



**Final Report on the Consultation concerning:  
Proposals for a New Licensing Framework for Telecommunications in  
Oman**

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## 1 Introduction

This document summarizes the responses to “A Consultation Document on Proposals for a New Licensing Framework for Telecommunications in Oman”.

This consultation covered the development of a framework of licensing and primary and secondary legislation to meet changing circumstances in telecommunications markets, and the emergence of markets for the Supply of Content by means of electronic networks. It offered:

- Proposals, at their present stage of development, and related to a liberalized Licensing Framework through the introduction of Unified licensing of telecommunications related activities and the streamlining of license application processes. The proposals give rise to a need to consider the revision of primary legislation, and adjustments to the emphases of regulation.
- Proposals, subject to achieving necessary changes to legislation, which would bring some Supply of Content by means of electronic networks, into a licensing regime that would reinforce, but not override, the existing approvals processes, operated by other agencies. In common with existing approvals processes operated by other agencies, the aim of licensing would be to seek to protect society from illegality and the effects of harmful material conveyed by networks.

Responses were received from eight parties.

Class I Licensees	Omani Qatari Telecommunications Company S.A.O.G (Nawras) Omantel Telecommunications Company S.A.O.G. (Omantel)
Class II Licensees	Connect Arabia L.L.C. (FRiENDi Mobile) Majan Telecommunications L.L.C. (Renna)
Other	Genius Solutions L.L.C. Omani Wastewater Services Company (Haya Water) Petroleum Development Oman (PDO) The Zubair Corporation ICT Division

Each party was asked to respond to 25 questions. In addition to such responses, respondents generally made a number of additional points, which have also been taken into account here.

Thus the structure of this paper is as follows. Each area of discussion is characterized by a subject heading, the Authority’s proposals, and the questions posed by the Authority.

Comments made by respondents in response follow each question. The Authority's position follows the observations and views expressed by the responding stakeholders.

Owing to the high volume of comment, for which the Authority thanks respondents, it has been necessary to summarize or extract key responses in some instances. Best efforts have been made to accurately represent the meaning of responses and to provide the required balance between varying views.

Certain respondents provided particularly lengthy submissions that, in addition to answering questions posed by the Authority, separately offered views, advice and recommendations on a range of matters associated with the Licensing Framework proposals and a number of other matters not related to the Licensing Framework per se. In two particular instances, the Authority perceived there to be potential for misrepresentation or ambiguity if it allocated this supplementary material to the various questions that it posed. This view was reinforced by a perception that in certain instances positions stated in supplementary material differed from those adopted in relation to questions. Accordingly, the Authority has taken the view to include that additional material, in its entirety, within a separate annex to this response document.

## 2 Summary Assessment

The Authority considers that there is a polarization of views in relation to some of the fundamental mechanisms within the Authority's proposals for a new Licensing Framework.

Views at the fundamental level extend from those that seek a perpetuation of the structure, terms or principles of the existing licensing framework, to those that advocate open access to markets, by drawing comparison with models adopted in Europe. Those seeking perpetuation of the structure also demanded any changes to existing arrangements be preceded by phases of analysis, policy development and multiple consultations,. With regard to the adoption of EU practices and processes, the Authority's view is that these would not be appropriate in Oman considering the fact that the market here is not as mature and the behaviour of market participants varies quite significantly.

The Authority considers that broad support has been expressed for an initiative to develop a national policy related to the supply of content, and a common view in relation to issues surrounding the licensing of the supply of content

Further, a desire for the provision for consultation of draft licenses and other relevant material is widely expressed. In addition, certain definitions have been subject to critical review. Therefore, in relation to these matters, it will be found that the Authority has stated that:

- It will await the development of a national policy related to the supply of content before further considering proposals for its licensing.
- It will now proceed to draft licenses and associated documentation taking note of input received, where indicated in this document, including comment related to definitions, and, will then offer draft material for consultation.

The Authority also considers that broad support has been expressed for a rationalization of the approvals process used to grant licenses.

However, further polarisation of views is observed related to a roadmap of actions for 2013, ranging from those that decline to consider it on the grounds of fundamental objection to change, to those that support its representation of early action.

The Authority believes that the consultation process has proven successful in attracting a high level of engagement by stakeholders, expressing a broad range of views. These views have provided the Authority with invaluable input.

### **3 The scope of activities to be addressed by the Licensing Framework**

#### **3.1 The Authority's proposals**

The Authority proposed that the scope of activities that the Licensing Framework must address should be widely and flexibly defined. The following definition, of the scope of activities to be addressed by the Licensing Framework, was proposed:

- The establishment, maintenance and operation of Electronic Communications Networks, being transmission systems for the conveyance, by the use of electrical, magnetic, or, electro-magnetic energy of signals of any description, together with associated facilities that make the provision of networks or services provided by means of networks possible, and/or, make possible the provision of other services provided by means of those networks or services, and/or, support the provision of those other services, and/or,
- The supply of national and/or international services, products or facilities, for public or private consumption, that have as a principal feature, the conveyance of signals by an Electronic Communications Network or are Content Services. Content Services comprise the provision of material to be comprised in signals conveyed by Electronic Communications Networks or the Editorial Control of the Contents of signals conveyed by such networks.

The Authority proposed that with regard to Content Services two matters should be particularly noted:

- a) The statement of scope for the Licensing Framework makes clear that only material disseminated by means of Electronic Communications Networks falls within the scope to be addressed by the Licensing Framework. Further matters related to Content, such as its origination, its social acceptability, legality and supply other than by means of Electronic Communications Networks, are within the jurisdiction or concern of various agencies other than the Authority, and are governed by various elements of separate legislation. Those separate jurisdictions or areas of authority must be recognised by, and where practical enforced by, the Licensing Framework, but must not be duplicated or overridden.
- b) Editorial Control means; having the knowledge, opportunity and ability to control the publication of material to be comprised in signals conveyed by Electronic Communications Networks.

### **3.2 Respondent views on the scope of activities to be addressed by the Licensing Framework**

#### **Question 1**

**Do you agree with the statement of scope of activities to be addressed by the Licensing Framework? If you do not agree please supply your reasons for not agreeing, and supply any alternative definitions or statements of scope that you consider more appropriate.**

One respondent agreed with the separation of networks and services as set out in the Licensing framework.

#### ***Distinction between facilities based and service based licenses***

Two respondents agreed, without substantive qualification.

One respondent said it was important to consider a clear distinction between:

- (a) The provision of infrastructure and network services; and
- (b) The provision of services over that infrastructure and network.

#### ***The need (or otherwise) for the inclusion of content services in licensing***

One respondent indicated that "Editorial Control", which is defined as "having the knowledge, opportunity and ability to control the publication of material to be comprised in signals conveyed by Electronic Communications Networks", needs to be applied at every stage of the development of content in order to be able to identify exactly up to which level this control is taking place and who is responsible for taking actions upon it. The Authority rightly identifies that issues related to the origination, social acceptability, legality and supply other than by means of ECNs (as defined in the Consultation) are within the jurisdiction and concern of various agencies other than the Authority and governed by separate legislation. This led the respondent to question the need for licensing "Supply of Content".

A second respondent was of the view that the scope of activities should be limited to the licensing framework for telecommunications networks and services (referred to as Electronic Communications Networks or ECN). In particular, any process for developing a licensing framework for the Supply of Content should include the relevant Ministries and governmental bodies, which have certain jurisdiction over content issues. The respondent was in full agreement with the TRA that the issue of content should be addressed in separate consultations and merits a comprehensive content policy. As such, rather than dealing with licensing of the supply of content in a piece-meal fashion, the respondent believed that licensing should be addressed under the same content policy proceeding and that consideration of any amendments necessary to the Telecommunications Regulatory Act to establish the Authority as a converged regulator (telecommunications and content) should be considered in a separate proceeding.

A further respondent expressed disagreement. It offered the view that the “Authority shall not separate content supply from other telecom services. The Authority must recognise the practicality of such a decision and whether it is in line with the policies and initiatives of the Ministry. “We disagree with separating Supply of Content for licensing purposes as the Authority has not provided any sound rationale for such decision.” The respondent makes reference to its further comments that are supplied in a separate and wider context.

### ***The need to cover passive infrastructure providers***

Another respondent sought assurance that passive infrastructure providers will be covered within the scope of the proposed Licensing Framework.

### ***Further issues***

One respondent recommended that the framework should take into consideration three main drivers:

- Ability of the licensees to optimize the utilization of the national resources that are used to build and operate the networks.
- The major necessity of reducing environmental hazards imposed on Oman by the operation of networks. This is in terms of near and long term impacts on health and the living environment.
- Preservation of the rights of all Omanis to have access to services, regardless of their location and way of living.

## **3.3 The Authority’s responses to comments relating to question 1**

### ***Content within the scope of the Licensing Framework***

The Telecommunications Regulatory Act places obligations upon the Authority related to the regulation of activities that include content that is conveyed by ECNs.

It is appropriate therefore that content remains within the overall scope of the Licensing Framework.

However, in the light of the divergent opinions offered by respondents in relation to this section and subsequent sections of the consultation document, the present intention of the Authority is that it will await the outcome of an initiative to develop a national policy toward the provision of content and content services before developing its content licensing proposals further.

In the event that a national policy is not developed and published within a reasonable timescale, the Authority will revisit the issue of content licensing, should circumstances dictate that to be necessary.

***Other issues that have drawn comment within responses***

The Authority considers the proposals set out in the consultation document have addressed the efficient use of natural resources and, through associated mechanisms within licensing, also addressed environmental concerns by proposing that relevant authorities be consulted in decision making related to use of public property.

It is the intention of the Authority's proposals that all relevant infrastructure and activity is brought within the scope of the Licensing Framework and associated regulatory measures and instruments. Proposals in these areas are set out in the consultation document and encompass passive infrastructure by whomsoever owned and operated.

## **4 Separate licensing of content services**

### **4.1 The Authority's proposals**

The Authority proposed that within the overall Licensing Framework relating to the establishment and supply of services by means of Electronic Communications Networks, the licensing of Telecommunications activities and the Supply of Content should be separate functions, notwithstanding that it is sought to address both activities by means of the same overall Licensing Framework.

It is proposed that the following definition should apply to the Supply of Content:

- The provision of material to be comprised in signals conveyed by Electronic Communications Networks, or the editorial control of the Contents of signals conveyed by such networks, shall constitute the Supply of Content.

The principal reason for the distinction between Telecommunications and Supply of Content licensing originates in the recognition that the Supply of Content and its conveyance are in most instances logically separate activities, although not physically separate.

The delivery of Content would normally arise from a contract between the user and the supplier of Content. The conveyance of the Content would typically arise under a contract between the user and a supplier of telecommunications services. In this connection, use of the term contract means any arrangement between parties, whether or not formalised, with or without monetary consideration, and whether transitory, or a more lasting relationship.

It can of course be the case that Telecommunications and Content Supply services are provided by a single entity, however the Authority considers that separate licensing remains justified, at this time, because:

- It is desirable that the Supply of Content is encouraged as an economic activity within Oman and potential Content suppliers may not wish to be subjected to, or may not qualify for, licensing that encompasses Telecommunications activity.
- The obligations arising for suppliers, and the associated necessary regulatory safeguards arising from the relative supplies of services, are sufficiently different to make separate licensing logical and desirable.

### **4.2 Respondent views on inclusion of content services**

#### **Question 2**

**Do you accept that it is presently inappropriate to combine the licensing and regulation of Content with that applied to telecommunications? If not, please state your reasons for disagreeing with the proposal that is put forward.**

One respondent recommended that the Authority addresses the issue in separate consultations in conjunction with the review of the Telecommunications Regulatory Act. The respondent wished to highlight that the existing or prospective companies that would be impacted by the licensing of the Supply of Content may not be aware of the current consultation and would therefore not provide input on a topic that would directly affect them. Input from such companies would surely provide a further insight to the issues discussed.

One respondent stated that the Authority should not separate content supply from other telecommunications services. The respondent argued that the TRA's logic for distinguishing content from the rest of telecom services was impractical asking how it was possible to distinguish between content and, for example, broadcasting? The respondent also wanted to know whether the proposal was in line with the Ministry's policy and directives. The respondent stated that:

- Content is still not regulated in Oman and it is beyond TRA's statutory rights, especially in relation to the editorial control of the content.
- Provision of content services is already included within at least some licenses under the heading "information service". Licensees should be expected to want to continue to offer content under their existing licenses.
- Operator relationships with third party content providers are sufficiently covered by the Premium Rate Services Regulations

Other respondents agreed that it was inappropriate at the moment to combine content licensing with that applied to telecommunications.

One respondent believed that the Supply of Content services should not be included in the services definition in the light of the proposed separation of Standard Licenses and Supply of Content Licenses.

Another respondent suggested that it was not practical or feasible to combine licensing and regulation of content with that applied to telecommunications.

One respondent recommended that while separately licensed, content and telecommunications should be monitored within the same party.

One respondent believed that it was inappropriate for the Authority to have any regulatory oversight of content services whether in combination with telecommunications licensing or via separate regulation. The respondent believed that seemingly adequate regulation already exists within Oman for digital content regulation. The respondent considered that any additional regulation of new media and digital content is best left, for the time being, to other institutions and authorities in Oman that already exist for that purpose. Telecommunications players are already overburdened by a disproportionate degree of costly regulation relative to other industries. At this point in time, the respondent preferred to see the Authority concentrating its

resources and expertise on effectively regulating competition in the telecommunications market.

One respondent, while agreeing that the combination of licensing was inappropriate, indicated that providing the pipe and providing the content are two different matters. Almost all content is now international. While pipe providers can also be content providers, the business models are separate, and the players are not identical. In order to develop Oman's content it is very important to allow the emergence of content providers apart from pipe providers. In order to ensure that the content conveyed is legal, control mechanisms would be placed on the pipe providers. This can be part of the conditions for allocating Oman's resources to network providers (spectrum for instance). It is also a security issue that needs to be addressed from the onset.

#### **4.3 The Authority's responses to comments relating to question 2**

The Authority recognises that a divergence of view is demonstrated in responses that are reported.

Respondents are referred to the Authority's response to question 1, in which it stated that it will await the outcome of an initiative to develop a national policy toward the provision of content and content services before developing its content licensing proposals further.

## 5 Factors influencing the selection of a licensing model

### 5.1 The Authority's proposals

The Authority indicated that it had determined that markets in Oman are insufficiently developed and insufficiently competitive to justify the 'open entry and exit' models that have been adopted in some of the major economies of the world.

