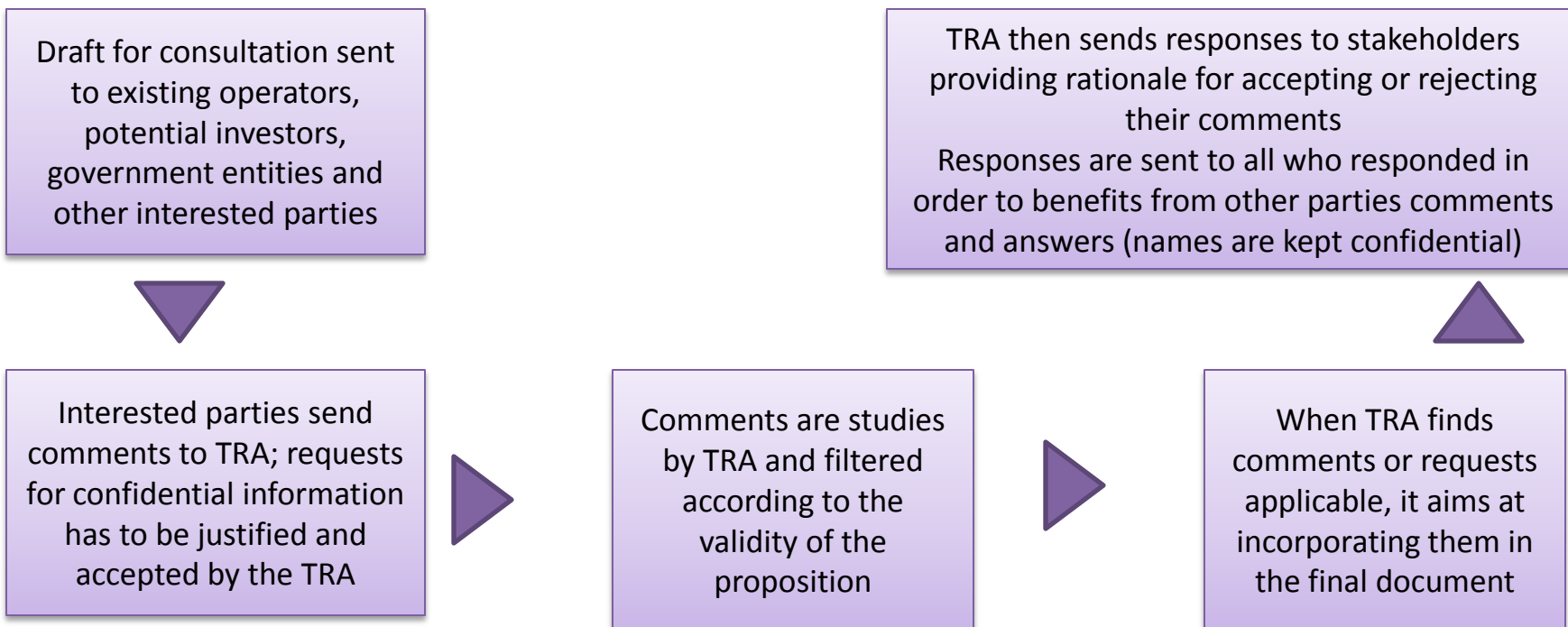
- Typically, stakeholders are consulted on very specific issues which may interest service providers, investors, users, or a special category of users (e.g., service providers are to be consulted on interconnection, on new technologies, etc.)
- The TRA is required to publish guidelines on consultations
- The TRA may carry written or oral consultations
- In both cases, the TRA has to make public transcripts and records of the consultation process

Public Consultation

- A public consultation process is conducted on matters of general public interest, such as telecom policy, price regulation, etc.
- The public consultation shall be clear and focused with respect to the issue it is consulting on and the timeframe available for consultation
- The consultation methodology may vary depending on the concerned parties and the issue in question
- The TRA has to provide information about the responses to the public consultation and summarize the findings of the consultation

Transparency goes beyond public consultation, it also involves accounting for the stakeholders comments and responding to them

- TRA has so far received many comments on the public consultation it conducted
- mostly comments were received from mobile managers, DSP and ISP and potential investors
- The consultation process can be difficult for a newly formed regulator in a country where procedural transparency is not entrenched in government practice



The Board of Directors is currently finalizing the Access to Information Regulation which has been issued for consultation on December 2008

- The purpose of this regulation is to develop the interaction between the TRA and the public in order to ensure that all stakeholders are involved in the decision making process
- 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 the fact that all parties will be equally treated in terms of having access, to the same information, and at the same time

Any person requesting access to information can apply in writing (by completing a standard form), describing the information in which he requires access to