The Authority said that the selection of a licensing model and most particularly, the associated rules related to the grant of licenses was principally a response to, or the management of, various risks. In identifying risk, in addition to market related factors, the Authority has to take account of statutory requirements. In that connection the Basic Law stipulates the following, in Article II:

- "All natural resources are the property of the State, which safeguards them and ensures that they are properly utilised while taking into account the requirements of State security and the interests of the national economy. No concession may be granted, nor may any of the country's public resources be exploited, except in accordance with the Law and for a limited period of time, and in such a manner as to preserve national interests.
- Public property is inviolable. The State shall protect it, and citizens and all other persons shall preserve it.
- Private property is protected. No-one shall be prevented from disposing of his property within the limits of the Law. Nor shall anyone's property be expropriated, except for the public benefit in those cases defined by the Law and in the manner stipulated by the Law, and on condition that the person whose property is expropriated receives just compensation for it."

Based upon the stipulations of the Basic Law and assessments of normal factors that influence telecommunications sectors, the Authority identified the following as presenting risks of harm to the national interest, and/or the interests of users of services and/or the state of competition in markets:

- Inefficient or inappropriate use of natural resources;
- Inefficient or inappropriate use of public property;
- Technology failure;
- Financial failure of the authorised entity;
- Illegality, including threats to national security and offences against public decency;
- Monopoly influences and/or where activities may jeopardize the development of fair market competition.

Each of the areas is considered in the following sub-sections and proposed responses to risk are outlined.

## **5.2 Respondent views on factors influencing the selection of a licensing model**

### **Question 3**

**Do you agree with the broad categorisation of risk that has been adopted by the Authority? If you do not agree, please state your reasons and supply details of the categories that you consider to be more relevant.**

Five respondents agreed with the broad categorisation of risk.

One disagreed with “financial failure of the authorised entity” as the investing entity should be itself responsible for its financial failure. "Open entry and exit" models, applied in the European Union for example, cause a significant threat to the stability of the telecommunications market or general economy of Oman, particularly if certain consumer protection measures are in place.

One respondent suggested inefficient or inappropriate use of Human Resources should be considered to be a risk.

One respondent argued that some window for innovation must be kept open in order to provide the opportunity for newcomers to build new technologies that can build the future. It is important that by trying to avoid risks, Oman does not block new technologies or new risk takers to come into the market and try to make it evolve. Excessive restriction or the absence of a window for innovation will lead to a de facto monopoly that is inherent to the natural lack of resources (for instance spectrum used for wireless communication is scarce). This is what is seen in mature so called competitive markets where only two or three dominant operators rule.

One respondent wanted to confine risks to natural resources only. Other categories should either fall under the general principles of law (illegality) or relate to the feasibility of the business (technology and financial failure). The Authority should not interfere in the business details of the licensees. With regard to the monopoly influence, this should not be part of the licensing regime. If the Authority is concerned about the monopoly influence it can regulate it outside the scope of the licenses.

One respondent did not agree with using the proposed categorisation of risk as factors in the selection of the licensing model itself and made the following points.

- To be in line with international best practices, license categories should be based on clear criteria in order to provide regulatory certainty. The broad categorisation of risks, based on "generic" potential harm to national interests and/or consumer interests and/or the state of market competition, are not appropriate factors to be used to determine the type of license (Individual vs. Standard) that an applicant should be granted.

- This broad categorisation of risks is difficult to objectively define, particularly for new entrants as they likely have not yet engaged in activities that would implicate these risk factors, such as gaining prior access to natural resources or public property, or experiencing technology or financial failure, or engaging in illegality or monopolistic practices.
- The proposed categorisation of risk could lead to different types of licenses applying to similarly situated providers, creating a situation in which some providers are subject to more onerous license application processes and license obligations despite offering essentially the same networks and services.
- Applying the proposed categorisation of risk in an objective manner would also require an extensive application process in order to collect and analyze the information necessary to determine which type of license should apply. This would complicate and delay the licensing process, which contradicts the Authority's intention to simplify and standardise licensing procedures in order to more quickly grant authorisations and increase competition.
- The respondent also noted that with respect to the risk criterion of "monopoly influences/jeopardising the development of fair market competition", both ex-ante and ex-post regulatory measures are currently reviewed and modified to deal with such issues. In the respondent's view, these are the sufficient and appropriate instruments in place to address such concerns and the Authority should avoid overlaps, duplication and conflicts arising out of inconsistent treatment in the license vs. the regulatory decrees on market conduct. In order to deal with the development of competition, market regulation is reviewed on a regular basis. The current Market Review period for ex ante regulation is limited to two years. If a competition related condition is introduced in the license, then also that license would need to be reviewed within a similar timeframe. This seems impractical.
- It would be difficult for the Authority to avoid the need to conduct a balancing test of the various risk factors to determine which license would apply. A balancing test, rather than a bright-line rule based on facilities and services, introduces a subjective component to the licensing process that can result in discriminatory and non-objective outcomes. In contrast, maintaining the current framework, which relies on a bright-line categorisation of licenses, is more likely to lead to consistently applied, fair and non-discriminatory licensing procedures. This is because the existing framework is objectively clear to all potential applicants and the Authority whether the proposed operations are facilities-based or services-based.
- The respondent recommended maintaining the existing facilities-based and service-based categories to provide a bright-line rule for the licensing framework, which will help ensure regulatory certainty and promote market investment. There are multiple benefits to keeping the facilities-based and services-based license categories. First, the factors determining which type of license applies can be unambiguous, clearly defined,

non-discriminatory, transparent, and applied equally to all potential applicants. Secondly, the facilities- and services-based distinction is in line with international best practices and is the approach generally adopted by countries that have implemented unified licensing frameworks, including Indonesia, Kenya, Singapore, Thailand and South Africa. Third, the facilities- and services-based distinction continues Oman's existing framework and would therefore promote regulatory certainty and require fewer amendments to the Telecommunications Regulatory Act in order to be implemented. The respondent noted that the view of natural resources, public property and private property set out in Article 11 of the Basic Law should be considered in the licensing framework, such as in rules relating to coverage obligations or access to rights-of-way. Notably, Article 11 of the Basic Law addresses overarching economic principles and does not require these statutory requirements to be used as determining factors for licensing processes. As such, adoption of the respondent's recommendations enables the Authority to establish a unified framework that 1) fulfils the statutory requirements of the Basic Law; 2) satisfies the TRA's objectives in streamlining the license application process and promoting competition by easing market entry; and 3) is in accordance with the standard licensing approach adopted around the world.

### **5.3 The Authority's responses to comments relating to question 3**

The Authority notes an extreme divergence of views among respondents. The majority of respondents accept the proposition set out within the consultation document, that being the movement away from the delineation between facilities based providers and service based providers, but others oppose it. Those opposing include respondents that propose maintenance of present licensing arrangements and positive discrimination in favour of facilities-based suppliers.

The Authority notes the dissenting view that would apparently wish Oman seek to emulate what are represented to be arrangements in certain South East Asian and African states. The Authority has given extensive consideration to models of licensing applied elsewhere, in the context of their applicability to Omani conditions and risks. It has formed a view that the proposals that it has put forward are appropriate to meeting the potential risk of harm from positive discrimination in favour of facilities based providers, the particular development potential of Omani markets, and the policy requirements of Government.

It follows from the above that the Authority will proceed on the basis of the broad categorization of risks that it has outlined in the consultation document and which has been accepted by a majority of respondents.

## 6 Inefficient or inappropriate use of natural resources

### 6.1 The Authority's proposals

The Authority proposed that risk in the area can be mitigated by a combination of three means:

- Determinations by the Authority, from time to time and according to prevailing of foreseeable circumstances, as to what natural or any other resources, may be objectively deemed to be scarce. In present circumstances the TRA considers that only radio spectrum that must, for practical reasons, be allocated in significant quantity and in specific blocks would be determined to represent a Scarce Resource. However, circumstances that cannot presently be foreseen may dictate that other resources must be considered in the future.
- Individual licensing of those entities to whom the right to use scarce resources is granted. Individual licenses would contain obligations that differ from those within the generality of licenses to the minimum extent necessary to reflect the exploitation of scarcity. The grant of use of scarce resources would be associated with separate radio spectrum or other resource related licensing, which extracts the appropriate value to meet the national interest.
- Most importantly, the use of criteria in the application process that seek to reasonably ensure the competence and financial viability of the entity, to which any license that is associated with the right to use scarce resource is granted.

### 6.2 Respondent views on how to mitigate the risk of inefficient use of natural resources

#### Question 4

**Do you agree that the risk of inefficient use of natural resources should be mitigated through licensing that contains individualized terms, and the use of criteria in the license application process that seek to ensure the viability of the entity to which rights of use of scarce resources may be granted? If you do not agree, please supply your reasons and offer views as to alternative means by which the risks should be addressed.**

One respondent recommended that licenses are balanced with an explicit obligation to offer services or access to other licensees. This will enable service based competition to be established on firm foundations and stimulate the development of innovative services.

One respondent recommended that in the case of spectrum allocation auctions of the rights to use that scarce spectrum, it is important to consider harmonization and efficiencies on a regional and international level, especially for the Digital Dividend band plans.

One respondent wanted to be able to assess the obligations and application criteria before determining whether they are sufficient to mitigate the risks associated with inefficient use of resources.

One respondent suggested that there should be a distinction made on the use of scarce resources, depending on where it is used in the areas where it is not commercially attractive to licensed Public Service Providers to provide coverage. Additionally, there should be consideration of the added value or business criticality and national interest (oil and gas production) of using such scarce resources.

One respondent believed that viability of the entity using scarce resources must be ensured, but that a window must be provided for innovation, even if this window is to be strictly controlled.

One respondent supported the Authority's proposal to include specific conditions and obligations in spectrum licenses, to the minimum extent necessary to ensure efficient use of scarce spectrum resources. These specific conditions and obligations should be determined through the public consultation process established for the allocation, development of technical and service rules and auction of any particular frequency band. Such conditions commonly include provisions to ensure efficient use of spectrum resources, such as measures for interference measurement and coverage obligations. The public consultation process should also include an assessment of how the spectrum should be split, what the best sales process would be and what the competitive implications would be of the altered market structure. The respondent further agreed that applicants for a spectrum license should be required to demonstrate competence and financial viability to build, operate and manage a network using scarce spectrum resources to help promote efficient use of the spectrum. The Licensing Framework should set out general principles for such criteria to ensure that the standards are applied in an equitable manner for all potential applicants and frequency bands. However, the respondent believed that all license applicants, whether they use scarce resources or not, should be subject to a test of viability of their business plan, as is the case under the current framework.

### **6.3 The Authority's responses to comments relating to question 4**

The Authority considers that comments supplied by respondents demonstrate general support for the measures that are proposed to mitigate risk of inefficient use of natural resources.

The Authority intends to use criteria in the application process to reasonably ensure the competence and financial viability of the entity, to which any license that is associated with the right to use scarce resource is granted.

The Authority is grateful for the further more specific input that has been supplied. That input will be appropriately recognised in the development of licenses and associated regulatory instruments.

## **6.4 Respondent views on whether it is appropriate for the Authority to determine what natural and other resources are scarce**

### **Question 5**

**Do you agree that it is appropriate for the Authority to determine what natural and other resources are scarce? If you do not agree, please supply your reasons and offer alternative approaches to the determination of scarcity.**

All respondents agreed with the proposal.

Two respondents noted that the designation of a scarce resource should follow due regulatory process.

One respondent was concerned that the proposed provision may be overly broad, considering that there may be no such resources to be identified in the foreseeable future. If such resources are discovered, then they should be addressed at that time. The inclusion of this provision in the proposed licensing framework could introduce unnecessary complexity and uncertainty. If the Authority decides to include this provision in the licensing framework, then such determinations of new scarce resources should be subject to public consultation to ensure transparency, objectivity and non-discrimination. The respondent would support that the Authority goes further by committing itself to only introduce additional license conditions when it has identified a scarce resource, to mandatorily consult on such additional conditions, and to tie these conditions to the scarce resource itself by way of individual authorisations like spectrum authorisations. For the sake of clarity we wish to state that the criterion of a "scarce resource" should not replace the viability test of the current framework.

## **6.5 The Authority's responses to comments relating to question 5**

The Authority notes that responses indicate general agreement with the proposals related to the determination of scarcity.

However, the Authority acknowledges the need for regulatory mechanisms that ensure that resources, beyond natural resources, are neither, determined to be scarce, nor, determined not to be scarce in inappropriate circumstances, or, in an arbitrary manner.

The Authority will take steps to ensure that the need for such mechanisms is met.

Accordingly, the Authority will, through the development of the appropriate regulations, establish criteria for the determination of scarcity of the relevant resources, and publish the methodology and outcome from the application of such criteria.

## 6.6 Respondent views on the scarcity of some spectrum

### Question 6

**Do you agree that it would be appropriate for the TRA to determine, in present circumstances, that certain, but not all, radio spectrum that is allocated through separate spectrum licensing is the only resource that is scarce? If you do not agree, please supply your reasons and offer details of other resources that you consider to be scarce.**

One respondent identified other potentially scarce resources including property (for example network towers) and fixed network connectivity points. The respondent recommended that those licensees that control such resources should be obliged, through their licenses, to provide fair, transparent and non-discriminatory access to such resources.

One respondent noted that if particular spectrum is not scarce, i.e. is infinitely available, it has no special value and requires no particular regulatory management.

One respondent suggested that it would be appropriate if the Authority notify all scarce frequencies in advance.

Another respondent noted that certain spectrum resources (800 MHz for example), in the context of licensing, should continue to be considered scarce, and be subject to individual licensing requirements and more stringent application processes. The respondent recommended that, given the various uses of spectrum, the Authority holds a consultation on the licensing processes, and rules to determine, allocate and award scarce resources in particular relating to spectrum, and related considerations as to what spectrum is scarce or not. The respondent also said that it would not support restricting the viability test to users of scarce resources.

Another respondent agreed with the proposal, but recommended flexibility in assessing licensing requirements as a result of changes in the market.

One respondent argued that a distinction should be made on the use of scarce resources, depending on where it is used, i.e. whether it is used in the areas where it is not commercially attractive to licensed Public Service Providers to provide coverage.

## 6.7 The Authority's responses to comments relating to question 6

The Authority notes that there is a consensus that not all radio spectrum is scarce.

In line with its response to question 5, the Authority acknowledges that there is need for regulatory mechanisms that make clear the criteria that may be applied in determining scarcity in the specific instance of radio spectrum. The Authority intends to publish these criteria once they have been established.

## 7 Use of public property

### 7.1 The Authority's proposals

The Authority proposed that where application is made by an entity for stated activities that can be anticipated to require substantial amounts of access to public property:

- Application criteria and processes should reasonably ensure that an applicant entity is sufficiently competent and financially viable to be able to put access to public property to appropriate and efficient use.
- The approved applicant is issued with a license that specifically recognises in its terms the requirement to subsequently apply for substantial amounts of access to public property, but otherwise, has common terms with the generality of licenses.
- Or the applicant is granted a license that is exactly common with that granted to the generality of licensees, with any recognition of a requirement to subsequently apply for substantial amounts of access to public property being restricted to an identifying designation of the license that would indicate to those authorities that consider applications for use of public property, the approved status of the licensee.
- The Authority continues to monitor and facilitate the activities of all entities that have been approved for use of public property, in its subsequent use of property to ensure compliance with the Basic Law.

The Authority proposed that the term “substantial”, in the context of the use of public property by an applicant entity should be principally, but not exclusively, determined by the geographic extent, and the objectively determined potential for significant disruption of the activities of businesses and the public arising from any grant of rights of use or access that may be granted by other agencies. The Authority proposes to publish guidelines related to determinations in this area.

### 7.2 Respondent views on the use of public property

#### Question 7

**The Authority considers that the terms of the Basic Law require that the right of use of public property should be subject to particular safeguards. Do you agree that it is appropriate to seek to apply safeguards that may exceed those applied to the generality of licensing? If you do not agree, please suggest alternative approaches.**

Six respondents agreed that it is appropriate to apply safeguards that may exceed the generality of licensing.

One respondent agreed that applicants requiring access to public property, particularly public rights-of-way, should be subject to more robust application and licensing criteria than

applicants that do not require such access. Only facilities-based operators (as with existing Class I licensees) would require access to public property for network build-out as services-based providers (as with existing Class II licensees) operate on a resale basis and therefore do not build out network infrastructure requiring public rights-of-way. The distinction proposed by the TRA of requiring different categories of licenses based on how much access to public property the licensee would require substantial-Standard A vs. not substantial-Standard B) is not valid and is not consistent with international best practices. The respondent has yet to come across a licensing framework that distinguishes the license category that an applicant falls into based on how much access to public property is required.

One respondent strongly disagreed. The respondent did not understand the risks associated with utilizing public properties other than those already dealt with in the licenses and other government agencies. The respondent believed that this area is well controlled and established by other government agencies. When it comes to Public properties, the respondent believed that the Authority's role should be in facilitating access and ensuring proper acquisition of properties by encouraging National roaming and co-location, infrastructure sharing, and property sharing with other utility companies. The respondent requested that the Authority identify the risks that necessitate the additional safeguarding of public properties, and how they will impact licensing, especially in light of the fact that the Authority is proposing unlimited entry and substantial use of properties, despite the Authority's concern.

One respondent wanted to know how the licensing framework proposals would affect the use of fibre assets owned by Government and others to facilitate high speed access in some geographic areas.

### **7.3 The Authority's responses to comments relating to question 7**

The Authority notes that a majority of respondents agree with the proposals that have been made within the consultation document. One dissenting respondent seeks that there should be no change to existing arrangements under which access is granted only by Class 1 licensees. Another respondent appears to represent that it cannot identify risks that are not already addressed by present licenses and the activities of various agencies.

The Authority recognises the reservations of respondents that benefit from existing arrangement, but considers its proposal in this area to represent a potentially important element in the furtherance of the development of competition in certain markets. Accordingly, the current right of use of public property by Class I licensees will be reflected under the appropriate mechanism within the Licensing Framework and the Act.

### **7.4 Respondent views on license terms related to use of public property**

#### **Question 8**

**Do you have a preference for the grant of licenses that contain a term specifically related to the requirement for applications for substantial amounts of access to public property,**

**over the grant of licenses that have common terms with the generality of licenses but bear a designation that indicates the approved status of the licensee, for the benefit of agencies to whom the licensee may make applications for substantial use? If you have a preference, please state it and supply reasons for your preference.**

Two respondents expressed no preference.

One respondent believed that licenses should be granted with a designation that indicates the approved status of the licensee, on the basis that this may facilitate greater flexibility for the licensee.

One respondent recommended that if the Authority wanted to limit that right to certain licensees only, then this right should be granted in individual licenses or authorizations, since the telecommunications law and the licenses should clearly identify those licensees or activities that have rights of access to public and private land and the terms under which that land can be accessed.

One respondent was generally in favour of granting licenses that have common terms with the generality of licenses. However, the respondent requested that the Authority provides a comprehensive explanation and illustration of the terms and gives a clearer definition of the term “substantial use of property”.

One respondent did not support including any provisions in the licensing framework requiring applicants to apply for or obtain access to public rights-of-way since grants of such rights can vary widely from one jurisdiction to the next. However, the respondent believed that the Authority can play an important role in supporting licensees that must seek access to rights-of-way. In particular, the Authority can help coordinate with agencies in various jurisdictions where facilities-based operators face difficulty in gaining needed access to public rights-of-way.

Another respondent asked for an example of what the Authority was suggesting. Nevertheless, the respondent's preference was for the second option, namely, the applicant is granted a license that is exactly common with that granted to the generality of licensees, with any recognition of a requirement to subsequently apply for substantial amounts of access to public property being restricted to an identifying designation of the license that would indicate to those authorities that consider applications for use of public property, the approved status of the licensee. This approach would be more consistent with global trends and best practices.

## **7.5 The Authority's responses to comments relating to question 8**

The Authority notes that opinion on the issue that forms the basis of the question is finely balanced.

Currently, the Authority's position is to grant a license that is exactly common with that granted to the generality of licensees, with any recognition of a requirement to subsequently apply for substantial amounts of access to public property being restricted to an identifying designation



of the license that would indicate to those authorities that consider applications for use of public property, the approved status of the licensee.

## **8 Technology failure, and/or financial failure of the licensed entity**

### **8.1 The Authority's proposals**

The Authority proposed that:

- Applications for licenses that do not require rights to use scarce resources, or do not require rights to access public property to a substantial extent, should be subject to application criteria and processes that are robust but do not specifically seek to ensure that failure will not occur.
- Approved applicants be issued with a license that is common to the generality of licenses granted in similar circumstances;
- Market regulation, notably in the area of competition assurance and wholesale supply, to be strengthened from present levels by means of appropriate instruments in order to provide a viable basis for market entry for applicants.

### **8.2 Respondent views on technology failure, and/or financial failure of the licensed entity**

#### **Question 9**

**Do you agree with the various liberalisation measures that are set out in this section? If you do not agree, please state your reasons and offer your substantiated views on alternative approaches to the attraction of additional suppliers to telecommunications markets.**

Two respondents agreed with the proposals and provided no further explanation. One respondent agreed with the proposals and gave their own views as to the requirements for open market entry and a strong regulator.

One respondent agreed provided that the licenses are clear and establish the rights and obligations of licensees in an objective and non-discriminatory manner and that the holders of licenses for scarce resources have obligations to provide access to those resources.

One respondent believed that the measures proposal should provide clear distinction between commercial entities and non-commercial entities.

One respondent suggested that a specific security committee should be responsible to study the technologies/networks to be deployed and ensure they cannot be used (even against the will of the providers) for undesirable purposes and that security of the networks and content must be an important factor to consider for the allocation of resources.

One respondent agreed that applicants requiring access to scarce spectrum resources and/or to public rights-of-way for purposes of facilities-based operations, such as fixed line networks and

mobile networks, should be subject to rigorous licensing criteria that help ensure that technology and/or financial failure will not occur. The Authority's proposal to subject such applicants to more robust application criteria and licenses further supported the respondent's recommendation to maintaining the existing licensing model in order to draw a clear line regarding how stringent the licensing criteria will be.

The respondent did not support including other regulatory provisions, such as ones related to wholesale supply of ECN services in the licensing framework, although the licensing framework may contain overarching principles related to interconnection obligations. A reform of the ex-ante and ex-post regulatory framework is under way and any regulatory conditions should be derived in that review.

The respondent was also concerned regarding the wording in the Consultation. The respondent considered that, in its response to the Market Definition & Dominance Consultation, it had made its position clear regarding the beneficial development of the Omani telecoms market and the danger posed to incentives to invest by wholesale access conditions. It wished to stress in responding to this consultation, that regulatory and state interventions do not present an easy way to a competitive market. Stricter regulatory conditions may attract external entrants that rely on these upstream products. These companies will not bring with them significant investments, and the regulatory intervention itself will reduce investments. Any gains might be short-term and illusionary.

A further response was framed as; "this section does not address technology failure. Moreover, we cannot agree with the measures as in our opinion these measures remain general".

### **8.3 The Authority's responses to comments relating to question 9**

The Authority notes that the responses to this question reflect diverse opinions ranging from unqualified agreement with the proposals put forward by the Authority in section 6.1.3 of the consultation document, to, positions apparently reflecting both agreement and disagreement, seemingly based on matters not specifically addressed by section 6.1.3 and associated with a desire to retain existing licensing arrangements.

The Authority intends to proceed on the basis of its proposals, but acknowledges the need for its proposals on the application process to be made specific in addressing risks that are associated with potential and new investors. As indicated in earlier sections of this response, the Authority will bring forward draft licenses and associated documentation for consultation.

## **9 Illegality, including threats to national security and offences against public decency**

### **9.1 The Authority's proposals**

The Authority proposed, in section 6.1.4 of the consultation document, that all licensees should be subject to obligations and prohibitions, by means of both license term and regulatory instrument, that would permit the Authority to impose sanctions that end any manifestation of the threats of this kind.

### **9.2 Respondent views on the proposals for illegality, including threats to national security and offences against public decency**

One respondent believed that specific emphasis must be drawn to the fact that special care must be taken so that the systems that are deployed cannot be used for such purposes as this can take place even without the implication of the operator. Consequently, a specific security committee should be responsible to study the technologies/networks to be deployed and ensure they cannot be used (even against the will of the providers) for such purposes. This also means that security of the networks and content must be a real driver and an important factor to consider for the allocation of resources.

Another respondent agreed with the TRA's stated position, as long as obligations and prohibitions regarding illegality are applied in an equal and non-discriminatory manner to all similarly situated licensees. However, if the provisions are expected to be detailed, rather than simply a general obligation, then it is likely better to address such issues in a regulation that is applicable to all operators in the sector as this condition may be one that the TRA would want to extend to all providers, including those that may be subject to a registration or are license-exempt.

### **9.3 The Authority's responses to comments relating to section 6.1.4 of the consultation document**

The Authority posed no question related to the position stated in section 6.1.4. However, it is grateful for the constructive comments that have been supplied.

The Authority confirms that it is the intention that any obligations and prohibitions related to these matters should be applied equally to all similarly situated suppliers.

## **10 Monopoly influences and/or where activities may jeopardize the development of fair market competition**

### **10.1 The Authority's proposals**

In relation to potential monopoly influences, the Authority proposed that:

- In circumstances in which application is made for a license to undertake activities that the Authority considers to be desirable in the national interest, or in the interests of consumers of services, but which, in the objective assessment of the Authority, present significant risks to the development of fair competition and/or investment within markets, then in such exceptional circumstances individual licensing may apply. Individual licensing may apply only when the entry of non-standard terms at the licensing stage will both adequately diminish the subject risks, and alternative regulatory remedies, applied at a later stage after licensing, would be unlikely to suffice.
- The Authority should publish on its website, in every instance, reasons for the application of individual licensing.

### **10.2 Respondent views on the use of Individual licensing when there are potential monopoly influences**

#### **Question 10**

**Do you agree that it is appropriate to extend the use of Individual licensing to the circumstances described? If you do not agree, please supply your reasons.**

Four respondents agreed, two without stating their reasons for agreeing. One surmised that the Authority was alluding to entities such as those required for a nationalized broadband network. The respondent had no issues with this approach provided it was done in an open and transparent manner with full public consultation. One gave as examples, general alert networks.

One respondent disagreed and expressed the view; "we highly recommend not to open this door as this might affect other market player".

One respondent said that it was not clear what the Authority was trying to achieve with this proposal. Its view was that provided the licensing regime is objective and clear it should not be necessary to grant individual licenses in the future other than for scarce spectrum resources. This is particularly so with the distinction and protection of scarce resources outlined in the licensing framework proposal.

One respondent did not agree. It recommended that the ex-ante / ex-post competition framework would serve to assess the competitiveness of markets and determine needs for any remedies. Moreover, the regulatory decree on ex-ante regulation has been updated and the Authority has clarified that every proposed regulation would rely on it. In the respondent's

view, if regulatory / competition conditions were introduced into the Licensing Framework as well, this would not be in line with best practice and it would undermine and devalue the advancement the TRA has made in the development of ex-ante regulations.

One respondent questioned how the Authority will deal with upward and downward shift of licensing as a result of change in associated competition risks. The respondent would expect as a result of market change, a licensee may no longer have monopoly influence and therefore may be moved to standard licensing. On the other hand, a licensee may become dominant with significant market power and may be required to have specific obligations under an individual license. In order to determine these cases, there must be constant assessment of market performance, and a clear mechanism for transitions.

### **10.3 The Authority's responses to comments relating to question 10**

The Authority notes a significant level of agreement, but also notes the concerns that have been expressed at the levels of principle and practicality.

The Authority would tend to favour the practical simplification that arises from determining the appropriateness of individual licensing based on a single parameter. However, it remains concerned that it can foresee circumstances in which the proposed approach would be essential to the preservation of fair competition.

Therefore, the Authority's current position is to consider individual licensing in the exceptional circumstance of significant risk to the development of fair competition and/or investment within markets, when the entry of non-standard terms would both adequately diminish the risks, and alternative regulatory remedies, applied at a later stage after licensing, would be unlikely to suffice. The Authority will consider this matter further in the process of the development of draft licenses and regulatory instruments to ensure there are sufficient safeguards against subjectivity and administrative complexity.

## 11 Unified licensing

### 11.1 The Authority's proposals

The Authority proposed that future telecommunications licensing be 'Unified' thus permitting all activities and supply of all services, described as follows:

- The establishment, maintenance and operation of Electronic Communications Networks, being transmission systems for the conveyance, by the use of electrical, magnetic, or, electro-magnetic energy of signals of any description, together with associated facilities that make the provision of networks or services provided by means of networks possible, and/or, make possible the provision of other services provided by means of those networks or services, and/or, support the provision of those other services, and/or,
- The supply of national and/or international telecommunications services.