TRA studies the request

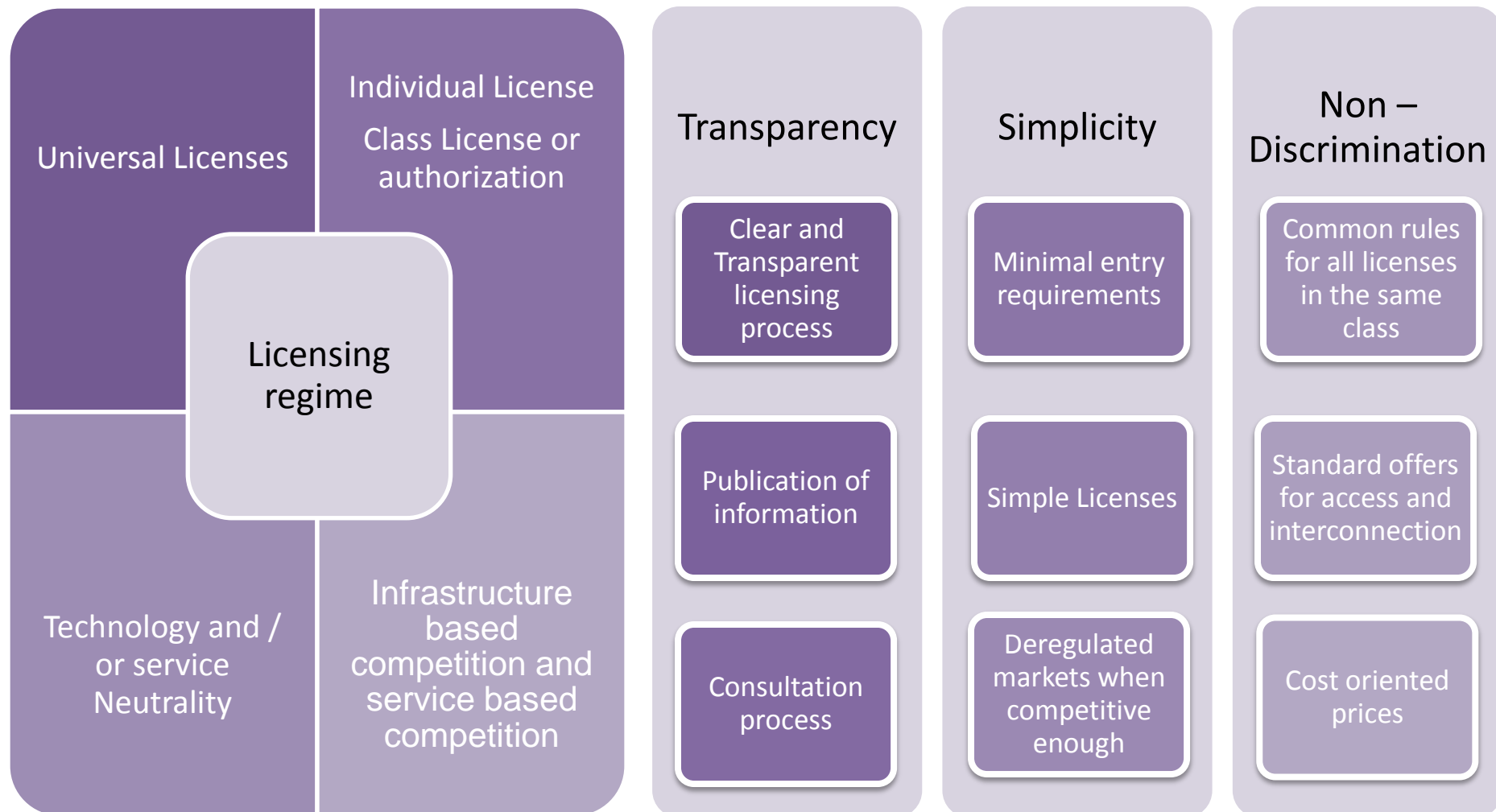


TRA will not disclose any information that it considers may jeopardize commercial confidentiality and competition
TRA may consult with the concerned party in deciding whether related information should be disclosed or not.

TRA sends a notification of Decision by way of a recommended letter with receipt to the applicant.



Currently the TRA is putting in place a simple and transparent licensing process to facilitate entry to the telecommunications market



Transparency is one of the most important parameters in a successful licensing process which aims at attracting investment and reduce barrier to entry

The importance of a transparent Licensing regime

- Procedural transparency is one of the fundamental requirements of a successful licensing process;
 - therefore the TRA is going to publish the Service provider licensing regulation which includes all the procedures for applying for a license
- Transparency requires that a licensing process be conducted openly and that licensing decisions be made based on criteria published in advance;
 - The Service provider licensing regulation will include the general criteria for accepting a license application, moreover the criteria for individual licenses based on auctions (such as mobile licenses) will be published in advances, stakeholders will be able to comments on them
- It is good practice to engage in public consultation before and during a licensing process. To start, a regulator should invite public comment on the approach to be taken in a proposed licensing process before it starts.
 - To that end TRA has consulted on the service provider licensing regulation that will be published after the shura review
- Consultation with stakeholders reinforces the perception of a transparent process. Consultation allows the TRA to receive directly the views of consumers, existing operators and prospective applicants on proposed licensing procedures to be fine-tuned to maximize the prospects for a successful licensing process.