### 11.2 Respondent views on the unified licensing

#### Question 11

**Do you agree that the adoption of Unified licensing is appropriate? If you disagree please supply your reasons.**

All respondents potentially agreed, partially agreed or agreed, although one respondent also reserved its position until detailed provisions for a unified framework were published by the Authority.

One respondent wished to know whether the definition included a passive infrastructure provider.

One respondent recommended that the proposal should provide a clear distinction between commercial and non-commercial entities, even if there is a limited use of scarce resources.

One respondent believed that it is fundamentally important the new structure clearly sets out the rights and obligations of the licensees and enables licensees to obtain services and access to facilities from each other on clear, transparent and non-discriminatory terms.

One respondent agreed subject to the licensing structure and the terms of the licenses being transparent, objective and non-discriminatory and licenses imposing requirements on licensees to provide services to other licensees.

One respondent stated that it is important to set clear set of policies when it comes to the "Supply of Content".

One respondent proposed the licensing structure in the diagram below.

Services	License Type	Spectrum	Obligations	No. of licenses
<ul style="list-style-type: none"> <li>- All public telecommunications network,</li> <li>- International telecommunications infrastructure</li> <li>- Public telecommunications services or international access services</li> <li>- USO and passive infrastructure service providers</li> <li>- PMR</li> </ul>	Unified individual or class I	Yes	License conditions	<p>Limited</p> <p>Application through beauty contest, or competitive bidding</p>
Resell services (MVNOs, ISPs, etc)	Unified Standard or Class II	No	Standard regulation	unlimited
Private network	Authorization	No	Authorization	unlimited

### 11.3 The Authority's responses to comments relating to question 11

The Authority notes general agreement with the adoption of unified licensing, notwithstanding that one respondent proposes its application to the present licensing framework and another has declined to engage with the issue.

The Authority will proceed on the basis of the proposals set out in the consultation document.

### 11.4 Respondent views on the activities to be authorised by telecommunications licenses

#### Question 12

**Do you agree with the description of activities to be authorised by telecommunications licenses? If you do not agree, please supply both, your reasons and an alternative description of activities to be authorised by licenses.**

One respondent believed that telecommunications licenses should be specific as to the services that may be provided. Specifically, for example the respondent anticipated that standard licenses would grant to right to own and control network infrastructure such as HLR, capacity and international gateways, either specifically or through some form of general inclusion.

One respondent believed that the description of activities appeared based on upon European Union definitions as implemented in the United Kingdom's Communications Act 2003. Therefore, a clearer description between the provision of those Electronic Communications Services and Electronic Communications Network Services, along the lines of the United Kingdom's Communications Act 2003, was recommended.

One respondent believed that the description of activities to be authorized under the proposed framework was too ambiguous to provide a comment. In particular, it was not clear to the respondent whether the TRA is proposing that all categories of licensees would be permitted to offer facilities-based and international services, or if this would apply only to Individual licensees.

One respondent noted that the terms national and/or international telecommunications services are not defined. The respondent considered that a definition of an electronic communications service is essential. This respondent also noted that it is normal for regulation to apply to the conveyance elements of any service or application, but not the content of those services or applications.

One respondent noted that all future networks are likely to be IP based, and that means that converged services will be available as a utility, notions of fixed and mobile belonging to the past. Licenses must ensure that content services are provided “pervasively” all over the country.

A further respondent agreed subject to the inclusion of content as part of telecom services and made reference to comment that it had supplied related in another context.

## **11.5 The Authority’s responses to comments relating to question 12**

The Authority notes that comments supplied have a general focus upon content and a desire for alternative definitions.

With regard to content, the Authority has supplied a response in relation to question 2. The response is for convenience repeated:

The Telecommunications Regulatory Act places obligations upon the Authority related to the regulation of activities that include content that this conveyed by ECNs.

It is appropriate therefore that content remains within the overall scope of the Licensing Framework.

However, in the light of the divergent opinions offered by respondents in relation to this section and subsequent sections of the consultation document, the present intention of the Authority is that it will await the outcome of an initiative to develop a national policy toward the provision of content and content services before developing its content licensing proposals further.

In the event that a national policy is not developed and published within a reasonable timescale, the Authority will revisit the issue of content licensing, should circumstances dictate that to be necessary.

Further licensing proposals related to content will be made the subject of a separate consultation process.

With regard to matters of definition, the Authority will, in the process of drafting licenses for consultation, revisit, and if appropriate revise definitions.

## 12 General attributes of licensing, and introducing Standard and Individual licenses

### 12.1 The Authority's proposals

It was proposed that telecommunications licenses should not dictate the technology that may be applied in the establishment of networks and facilities and/or in the provision of services, beyond normal prohibitions upon use of technologies or means that are dangerous to users or others, or physically harmful to other network or service providers.

It was further proposed that licensing should not be specific to individual services, or types of services. It is necessary, however, that the services that are supplied under the terms of the license be recognised administratively. The administrative requirement will be found to be necessary in the context of applications for licensing that are described subsequently.

The General Policy for the sector makes it appropriate that no restrictions should be placed on the number of licenses that may be granted to applicants that meet necessary criteria, other than when the necessity to employ rights of use of scarce resources makes it impractical to accommodate unlimited numbers of suppliers in certain markets.

#### *Introducing Unified Standard and Individual licenses*

It was proposed that there should be a **Standard** form of license that authorises the activities described in section 6.2.1 of the Consultation document.

An **Individual** license may be exceptionally granted in two circumstances:

- Where the grant of a license is associated with the use of Scarce Resources, in accordance with proposals described in section 6.1.1 of the Consultation document.
- Where the grant of a license is to an entity that is to undertake activities that the Authority considers to be desirable in the national interest, or in the interests of consumers of services, but which, in the objective assessment of the Authority, present significant risks to the development of fair competition and/or investment within markets, as described in section 6.1.5 of the Consultation document.

The terms of an Individual license may vary from the terms of the Standard license only to the extent that such variation is determined to reasonably address a specified need that arises from the circumstances that dictate that a Standard license would not be appropriate.

### 12.2 Respondent views on the general attributes of licensing

#### Question 13

**Do you agree with the general attributes of licensing that are stated, which require that licenses should not be refused to any applicant that meets necessary criteria, subject to**

**availability of scarce resources? If you do not agree, please give your reasons for wishing to restrict market entry.**

All but two respondents agreed or partially agreed with the general attributes of licensing stated.

Two respondents who partially agreed, and one that did not agree, thought that the criteria required clarification.

One respondent believed that the proposal regarding the Authority's wider discretion to grant individual licenses in the national interest creates uncertainty in the sector and may act as a brake on investment by those licensees that have qualified through objective criteria and measurement.

One respondent believed that no reforms to the licensing framework would be required since the existing licensing framework specifically allows for open entry. This respondent stressed, however, that an economic and financial viability test should be one of the criteria for any license.

One respondent indicated that it did not agree with the general attributes referenced within the question at this stage, because the consultation does not provide clear criteria that can be assessed.

### **12.3 The Authority's responses to comments relating to question 13**

The Authority notes that a majority of respondents agree with the general attributes of licensing that are stated with the consultation document, which indicate that licenses should not be refused to any applicant that meets necessary criteria, subject to availability of scarce resources.

However, the Authority recognises both, that there are dissenting views, and, that there is a desire for clarification related to criteria to be applied.

The Authority considers the issue addressed by means of the question to be a fundamental element in the changes that are necessary to meet Government policy and will proceed on the basis set out in the consultation document. In the process of drafting licenses for consultation the Authority will seek to further articulate criteria.

### **12.4 Respondent views on the differences between a Standard license and an Individual license**

#### **Question 14**

**Do you agree that the differentiation between a Standard license and an Individual license should be restricted to the two circumstances that are stated? If you do not agree, please give your views as to what circumstances should determine the grant of an Individual license.**

Four respondents agreed with the differentiation between a Standard license and an Individual license. One indicated that it should be restricted to the two stated circumstances.

One respondent did not agree and believed that differentiation must ensure competitive advantage, which can be achieved only if licenses are differentiated by type of services offered in each category.

One respondent did not agree because the proposed differentiation would create a two-tiered licensing framework in which mobile network operators and some fixed line network operators would be subject to more stringent Individual application criteria and licensing obligations while other fixed line network operators would be subject to looser Standard criteria and obligations. Such a framework would likely result in similarly situated operators being subject to different licensing processes and unreasonably discriminate against those fixed line operators that the Authority determines to be subject to Individual licensing.

The respondent could see the possibility that the proposed Licensing Framework would lead to similar or more onerous regulation on Nawras and Omantel, and to more rights for resellers. Such an outcome would unlikely be beneficial for the Omani telecoms sector, since the major achievements in the Oman telecoms sector have been achieved through competition between the two large infrastructure operators complemented by mobile resellers which have entered into commercial agreements with host mobile operators.

The respondent also believed that the proposed framework would introduce an ambiguity as an applicant may not know which license that will be granted, thereby creating regulatory uncertainty and proposed an incremental approach to change based on the existing licensing framework.

One respondent said that there should be a provision in the licensing framework for private service providers who are not commercial entities and are utilizing limited scarce spectrum like Tetra, but for areas where it is not commercially attractive by service providers holding Individual or Standard licenses.

## **12.5 The Authority's responses to comments relating to question 14**

The Authority notes that the majority of responses agreed with the differentiation between licenses. It also recognises dissenting opinions that would appear to advocate the retention of discriminatory features of the present licensing framework.

The Authority will proceed to draft licenses and associated regulatory material on the basis of the proposals set out in the consultation document and will publish the documents for consultation.

## **13 Exemption from Licensing and the introduction of Registration**

### **13.1 The Authority's proposals**

The Authority proposed to retain the present right to exempt from licensing certain of the activities that are described to be addressed by the Licensing Framework.

It was proposed that exemption should be granted only in accordance with a published regulatory instrument that sets out the criteria to be applied in determining whether exemption is appropriate.

Activities that are exempted from licensing must nevertheless be registered with the Authority. It will be the responsibility of the entity that is, or intends to, undertake activities that may be eligible for exemption to apply for exemption in a manner prescribed by the Authority. If in the view of the Authority an application for exemption is not appropriate, it will direct that an application for an appropriate license is made.

Registered activities will remain subject to regulatory control.

No activity that falls within those defined as being addressed by the Licensing Framework in section 4, and is undertaken by an entity that is subject to the Laws of Oman, can be lawful unless either licensed, or both exempted and registered.

### **13.2 Respondent views on exemption from licensing**

#### **Question 15**

**Do you agree that all activity that falls within that described to be addressed by the Licensing Framework should be either licensed or made subject to registration? If you do not agree, please supply your reasons for seeking exclusions from regulatory overview.**

All respondents agreed with the licensing or registration of all such activities.

One respondent believed that once a license has been granted the licensee should be able to carry out all activities permitted under the license without further approval. The respondent recognised the requirement of the Authority to monitor and control the market but was of the opinion that this can be satisfied through a notification rather than registration process.

Two respondents agreed to the proposals, subject to current exemption decisions and subject to issuance of a public consultation.

One respondent believed that license exemption should be considered for non-commercial organizations that provide private networks in concession areas with limited coverage by public operators.

One respondent believed that Oman could not manage without licensing or sector specific regulation since the competition law and the legal/judicial system is not sufficiently robust or

mature. The respondent believed that more ex-ante regulation, not less, is required together with more vigorous and robust enforcement of competitive safeguards.

One respondent believed that the licensing regime could be amended to reflect a differentiation between infrastructure based licensees and what might be described as "over the top" (OTT) services licensees. The regime could go further in the reduction of barriers to entry by introducing a registration only regime for the OTT services only licensees.

### **13.3 The Authority's responses to comments relating to question 15**

The Authority notes that there is broad agreement with the licensing and registration proposals.

The Authority is grateful for the further comment supplied. The Authority will consider the input provided as it proceeds with its stated position in the drafting of licenses, registration procedures, and associated documentation.

## **14 Rules applicable to the Standard License**

### **14.1 The Authority's proposals**

It was proposed that the approved applicant would be either granted a Standard license that is designated A, or, is granted a license that has terms that are exactly common with those of the Standard License other than the addition of a term related to approval of the licensee to make application to other authorities for substantial use of/access to public property.

It was further proposed that an application that does not seek to use substantial amounts of access to public property, and does not give rise to Individual licensing, will be approved on the basis that the grant will be of a Standard license that is designated B, or, does not bear that designation, but instead contains a term related to approval of the licensee to make application to other authorities for use of/access to public property. It should be noted that all applicants for Standard licenses may apply for rights of use of natural resources that have not been designated as scarce, and those applying for, or are eligible for, Standard B licensees may seek rights of access to public property, provided that the extent of the requirement is not deemed by the Authority to be substantial.

It was further proposed that applicants for Standard licenses should be required to state the activities to be undertaken, and in the event that such activities change over time, the Authority is formally advised of such changes before implementation.

In the event that the changes of activity significantly alters the risk associated with the original licensing of the entity, the Authority may seek further information or undertakings from the entity, or change its form of licensing.

In recognition that the obligation to advise changes of activity may, if excessively applied, become a disincentive to service development, it was proposed that broad groups of like, and risk-similar, activities are defined and published by the Authority within which the licensed entity may freely operate, in addition to activities listed in its license application, without a requirement for formal notification.

### **14.2 Respondent views on advising on changes of activity**

#### **Question 16**

**Do you consider it appropriate that Standard licensees should be required to advise changes of activity, relative to those set out in its license application? Please elaborate in your answer.**

Five respondents agreed that Standard Licensees should be required to advise the TRA of changes of activity.

One limited this to advice of material changes to the type and quality of service. One agreed, but required further elaboration of resource scarcity in this context.

One respondent only required notification if special terms and conditions applied to the license.

One respondent stated that this should be notification only, not for approval.

One respondent declined to agree until further consultation had been completed, but nevertheless did comment that it believed that the economic and financial viability criterion should be considered when changes are made to a licensee's activities.

One respondent did not believe that notification was necessary. It argued that technology neutral licensing frameworks accommodate convergence and the blurring of traditional market boundaries in the ICT sector. Service providers must have the ability to respond rapidly to market demand for efficient infrastructure and innovative services without administrative constraints, notifications or approvals. Regulators elsewhere have added flexibility to their licensing and authorisation regimes.

### **14.3 The Authority's responses to comments relating to question 16**

The Authority notes that there is general agreement that notification is appropriate. However, it further notes the qualifications expressed by certain of those respondents that agreed, and the views of the dissenting respondent, and will consider those qualifying statements and views in the process of drafting licenses.

### **14.4 Respondent views on the difficulty of advising of changes**

#### **Question 17**

**Do you consider that the obligation to advise changes of activities to the Authority is onerous? If so, please supply your reasons.**

Two respondents believed that notification should be limited. One believed that notification should apply only to material changes to type and quality of service that may impact the consumer. This respondent believed that notification of changes such as offers and promotions should no longer be required to be notified in a developed market such as Oman. Another believed that a fully liberal model should be adopted where licensees are permitted to rapidly introduce new and innovative products and services without having to prior advise the Authority, or anybody else, of those new activities. Beyond special provisions relating to efficient spectrum management, there should be no artificial administrative barriers or restrictions between standard licensees as to what electronic communications services can be provided under a uniform standard license.

Other respondents did not believe that notification would be particularly onerous.

### **14.5 The Authority's responses to comments relating to question 17**

The Authority notes that there is broad consensus that the obligation to advise changes of activity would not be onerous. However, as with the input received in relation to question 16,

the Authority will take account of the more detailed comment that has been received, in the context of drafting of licenses.

#### **14.6 Respondent views on permitting activities beyond those contained in license applications**

##### **Question 18**

**Would you consider it appropriate that Standard licensees should, in any circumstances, be permitted to undertake activities beyond those contained in license applications without further advice or recourse to the Authority? Please elaborate in your answer.**

One respondent believed that it would be appropriate for Standard licensees to undertake activities beyond those contained in license applications without further notification or recourse to the Authority. It explained that this was to ensure rapid response to market demand required this.

One respondent believed that notification was not required because a “unified” license “means all services and activities”.

Five respondents believed that notification of the changes should be required. One said that this was to ensure appropriate record keeping by the Authority and awareness of activities taking place in Oman. One was concerned that the extension in activities may require a different type of license. In such cases the licensee should be required to seek further authorisation through the same licensing process that would apply to similarly situated applicants.

#### **14.7 The Authority’s responses to comments relating to question 18**

The Authority notes that the majority of respondents agree that notification is appropriate and will proceed to license drafting on the basis of the proposals contained in the consultation document, subject to recognition of the further input received in relation to questions 16 and 17.

## **15 Licensing applicable when services are not provided to the general public**

### **15.1 The Authority's proposals**

- A truly private network comprised of transmission elements sourced from licensed operators may be exempted from licensing.
- It was proposed that when an organization creates an Electronic Communications Network that is comprised of transmission elements and systems that are wholly sourced from licensed operators, and that network is owned and used solely by the organisation that has created that network, the organisation will be exempted from licensing. It is proposed that exemption should continue to apply, in the described circumstances, should the network operations be outsourced to a third-party.
- A network that is operated to supply services to multiple third-party organisations, but not the public, is not a private network and must be licensed.
- It was proposed that where an Electronic Communications Network is, or is to be, created, owned, and/or, operated, by a third party, and that network supplies services to multiple organisations, then exemption will not apply and a license must be applied for. Licenses must be sought in similar supply circumstances when the network is owned by an organization other than the third-party operator, or is owned by multiple organisations.
- A truly private network that does not source its transmission elements from licensed operators and self-provides, or acquires by any means those elements from other unlicensed sources, must be licensed.
- It was proposed that where an Electronic Communications Network is created or exists in the circumstances described in 1, except that all transmission elements and systems are not sourced from licensed operators, the organisation must seek a license. In such circumstances, consideration may be given to the grant of an Individual license, subject to the terms of pre-existing concessions.
- Registration will be required in all circumstances that networks are exempted from licensing.

### **Question 19**

**Do you consider it appropriate to exempt private networks from licensing in the circumstances outlined in 1? If you disagree, please state your reasons.**

### **15.2 Respondent views on the exemption of private networks**

One respondent believed that private networks should be registered but gave no reason.

One respondent indicated that depending on the detail in the licensing framework it could support exemption of truly private networks from licensing, but believed that they should be subject to registration.

#### ***Interconnection with the public network***

One respondent offered no comment. Four respondents agreed, one potentially agreed and another did not entirely agree.

One respondent offered the view that any network that connects to a public network should be subject to licensing obligations in order to avoid regulatory arbitrage including bypass.

Another respondent indicated that a network that connects to a public network should meet the same level of safety, security and quality as public networks and therefore considered that some form of licensing and approvals is appropriate. Nevertheless, the general minimum threshold criteria relating to the Standard license should, however, be waived for Applicants for a private network license or authorisation.

#### ***Extension to third parties***

One respondent indicated that some private networks also extended to third parties that were contractually related to the network owner and to the support of security agencies. It would be acceptable for such networks to be registered or acquire a Standard license, but the operator should not be subject to a “hefty” license fee or complex registration process.

### **15.3 The Authority’s responses to comments relating to question 19**

The Authority considers that broad agreement has been expressed for the proposal set out within the consultation document. It will proceed with the development of the Licensing Framework that exempts truly private networks from licensing, but requires their registration. Licenses will be required for networks supplying services to third parties and/or if they are self-provided. However, the Authority recognises the further comments of respondents and will consider those in the process of further development of the Licensing Framework.

### **15.4 Respondent views on licensing of self-provided networks**

#### **Question 20**

#### **Do you agree that networks that are substantially self-provided should be licensed?**

Five operators agreed that substantially self-provided networks should be licensed. One indicated that this was justified from a national security point of view and from an economic regulation perspective. One indicated that this should cover substantially self-provided private networks that supply third parties, although not to the general public.

One respondent disagreed but gave no reason.

One respondent disagreed but said that registration may be necessary for the purpose of protecting frequency spectrum.

One respondent indicated that licensing would be required for use of a scarce resource or if the network was used to provide services to third parties.

### **15.5 The Authority's responses to comments relating to question 20**

The Authority recognises that there is a divergence of opinion related to this issue, but there is majority support for the proposals.

The Authority believes that its proposals in this area have an important role in assuring the integrity of the Licensing Framework and the general regime of regulation. It will accordingly proceed on the basis that is proposed in the consultation document.

## **16 Principles applicable to rules governing the assessment of applications for licenses**

### **16.1 The Authority's proposals**

The principles to be applied to criteria that are set for the assessment of applications for licenses are proposed to be:

- Proportionate to the exposure to the risks that have been described in section 6.1 of this Consultation Document; and
- Transparently and consistently applied.

It is suggested that it is self-evident that the criteria applied for approval of a license for activities that require rights of use of scarce resources must be significantly more demanding than those applied to an application that does not seek use of scarce resources, but does seek material amounts of access to public property.

In turn, an application that may seek no rights of use, or rights only to non-scarce resources, and/or minor access to public property, should be subjected to criteria that are less demanding than those applied when an application for use of material amounts of public property is involved.

The Authority intends to continue its policy of publication of the rules and criteria to be applied in the above circumstances.

### **16.2 Respondent views on the Principles applicable to rules governing the assessment of applications for licenses**

No questions were posed in relation to section 6.2.6 of the consultation document as the matters summarized within the section were raised elsewhere in the consultation document.

Some respondents did choose to make comments related to the content of the section.

Two respondents agreed that applications should be assessed on a transparent basis. One thought that the assessment should be proportionate; another that the assessment should be consistent.

One respondent believed that the risk factors should not be used to determine the type of license that applies but should be used to ensure that applicants are capable of offering the networks and/or services permitted by the various licenses.

One respondent believed that it is important that new applicants for any type of license should be able to show that they have the financial and technical capability to provide services within Oman and that consumers are protected against any failure of a provider.



One respondent believed that the current license application process required too many approvals on different levels with the result that it took too long to grant a license.

## **17 Licensing of the Supply of Content**

### **17.1 The Authority's proposals**

The Authority noted that under the terms of the Telecommunications Regulatory Act, the Authority has regulatory authority and obligations related to the supply of material that is conveyed by means of Electronic Communications Networks.

At the present time the Authority has limited regulatory tools that may be deployed to meet its obligations. Notably, the Act offers no suitable means of licensing. The Authority has addressed the area through a Regulation related to Web-based services, and by other guidance related to the liability of providers of the telecommunications services that convey material. The Authority recognises that measures to date may not prove adequate in the medium-term as the supply of material that represents Content is expected to reach very substantial proportions.

The Authority proposed that a licensing and registration regime, associated with codes of practice, be introduced when the availability of amended legislation will permit its introduction.

It was emphasised that such a regime would seek only to address those aspects of supply with regard to which the Authority has responsibilities. Many other aspects of supply remain the responsibility of other agencies and are subject to separate legislation. In many respects, the Authority is in a position of enforcing the regulatory decisions of other agencies.

The principal aims of the regime were stated as:

- The protection of consumers;
- Prevention of the conveyance of subversive material;
- Facilitation of the needs of security organisations.

Licensing and registration would be applied to the Supply of Content, which was defined in section 5 of the Consultation paper as:

- The provision of material to be comprised in signals conveyed by Electronic Communications Networks, or, the editorial control of the Contents of signals conveyed by such networks shall constitute the Supply of Content.

This was further characterised in the consultation paper in the following way: “unless exempted from licensing by means of a regulation governing such exemption, licensing shall apply to the Supply of Content for consideration, as follows:

- The Supply of Content for consideration, whether monetary or otherwise, shall be subject to licensing, when the Supply of Content and its conveyance to an end user, whether conveyance is instigated by the user or otherwise, is undertaken, arranged, permitted, facilitated or by any means achieved, by an individual or entity, acting as principal or agent, that is subject to the Laws of Oman”

The license granted in normal circumstances would be a Standard Content license. The license would require adherence to a code of practice related to dealings with consumers. It would also require that amongst other matters, copyright and other intellectual property rights are respected, and that the needs of the security services are met.

The proposed scheme was further characterised as:

- “In exceptional circumstances, principally when there are significant risks to the development of fair competition and/or investment within markets, or in the presence of influences that may prejudice the achievement of the stated principal aims of licensing, an Individual Content license may be granted. As with the telecommunications Individual license, the Individual Content license terms will vary from the terms of the Standard Content license to the minimum extent necessary to mitigate the risks that are identified.
- “The Authority will consider the feasibility of the introduction of a Registration process for those engaged in the Supply of Content that are either not required to be licensed, or are exempted from licensing.”

The introduction of licensing for the Supply of Content would give rise to the need for enabling provisions within telecommunications licenses and regulations, and the placing of obligations on telecommunications licensees to reasonably ensure that Content, which is knowingly conveyed by them, is from licensed entities.

It was noted that licensing can only apply to entities that are subject to the Laws of Oman. The problems associated with the supply of Over the Top (OTT) Content from outside Oman can, presently, only be addressed by means of enforced prohibitions, and/or international cooperation. The Authority stated its intention to play its full part in international initiatives in this area.

## Question 21

**Do you support the proposed initiative to introduce licensing for the Supply of Content? If you do not, please give your reasons and any views on what alternative courses of action might be taken to achieve the stated principal aims.**

### 17.2 Respondent views on the licensing of the supply of content

Two respondents agreed with the proposals.

One respondent noted that content licensing proposals were “very inconsistent with international approaches and current enlightened wisdom and were not supported by” the respondent.

One respondent refrained from commenting because it believed that the Supply of Content licensing is a topic that should be addressed in a separate consultation in coordination with other relevant agencies.

In one respondent's view the proposals cannot be objectively justified in a society that values freedom of expression accepting, of course, that such freedom has never been an absolute right, even in countries such as the United States which has constitutional guarantees buttressing such rights.

### ***Regulatory burden and practicality***

One respondent, not directly involved in content services was opposed to the proposal because it was opposed to any "regulatory creep" of telecommunications regulation to encompass Content Services. The respondent's view was that the proposal was a veiled attempt to somehow make telecommunications service providers directly accountable or liable for information carried over their networks, specifically in relation to Internet services.

The respondent considered that the current provisions in the Telecommunications Law relating to the misuse of telecommunications systems and the concomitant offences and penalties created are adequate.

It considered that the risks and the regulatory cost burden for service providers associated with this type of approach suggested that the Authority's proposals are premature and radical by international norms.

Of particular concern to this respondent was the proposal to introduce licensing for the Supply of Content will give rise to the need for enabling provisions within telecommunications licenses and regulations, and, the placing of obligations on telecommunications licensees to reasonably ensure that Content, which is knowingly conveyed by them, is from licensed entities". The respondent considered this to be an impractical and unworkable proposition when considered in the context of the realities of how the Internet works. Omani content providers and telecommunications service providers do not operate within electronic borders. There are no such borders.

### ***Legal status of content licensing***

One respondent believed that the statement in the Consultation Document, in relation to content proposals, that the present time the Authority has limited regulatory tools that may be deployed to meet its obligations..." and that Act offers no suitable means of licensing..." is not of itself an argument to now introduce additional regulation. On the contrary, the present position was unlikely to have been due to any oversight by legislators in Oman. It is more likely to have been a conscious and deliberate determination not to so regulate following analysis and debate.

One respondent noted that Oman has adequate laws already, relating to broadcasting, publishing, advertising, cyber-crime, electronic commerce, and data protection, as well as

general laws relating to confidentiality, defamation, indecent or offensive material and copyright.

That respondent's preferred position was to maintain the status quo in Oman until some level of consensus at an international level is reached and workable regulations and practices crystallize over time. The respondent noted the outcome of the debate on internet regulation at the WCIT-12 conference in Dubai and considered it to be a significant warning regarding the sensitivities surrounding content regulation. The respondent suggested that "experiments in leading with untested policies and initiatives in the politically sensitive area of Content Regulation are premature, likely to prove very difficult to implement and potentially highly controversial". The respondent recommended that the Authority not proceed with this component of the TRA's licensing reform proposals at the present time.

The respondent referenced WCIT-12 and stated that the most important result of the conference in the context of the present Consultation Document had been to demonstrate that the world is presently divided, and many countries are equivocal on content regulation, when it comes to the internet.

The respondent supported the view that:

- The present benefits and growth of the Internet have come as a result not of government action or of any particular inter-governmental Treaty but as an organic expression and evolution of consumer demand and societal needs; and
- All governments should persevere to reach consensus and share responsibility for the governance of the Internet in a cooperative and consistent manner in order to ensure the stability, security and continuity of the existing Internet infrastructure.

The respondent noted that the broad approach adopted in most countries, including Oman, in relation the internet centres around four propositions:

- What is illegal off-line, is illegal on-line.
- Specific generic legislation should be brought forward to protect against a small handful of harms, particularly propagation of child pornography and racial material.
- Means to label content should be developed alongside filters that enable to elect what they do and do not want to see at the point of reception.
- Self-regulatory schemes among internet service providers and providers should be encouraged.

The respondent recommended that, within the existing regulatory framework, the Authority first seeks to bolster the fourth proposition before moving to any form of content licensing, and at the minimum, the development of the proposed common national policy on content regulation should precede the introduction of any substantive reforms.

### ***Competition with providers of services outside Oman***

Two respondents were concerned that the proposed licensing structure will restrict Oman providers from competing with those providers of services from outside Oman and thereby act as a brake on innovation within the Sultanate.

One respondent noted that to attempt to introduce an unusual and experimental form of regulatory licensing that pre-empts international agreed positions may have significant adverse and unintended consequences for the wider digital content industry and the general economy of Oman. The most astute investors and players, particularly in the content industry, will inevitably seek the least restrictive environments (with the least amount of regulatory burden), in which to establish and conduct their business. In fact it has been argued "...that any country that attempted to regulate the Internet was doomed to failure because of its international character."

### ***Practicality of licensing content***

One respondent had concerns about the practical application of the proposed content licensing regime. It was concerned that the proposal had not been considered in detail. For example, if Content is provided free or as a "freemium" service would the provider require a license? With the ability of consumers to download content from any provider around the world there is a significant risk that service providers in Oman would unintentionally be placed at a disadvantage to providers from outside Oman. The respondent suggested that a more appropriate method may be to create a regime based on registration and notification of content. Clearly, the provision of any Content and the Content itself would need to be in compliance with Omani law generally.

### ***Obligations on electronic communications network operators that convey content originating from other parties***

One respondent noted that there was potential significant harm on an operator's business that may arise from VoIP applications.

The same respondent was concerned that the Authority was proposing to impose an obligation upon telecommunications operators to "...reasonably ensure that Content, which is knowingly conveyed by them, is from licensed entities". It is not clearly stated what actions shall be taken by operators in such situation.

The respondent also asked the Authority to give the advantages of the Authority's proposed obligation.

### ***Definition of the Supply of Content***

One respondent asked for a further definition of the term "Content" and asked for a clarification of the term "Supply of Content".

One respondent asked that the Authority explains further the criteria, with practical illustrations, what would be used to determine when a license for the supply of content would be required.

### **17.3 The Authority's responses to comments relating to question 21**

The Authority recognizes that the majority of responses oppose the licensing of content, either, entirely, or, in present circumstances.

In its response to question 1, the Authority stated a position and considers that that statement is also applicable in the context of question 21.

## **18 Policy issues related to the Supply of Content**

### **18.1 The Authority's proposals**

The Authority noted that it was aware that the existence of multiple bodies with responsibilities and rights of approval of material may present difficulties for those wishing to supply Content, and accordingly, may inhibit the development of a Content production and supply industry within Oman.

The Authority also noted that it was concerned that its own regulatory actions should be consistent with those of other responsible bodies.

The Authority accordingly considered that the development of a common national policy related to Content would be appropriate and seeks the views of stakeholders, including the public, related to the matter.

### **18.2 Respondent views on policy issues related to the Supply of Content**

#### **Question 22**

**Do you agree that there would advantage in the development of a common national policy related to Content? If you agree, please supply your reasons. If you disagree, please also supply your reasons.**

All respondents agree that a common policy is advantageous but some had reservations.

One respondent thought that it may not be workable in practice and that the respondent was not aware of such a model working well elsewhere.

One respondent thought that it would be advantageous since it would imply a common understanding of the supply of content and common practice with specified roles and responsibilities across different government parties such that they would complement each other.

One respondent noted the extent of debate on content issues in many jurisdictions and the issue remains unclear.

One respondent recommended that a national policy relating to content should be developed in coordination with the relevant Ministries and governmental bodies, prior to the proposal or adoption of rules that would implement a framework for content licenses. In particular, content licenses subject to the Authority's jurisdiction would require substantial amendments to the Telecommunications Regulatory Act. Basing any such changes on a national policy that has been subject to public consultation is a first step towards instituting such element of a Licensing Framework. A second respondent indicated that a common national policy on content regulation is an essential precursor to any changes in the present regulatory framework relating to content. Such a policy should be subject to public consultation.

### **18.3 The Authority's responses to comments relating to question 22**

The Authority notes that there is majority support for the development of a national policy. However, it also notes the reservations that are stated and the relevance and relationship of responses made in relation to question 22 to those reported in connection with question 21.

It remains the position of the Authority that it will await the outcome of any policy initiative before determining if and how any further development of content licensing proposals should proceed, and, that any further proposals will be offered for consultation.

## 19 Licensing Authorities

### 19.1 The Authority's proposals

The Authority indicated that the proposed introduction of a revised Licensing Framework may present an opportunity to rationalize licensing responsibility within a single entity.

### 19.2 Respondent views on licensing authorities

#### Question 23

**Do you consider that rationalizing the authority to grant licenses into a single entity would represent a significantly beneficial reform? If you agree, please state your reasons. If you disagree, please also state your reasons and offer views as to how licensing authorisation/approval might alternatively be improved.**

One respondent counselled against the rationalising of licensing under a single entity. This respondent believed that the existing process ensures that prospective licensees are economically and technically viable candidates that are likely to be able to compete effectively in the Omani market.

All other respondents agreed that such a rationalization would represent a beneficial reform.

One respondent suggested that in the context of Oman's desire to better regulate content, now is an opportune time, and it is appropriate, to consider and openly debate the potential benefits a multi-sectoral regulator for Oman. Oman, as in many countries, has a plethora of existing agencies and authorities have jurisdiction over aspects of the communications sector. These include governmental agencies or authorities dealing with, broadcasting, equipment approval, customs, consumer welfare, and competition. A new "converged" multi-sectoral regulator could have responsibility for all areas brought together by the phenomenon of 'convergence'. A 'converged' regulator of this type facilitates the implementation of a truly technology-neutral regulatory framework, avoids any dispute over delineation of regulatory authority in related sectors, and encourages the development of specialist expertise crossing all convergent sectors. Considering the quickening pace of convergence, NGNs and the Internet, the respondent considered such a "converged" regulator for Oman would be better equipped to adapt to changing regulatory requirements, to regulate the provision of bundled (triple and quad play) services, and to coordinate regulatory requirements between related sectors.

One respondent, while agreeing, believed that in the absence of a converged regulator, the Authority must be responsible for allocation of scarce resources, while other bodies must have the right to put a veto if exceptional national reasons prevail (for instance, security).

One respondent suggested that there should be further independence of the Authority from the Ministry, in particular with respect to the granting of licenses.

### **19.3 The Authority's responses to comments relating to question 23**

The Authority notes the high level of agreement that rationalization would represent a beneficial reform.

The Authority will accordingly support any appropriate initiative toward rationalization that arises in the context of present Licensing Framework proposals.

## **20 Adjusting Regulatory Postures within the Licensing Framework**

### **20.1 The Authority's proposals**

It is clear that secondary legislation, in the form of various regulatory instruments, will need to be adjusted to accord with those liberalizing proposals, which reflect the central imperative to increase the number of suppliers in markets.

While not intended to be complete the consultation paper raised certain matters as fundamental:

- Potential entrants must be offered the opportunity to viably purchase wholesale products of various kinds, including unbundled elements of various network-based and international services.
- It is the intention of the Authority to progressively lessen its focus on retail pricing controls and place regulatory emphasis on the assurance of the availability and fair pricing of wholesale products.
- In accord with the above objectives, the Authority will introduce measures enabled by the newly introduced Competition Framework.

### **20.2 Respondent views on regulatory postures**

One respondent indicated that health and environmental aspects must be taken into account.

One respondent agreed that proposals relating to any amendments to the Licensing Framework, particularly restructuring of the license model, licensing of Supply of Content and criteria/processes for issuing licenses, would need to be amended through the Telecommunications Regulatory Act. As such, the respondent requested clarity on the process to amend the Telecommunications Regulatory Act. In particular, the respondent sought to understand the scope of changes to the Telecommunications Regulatory Act and whether these will include other elements in addition to any changes relating to the Licensing Framework.

The same respondent urged the Authority to refrain from including competition-related matters in the licensing framework.

### **20.3 The Authority's responses to comments relating to section 9 of the consultation document**

The Authority posed no question in relation to section 9. The statements made are of intent on the part of the Authority.

The Authority is grateful to those who chose to provide comment.



The Authority confirms that any amendment to the Telecommunications Regulatory Act will be a matter for a process initiated by the Ministry and that the Ministry will determine the scope of change.

Reference to “measures enabled by the newly introduced Competition Framework” is a statement of intent to apply remedies that are provided for within the Competition Framework. It does not imply the introduction of elements to the Licensing Framework that are not disclosed within the consultation document.

## **21 Legislative Implications of Proposals for Revised Licensing**

### **21.1 The Authority's proposals**

The Telecommunications Regulatory Act is the key element within the existing Licensing Framework.

The consultation paper identified the following issues and requirements.

- There is a logical conflict between the terms of Articles 21.1 and 21.2 of the Act.
- Proposals related to Standard, Individual licensing and Registration, and the introduction of licensing for the Supply of Content may be considered to conflict with the terms of Article 21.1 in particular.

The Authority stated its intention to make recommendations for amendments to legislation to accommodate finalised proposals.

Within those recommendations, the Authority will seek that the terms of the Act take the form of enabling provisions, as opposed to prescriptive measures, and that the same approach is taken to any provision within the Act that may be more appropriately contained in secondary legislation.

Should the Authority's recommendations be accepted, it will become possible to also simplify the form of licenses by restricting license provisions to essential elements, with as many operational elements as possible being dealt with by reference to a body of regulation.

The approaches to changed legislation and simplification of licensing form are consistent with the desire expressed in section 3 of the consultation document to the effect that it is sought that legislation and licensing has longevity in its core provisions and that changed circumstances are, as far as possible, reflected only in adjustments to secondary legislation. The intention is clearly that legislation does not again become a barrier to market development.

### **21.2 Respondent views on the legislative implications**

There were no substantive comments on legislative implications.

## 22 Transitional arrangements

### 22.1 The Authority's proposals

The consultation paper proposed that Class I telecommunications licensees, existing at the date that the proposed Licensing Framework comes into legal existence, would be issued with Individual licenses. Individual licenses would perpetuate existing substantive terms that are individual to that licensee, to the extent that they remain relevant and appropriate.

It was acknowledged that existing Class I licenses require that a notice period of one year should apply to any modification to licenses.

In such circumstances, the Authority noted that it considered appropriate to offer those licensees the option to take up licenses in the revised form:

- At any time within one year of the date that the proposed Licensing Framework comes into legal existence;
- With the change becoming mandatory on the first anniversary of that date.

The consultation paper proposed that Class II or III licensees that exist at the time that the proposed Licensing Framework comes into legal existence would be issued with a Standard license. The Authority noted that it was not proposing to offer a period in which transition is optional, because:

- The notice period required by present Class II/III licenses is relatively short;
- The new Standard licenses can be expected to confer certain advantages.

Currently unlicensed networks and service providers will be subject to the Authority's review upon commencement of the proposed Licensing Framework to determine whether they should be licensed, or be required to formally apply for Registration.

### 22.2 Respondent views on transitional arrangements

#### Question 23

**Do you consider the license transition proposals to be acceptable? If you do not agree, please supply your reasons, and, supply any alternative proposals related to the transition process.**

Two respondents did not comment.

Three respondents found the arrangements acceptable.

One respondent was concerned about any changes in its obligations in transitioning to the new licensing framework.

### ***Sufficiency of the Transitional arrangements***

One respondent did not agree with the arrangements. It made reference to its earlier comments on the matter and stated that it considered the proposed framework to not clearly articulate the migration plan, the associated proposed timelines and the parameters.

Another respondent indicated that it did not believe that Class I licensees should automatically receive an Individual license, as set out in the Consultation. Instead, the respondent believed that the Authority should conduct a separate consultation on Transitional arrangements explaining all the details and clarifying, among other matters how the invested rights under the existing Licensing Framework will be preserved. Until such consultation process is initiated, the respondent refrained from attempting to provide more information on this point.

### ***Parallel running of current and proposed licensing frameworks***

One respondent agreed, subject to its responses in other areas of the consultation, but was concerned that there was a risk of legal challenge and allegations of unfairness. The respondent counselled that it is sometimes prudent to give existing licensees the option to migrate to the new authorization regime immediately or to continue to offer services under their existing authorizations until their terms expire. Indeed, some countries have provided existing licensees with this option, as the experiences of countries such as Tanzania, Botswana, and India illustrate. Nevertheless, for Oman, the respondent advocated a synchronous change for all licensees at the same point in time.

## **22.3 The Authority's responses to comments relating to question 24**

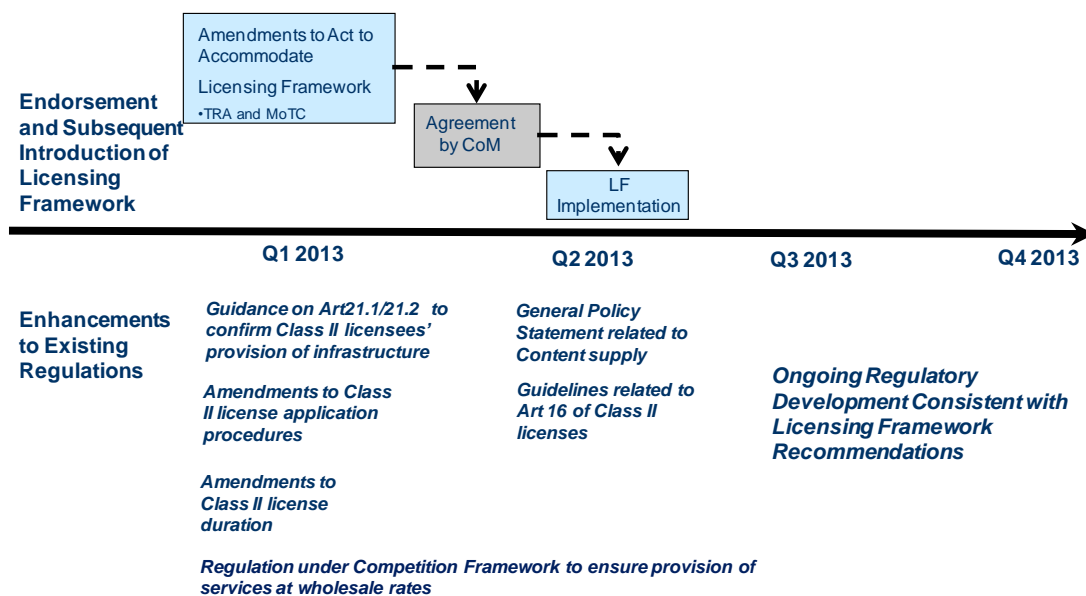
The Authority notes a diversity of views on the matter of transition. The Authority recognizes, in particular, a desire by existing license holders for fully detailed arrangements to be put forward. The Authority proposes that all existing licenses will be transitioned to either an Individual or Standard license as appropriate. Such arrangements will be articulated within the consultation related to draft licenses and associated documentation.

## 23 Roadmap of actions for 2013

### 23.1 The Authority's proposals

In the consultation paper, the Authority presented a proposed roadmap of actions over the year 2013 for the realization of the Licensing Framework. Two main streams of actions were proposed (see Diagram):

- The endorsement and subsequent introduction of the Licensing Framework;
- The enhancement to existing regulations.



It was noted that the endorsement and introduction of the Licensing Framework would require amendments to the Telecommunications Regulatory Act and their subsequent endorsement by the Council of Ministers. The Authority stated that its intention was to have made such amendments to permit the implementation of the Licensing Framework in approximately mid 2013.

The enhancement to existing regulations included proposed action by the Authority to address issues largely related to Class II licenses that would be beneficial even prior to the formal implementation of the Licensing Framework, and include:

- Guidance concerning the Class II licensees provision of infrastructure;
- Amendments to Class II license application procedures;
- Amendments to Class II license duration of five years.

Additionally, the Authority proposed action in the area of Content supply including the issuance of guidelines related to Article 16 of Class II licenses.

## **23.2 Respondent views on the roadmap**

### **Question 25**

#### **Do you have any comments on the Authority's proposed roadmap of actions for 2013?**

Four respondents did not comment, one of whom anticipated further rounds of consultation relating to the implementation of specific proposals associated with the licensing framework.

One respondent considered the roadmap to be appropriate and well considered.

Three respondents believed the roadmap to be overly ambitious, highly optimistic or unrealistic.

One respondent did not agree with the proposed roadmap. That respondent considered there to be multiple ongoing initiatives that will influence the licensing framework, including the possible establishment of a National Broadband Infrastructure Company and the revision of the Telecommunications Regulatory Act. This respondent believed that the consultation represented a key first step in identifying the issues in amending the framework but that it should not represent the final opportunity for stakeholders to comment on licensing reforms. The respondent recommended that the Authority continue to refine the proposals, issue a further consultation and proceed methodically.

The same respondent expressed its disagreement with the basic Licensing Framework that the TRA has proposed.

A further respondent required further analysis, much clearer articulation of the framework and additional introduction and migration phases.

## **23.3 The Authority's responses to comments relating to question 25**

The position of the Authority is that it will seek to implement its proposals with the minimum of delay.

## **Annex**

Two respondents, referred to as Respondent A and Respondent B, provided particularly lengthy submissions that, in addition to answering questions posed by the Authority, separately offered views, advice and recommendations on a range of matters associated with the Licensing Framework proposals and a number of other matters. This annex provides the supplementary material provided by Respondent A and Respondent B in its entirety and the Authority's response to that material.

## **Respondent A**

### **1. Introduction**

We thank the Authority for conducting this consultation and giving Respondent A the opportunity to comment on these important issues.

### **2. General comments**

In principle, Respondent A supports the need to define a more effective licensing regime that is in line with the Ministry of Transport and Communications (the Ministry) and other government policies and strategic initiatives.

Below, we outline our observations and provide recommendations for your consideration.

#### **2.1 Consultation process**

We thank the Authority for organizing a workshop before the consultation as this was a great way to have an open dialogue on this important issue. Having reviewed the consultation, we believe it is important to continue this dialogue and for the Authority to offer an opportunity for further detailed discussions beyond this phase.

We believe the steps taken by the Authority in the Competition Framework were excellent and we ask the Authority to follow the same for this consultation.

*Recommendation 1: to continue with the consultation process beyond this phase by allowing operators to respond to comments made and arrange for a discussion session for Q&A.*

#### **2.2 Interim period**

During this process and until such time as the Authority issues a revised framework, we recommend that the Authority should not issue any licenses that would create confusion in the market or would conflict with the current licensing regime.

*Recommendation 2: to not issue any licenses during the period between the consultation and issuance of the Licensing Framework.*

#### **2.3 Principle prerequisites**

##### **2.3.1 Clarity about existing licensees' migration before implementation of a new licensing framework**

The proposed framework does not provide sufficient information about the new requirements under the new licensing regime. In proposing a migration/transition plan, it is of utmost importance to articulate the process and the proposed new terms and conditions for each type of license in order for Respondent A and other stakeholders to be able to assess the risks and opportunities.

As you are aware, licensees including Respondent A have made significant investments and commitments under certain licensing circumstances. If a change in these circumstances is contemplated, it is crucial that we, as an existing licensee, are able to assess the specific plan for transition, which should include clear insights into the process and the requirements for each license.

*Recommendation 3: The Authority is to provide a specific proposal for the migration of existing licenses including the process, the timing of same and the proposed terms and conditions before implementation of the new licensing framework.*

### **2.3.2 Clarity about the primary and secondary legislation amendments**

In proposing a new framework, we recognize the need for the introduction and redrafting of the current primary and secondary legislations. These legislations need to be outlined in the consultation with a clear indication on when and how the TRA intends to make changes.

Some of the regulations we consider important for the Authority to finalize are following:

- Competition framework
- Ex-post and ex-ante policies
- Access regulations
- Passive infrastructure regulation.

*Recommendation 4: The Authority is to finalize a redrafting of primary and secondary legislations before implementation of a new licensing framework.*

### **2.3.3 Reinforcement and implementation of a clear policy for the telecom sector**

One of the main concerns that Respondent A has with respect to this consultation is the lack of a clearly defined and articulated market policy and objectives that are in line with the policies and objectives of the Council of Ministers and Ministry of Transport and communications.

The Ministry of Transport and Communications recently issued a General Telecom Policy in which some of the following policy initiatives related to licensing are outlined:

- Prepare suitable conditions for effective competition in the provision of infrastructure, telecom services and promote competition in the provision of these services
- Creation of a supportive regulatory and legal environment: Review of the legislative and regulatory framework and the regulatory measures to promote the existing regulatory effectiveness. This includes modifying the current licensing framework to simplify entry procedures and award of the license, and to reconsider any unjustified regulation applicable to licensees.

The National Broadband Strategy Consultation contained the following observations and proposals with regards to the licensing regime:

- Recommendation 3.1: the Government should reform the current licensing regime to make market entry easier.
- The current licensing system, with its emphasis on licensing of individual services, can slow down the introduction of new technologies. Given the rapid pace of technology change and convergence in the communications sector, this means that the residents of Oman might enjoy the benefits of new technologies more slowly than they should.
- The current licensing regime is increasingly out of line with international best practice which has steadily moved to class licenses and general authorizations.
- In some cases, license applications are subject to considerable delay.
- The current regime prevents organizations with spare capacity on their networks from reselling to others.

Table.1 below demonstrates our understanding of TRA's proposal and whether it is in line with the Ministry's:

Table. 1

Referred Gov. document	Government's Objectives	Addressed in the Framework	Our understanding of TRA's approach
General Policy	Does not specifically call for <b>open-market policy</b> but rather to modify the current licensing framework to simplify entry procedures and award of license.	No	The Authority does not clearly articulate the market entry policy to be adopted. Modifies license model but does not address licensing process (application, award, obligations, migration, etc.)
General Policy	Reconsider any unjustified regulation applicable to licensees	No	Not addressed. TRA proposes transition to a new licensing regime but does not address specific amendments related to process and obligations.
National Broadband Strategy	Suggests moving away from Individual licensing, asserting that it is not in line with international best practices.	No	Proposes to maintain Individual licensing
National Broadband Strategy	Addresses gaps in the current framework to deal with spare capacity.	No	The Authority appears to have overlooked an important strategic initiative of the Government to deploy National Broadband and how this will be reflected in the new licensing framework

Respondent A seeks clarity on the objectives aimed in introducing a new licensing framework and how these objectives will contribute to the Ministry's objectives.

We address each of the above points below:

**Clear entry policy:** The Authority shall articulate a clear market entry policy in line with the Ministry's policies and objectives. A clear policy will enable the determination of what type of licensing model to use and, as a result, the obligations and regulations applicable.

The way in which the proposed licensing framework is drafted would appear to deliver a set of mixed messages. On one hand, it implies an open market by declaring unlimited entry for all types of licenses, and on the other hand, it implies a phased entry by maintaining individual licensing. If the Authority determines it necessary to fully open the market, then it would be sensible to move away from individual licensing, ensure unlimited entry and standard authorization regulation.

We consider it extremely important that the TRA establish a clear and transparent market entry policy along with well-defined processes and entry criteria.

*Recommendation 5: To establish a clear and transparent market entry policy and explain how it is translated into the proposed framework. The Authority shall also clearly define the terms: Individual License, Standard License and Unified License.*

**Simplify entry procedures and award of license:** Whilst the proposed License Framework acknowledges the need to simplify procedures and license award requirements, it does not provide suggestions for improvement. The Authority may perceive changing the licensing model as a means to improve entry and allow a less stringent process; however, without review of how the new process and obligation will work, we consider the proposed framework inadequate to address and solve the principal problems with the current regime.

**Unjustified regulation applicable to licensees:** The framework does not address how the new licensing framework will modify the current licensing nor does it indicate the primary and secondary legislations to apply. We respectfully disagree with the Authority's suggestion that "*it is not practical or appropriate to suggest changes to outline changes necessary within the new licensing framework*". As correctly identified by the government, this is one of the fundamental problems with the current regime, and therefore should be one of the main areas to focus on.

*Recommendation 6: To not conclude the consultation until such time as the Authority provides clearer information and direction related to the licensing process and regulatory requirements and the existing licenses.*

**Individual Licensing:** In assessing the different options for licensing, the National Broadband Strategy consultation noted that the current "Individual" licensing system is inadequate to support market entry and introduction of new technologies.

The current licensing framework in our opinion, although labeled “class” license, is a typical “individual” type of licensing in that it is:

- Issued to a single designated service provider
- A customized license document
- Contains detailed conditions
- Mainly granted through some form of competitive selection process

By the Authority introducing a clear market policy, it will be able to justify why it proposes to continue with individual licensing and introduce standard licensing. We recognize that the Authority, due to scarce resources, may consider it important to maintain individual licenses for all class I, but it is important in our opinion to: 1) explain the proposed licensing in the context of a clear policy and objectives, and 2) explain why it has put forward a proposal which conflicts with the government’s suggestions.

*Recommendation 7: please see recommendation 5*

**Gaps in the current framework:** the current framework does not address the lack of ability of the current regime to deal with gaps in licensing. Some of the examples include:

- **Extra capacity:** How the new licensing will accommodate the use of extra capacity offered by private networks.
- **Passive infrastructure services:** We would expect the Authority to address the impact of major strategic decisions by the government such as introducing a passive infrastructure company. For the sake of transparency, it is important that the Authority assess potential opportunities and describe the licensing applicable to accommodate projects such as FiberCo and rural broadband service suppliers under the new licensing model.
- **PMR licensing:** Recently, the Authority announced the possibility of issuing Private Mobile Radio, 446 MHz (PMR) licenses. In issuing such a license, the Authority must recognize the gaps in the current regime. We note that a Class I license as correctly indicated in the consultation and as per Article (21) of the Telecom Act, is issued for the establishment or operation of a public telecommunications network, or international telecommunications infrastructure or offering of public telecommunications services or international access services. We find the Authority’s decision to announce the issuance of a PMR license under Class I inconsistent with the provisions in the law.
- **Exempted services:** The proposed provision for the licensing exemption in section 6.2.3 is not sufficient enough to permit any proper analysis. The Authority indicates that there will be cases in which some activities will be exempted from licensing but does not identify these activities. In our opinion, the Exemption provisions must be consistent

with TRA's decision (118/2012) and any decision issued. It is worth bringing to your attention that for the sake of transparency and in line with best practices, it is important to consult stakeholders before issuing decisions to exempt certain activities from licensing. We note that this was not the case when Decision 118/2012 related to exempted activities was issued.

*Recommendation 8: The Authority to assess and propose means to accommodate new initiatives that do not necessarily fall under the current licensing regime.*

### **2.3.4 Enhancement of competition and investment in the market**

The Sultanate of Oman has many unique characteristics with respect to population distribution and topography that require substantial, long term investment on the part of existing operators who have committed to these investments based on the existing licensing framework. The operators should be given a reasonable amount of time to achieve a fair return on these investments before a much less restrictive licensing framework is introduced, i.e., a framework that would appear to permit licensing for some of the same services with much lower investment commitments (e.g., international gateway).

Currently, there are six (6) mobile service providers in Oman, three (3) international telecommunications infrastructure owners, and two (2) fixed service providers. We believe it is important to ensure that the licensing regime offers suitable conditions for effective competition for existing and new entrants. We are very concerned that at this stage and in the absence of a market assessment that analyzes the current levels of competition and market dynamics in the Sultanate, the Authority is proposing unlimited entry for all services.

We strongly suggest that the Authority consider conducting a market assessment and present the result to the stakeholders before the Authority proposes a new licensing framework. The study would determine whether the market is ready for a complete opening or if there is still a need for a phased approach. Respondent A has in its response to the public consultation regarding Market Definitions, Dominance and Related Regulations made the observation that it is extremely important to test markets before introducing certain controls.

Whereas Respondent A recognizes that competition is desirable so as to ensure that the consumer has the best possible access to affordable services that respond to the customers' needs, a clearly articulated competition framework that has been specifically tailored to address the degree of market maturity and local conditions must first be put in place so as to foster the creation of such an environment.

*Recommendation 9: to finalize the competition framework based on a proper market assessment.*

### **2.3.5 Licensing Supply of Content**

It is important that the Authority provide clear justification for issuing separate licenses for Supply of content. In Respondent A's opinion, this has not been clearly justified.

From a commercial point of view, we recognize the TRA's intention to create inward investment in the country but this needs to be assessed in terms of competition and associated risks. As the TRA is aware, the market in Oman is relatively small and, as a result, there might be little incentive for content service providers to establish businesses in Oman. It is not unlikely that the proposed licensing would lead to less content being offered to the Omani consumers and would not by any means encourage investment and greater local content in the country.

TRA's proposal would, in our opinion, create a huge barrier to entry and would deny desired content to the people in Oman. Such a decision would risk putting Oman behind other countries in the region in terms of innovative and demanded services.

From legal point of view, in the absence of well-established content law in Oman, and considering the number of entities involved in approving content, we are not in favor of introducing new requirements that in our opinion would add further confusion. Furthermore, it is not permissible under the Authority's current powers to regulate content.

The Authority needs to differentiate between the telecommunications role in supplying content and the context of content conveyed. The first, which relates to the dissemination of content by means of an electronic communications network, is and should continue to be offered under the current licensing structure. The latter, which relates to control of content material, needs to be clearly established by the custodian of content regulation.

We request that the Authority assess the impact of this decision and to ensure adoption of a simple and feasible model that would encourage much needed investment and competition in the market, and which is applicable within the Authority's remit.

### 3. Specific Comments

Table.2 below summarizes Respondent A's understanding of your proposed framework.

Table.2

Type of License	Application Criteria	Scarce Resource	Right to access to public properties	Security requirement	Number of Licenses in the Market	Limited services	Geographic area
Unified Individual*	REQUIRE SCARCE RESOURCES  BASED ON TRA's ASSESSMENT	YES	YES	YES	UNLIMITED SUBJECT TO AVAILABILITY OF SCARCE RESOURCES	NO	NOT ADDITIONAL
Unified Standard A**	ALL LICENSES	NO	YES- "SUBSTANTIAL" USE	YES	UNLIMITED	NO	
Standard B**	ALL LICENSES	NO	YES - BUT NOT "SUBSTANTIAL"	YES	UNLIMITED	NO	
Standard Content Supplier	NO	NO	NOT SURE	YES	UNLIMITED	NOT SURE	

Based on the above table, we provide detailed comments on each issue:

- License type
- Number of licenses permitted
- Geographic area
- Licensing fees
- Licensing obligations
- Application and qualification process
- Security requirement
- Transition

### **3.1 License Type**

The Authority has not articulated a clear basis and process for differentiating between individual and standard licenses. We refer to the following statement made in section 6.2.3 of the [Consultation] report:

“An individual license may be exceptionally granted in two circumstances:

- Where the grant of a license is associated with the use of scarce resources, in accordance with proposals described in section 6.1.1.
- Where the grant of a license is to an entity that is to undertake activities that the Authority considers to be desirable in the national interest, or in the interests of consumers of services, but which, in the objective assessment of the Authority, present significant risks to the development of fair competition and/or investment within markets, as described in section 6.1.5”.

[ibid] Section 6.2.2 page 17:

“The terms of an Individual license may vary from the terms of the Standard license only to the extent that such variation is determined to reasonably address a specified need that arises from the circumstances that dictate that a Standard license would not be appropriate”.

We respectfully disagree with the above statements and thus the approach proposed. This is mainly due to the following reasons:

- It does not ensure competitive neutrality. It is important that each type of license offers different services that cannot be offered in any other type of licenses. This would ensure that differences between standard and individual conditions do not significantly favor

one competitor over another, promoting a fair and transparent system by which all providers of the services under a specific category are subject to the same conditions.

- Differentiation based on “assessment of the Authority, present significant risks to the development of fair competition and/or investment within markets, as described in section 6.1.5” is subjective in the absence of clear criteria for determination.
- There is a high risk of arbitrary decision making
- It requires extensive work by the Authority to constantly assess market performance based on a well-developed competition framework.

As an example, we seek clarification on the following:

- As suggested in section 11 of the consultation, on what basis is the Authority determining that Awasir and Samatel should be Individual licensees in the absence of market assessment, considering neither require scarce resources?
- How will the Authority ensure objective assessment in differentiating license categories between two entities, neither of whom require scarce resources?
- How will the Authority determine what type of licenses to offer to passive infrastructure service providers if they do not require scarce resources but will be subject to other risk factors such as monopoly influence?
- How will the Authority assess what is considered “substantial use of public properties” in granting Standard A or B licenses?
- How will the Authority deal with the concept of “unified” licenses when services are not differentiated for each license?

*Recommendation 10: The Authority should categorize licensing based on the type of services offered under each license. This will in our opinion help promote a transparent, clear and more easily understood licensing structure.*

We strongly suggest maintaining the current licensing type of classes but enhancing it as follows:

Services	License Type	Spectrum	Obligations	No. of licenses
All public telecommunications network, International telecommunications infrastructure Public telecommunications services or international access services USO and passive infrastructure service providers PMR	Unified individual or class I	Yes	License conditions	Limited Application through comparative evaluation, auction, etc.
Resell services (MVNOs, ISPs, etc.)	Unified Standard or Class II	No	Standard regulation	unlimited
Private network	Authorization	No	Authorization	unlimited

### **3.2 Number of licenses permitted**

The Authority proposes unlimited entry for all type of licenses and services. We respectfully suggest that the Authority conduct a detailed market assessment to determine whether this is indeed the best approach and so as to provide adequate support and justification for such a decision.

Factors impacting such a decision must also be carefully assessed, including international agreements such as FTA and WTO, which are not addressed in any context in the report.

*Recommendation 11: Respondent A suggests that the Authority conduct a market assessment before determining whether to open all services across all licensing categories*

### **3.3 Geographic service areas**

The Authority has not addressed the matter of differentiating licensing based on geographic locations. The Authority must ensure a level playing field.

*Recommendation 12: the Authority should define geographic service areas*

### **3.4 Licensing fees**

The framework does not address changes in initial license fees if any.

*Recommendation 13: the Authority should address what the impact would be on the future and previously paid license fees*

### **3.5 License obligations**

Whether the new framework would achieve the Government's objective of "looking into unjustified regulation applicable to licensees" would depend on the extent of requirements for each license. Apart from new labeling, it is critically important as part of this exercise to assess the obligations, and any necessary legal and regulatory amendments to the license.

*Recommendation 14: the Authority should invite comments on the new proposed primary and secondary legislation as part of the consultation.*

### **3.6 Application and qualification process**

This is a very critical part that needs to be clarified by the Authority. The problem with the current licensing regime is its lack of transparency and the time consuming process to enter the market.

Section 2.2 of the Consultation acknowledges the main barriers to entry as being:

- The process associated with license applications and approvals takes too long, is too expensive and requires too many layers of approval;
- Obligations associated with certain licenses may be considered onerous to prospective market entrants relative to the benefits that can be derived under the license

Even though the consultation acknowledges the above mentioned problems, the consultation failed to address these issues.

*Recommendation 15: the Authority should provide a proposed application and qualification process for review and comments.*

### **3.7 Security requirements**

One additional area in the licensing framework discussed is related to obligations and investment in lawful interception (LI) functionality. Due to the uncertain CAPEX investment for LI required by prospective market entrants, this area remains one of the main barriers to entry.

*Recommendation 16: the Authority should provide indicative investment requirements for LI for each license category.*

## Respondent B

### *Consultation Document on Proposals for a New Licensing Framework for Telecommunications in Oman*

With reference to the above subject, pursuant to the stakeholders meeting conducted by the TRA on 5<sup>th</sup> December 2012 to provide stakeholders with information on the proposed draft Licensing Framework, and in response to the consultation document appearing on the TRA web site on 24<sup>th</sup> December 2012, Respondent B has carefully considered the TRA's proposals for a new Licensing Framework for telecommunications in Oman and provides the following comments:

- Respondent B commends the TRA on advancing with the review of and reforms to the existing Licensing Framework and welcomes the opportunity to offer input into the future of Oman's telecommunications licensing framework.
- While we find that there are certain concrete provisions contained within this Consultation relating to licensing rules, the importance of this Consultation and its impact on current licensees and new entrants merits further consultations with greater specificity and detail regarding this proposed framework. As such, this phase of the process should represent for the TRA an initial notice of inquiry to obtain the reactions/inputs of the relevant stakeholders on the various proposals.
- In general, Respondent B is of the view that the current licensing framework is in line with international best practices, and has facilitated the entry of new market players, including;
- [Sentence removed to preserve identity]
- Mobile reseller licenses have been issued, two of which have firmly established themselves in the market and have engaged in commercial negotiations with host networks;
- Samatel received an IGW license;
- Awaser Oman & Partners received a fixed line license;
- Numerous VSAT licenses have been awarded; and a
- Maritime license was awarded to Al Madakhil investment Company.
- Therefore, Respondent B believes that the current Licensing Framework has been appropriate and largely successful for Oman, as demonstrated by the sector achievements, including pricing (evidenced in the recent Price Benchmark study), national coverage and high QoS.

- Thus, an incremental modification of the framework is recommended, which would improve licensing processes rather than completely overhaul the manner in which license categories are established and the criteria that applicants must satisfy to obtain a license.
- In addition, Respondent B believes that as part of the licensing framework process, additional consultations (in coordination with other relevant governmental bodies) is required to ensure parity, transparency, and clarity including
- Outcome of the current consultation on the framework itself.
- Drafts of licenses with full texts.
- Transitional arrangements.
- Licensing processes and rules to determine, allocate and award scarce resources.
- Telecom Act review.

Finally, to ensure consistency among similarly situated licensees and mitigate potential problems in the transitional stage, Respondent B urges the TRA to either: (i) subject new applicants that are applying for Class I licenses to the same qualification criteria that was used for Respondent B and Respondent A or (ii) immediately cease granting any additional license beyond those that have been granted so far until a new standardized licensed process is adopted in order to guarantee a due and fair process for newcomers and existing license holders.

### ***Comments to TRA Consultation on Proposals for a New Licensing Framework for Telecommunications in Oman***

[Table of contents removed]

#### ***1. Respondent B's General Comments on TRA's Consultation on the proposed Licensing Framework***

In this section, Respondent B will provide general comments to the *Proposals for a New Licensing Framework for Telecommunications in Oman* ("Licensing Framework Consultation" or "Consultation") issued by the Telecommunications Regulatory Authority or "Authority") on 24 December 2012.

In general, Respondent B is of the view that the current licensing framework has been appropriate and largely successful for Oman, and that therefore an incremental modification of the framework should be preferred over a complete overhaul.

Respondent B's comments to the TRA's proposed Licensing Framework begin with identifying reasons why incremental modifications to the existing framework - rather than a complete

overhaul - will better achieve the TRA's objectives in the Consultation. Second, we identify how the existing Licensing Framework is consistent with international best practices and has facilitated the successful entry of new market players. Third, we advocate for using this consultation as an initial step towards reform and conducting further consultations in coordination with other governmental bodies and processes from other ongoing consultations that impact the Licensing Framework. Fourth, we examine the likely impacts of the proposed Licensing Framework on competition, demonstrating that these impacts are not likely to achieve the TRA's goals. Lastly, we provide recommendations on how the TRA should proceed and provide an overview of our views.

### ***1.1 Incremental modifications to the Licensing Framework will better achieve the TRA's objectives than those proposed in the Consultation***

Through the Licensing Framework Consultation, the TRA aims to "identify and remove barriers of entry and enhance the level of competition in the telecommunications sector." [Consultation, p3] We understand that the TRA believes that the current Licensing Framework may be perceived as a barrier to entry into the Omani telecommunications market because the licensing process may be viewed as taking longer than necessary, being expensive, and requiring several layers of approval. In addition, we understand that the TRA believes that the obligations associated with certain licenses are viewed as onerous relative to the benefits of the license.

We have reviewed the existing Licensing Framework and have found that key aspects are in line with international best practices, such as its clear delineation between facilities-based and services-based licensing. Therefore, as a general approach to licensing reform, Respondent B believes that the objectives identified by the TRA-which are primarily related to streamlining the process and reducing costs-can be accomplished by modifications to the existing Licensing Framework rather than through the introduction of a completely new Licensing Framework.

We believe that any changes to the Licensing Framework should be accomplished through incremental improvements and well-reasoned modifications based on public input and careful consideration. The introduction of incremental improvements to an existing licensing framework will be easier to implement than a complete overhaul. Moreover, incremental approaches to reforming regulatory frameworks tend to lower regulatory risk and uncertainty, lessen genuine differences in opinion regarding the interpretation of the Act and encourage a more fruitful and cooperative environment, which ultimately benefits all competitors in the market.

Careful and transparent rule-making is also a critical aspect of this project since, while the telecommunications sector is fast-moving in some respects, it also requires significant investment into fixed assets which need to be amortised over a long period of time, in particular in the fixed line network.

### ***1.2 The current Licensing Framework is in line with international best practices***

In Respondent B's view, the current licensing framework already has many positive attributes, thus requiring relatively few amendments. At this stage, Respondent B's view is that any eventual amendments to the existing Licensing Framework should focus on improving licensing processes rather than completely overhauling the manner in which license categories are established and the qualification criteria to which applicants must satisfy to obtain a license. In particular, Respondent B believes that the existing Licensing Framework has been a successful enabler to realise sector objectives, including:

- [Sentence removed to preserve identity]
- Two of the six resellers introduced in 2009 (Friendi and Renna) have firmly established themselves in the market through commercial negotiations with host networks.
- Mobile networks cover more than 97 percent of population; price levels are low compared to the region (please refer to the recent Price Benchmark study conducted by the TRA); and the mobile penetration rate is amongst the highest globally.
- Oman is an early adopter of new, innovative technologies-4G networks are now operational in both the TDD and FDD bands.
- Oman enjoys very high levels of investment of up to 20 percent of revenues, while many countries experience investment levels closer to 10 percent.

Such successes and their relationship to the Licensing Framework, specifically designed for an Omani situation with a large and difficult terrain and small, dispersed population should be taken into account when considering changes to the Licensing Framework. As we all know, the current licensing framework consists of three license categories (Class I, II, and III) with differentiation largely based on (i) whether operations are facilities-based or services-based (i.e. non-facilities based or resale only) and (ii) whether networks are public and private networks. The existing framework's establishment of a facilities-based vs. services-based distinction in determining which type of license is required is consistent with international best practices. The facilities- and services-based distinction is also the most commonly adopted mechanism to differentiate between license types in the region (e.g. Jordan and Saudi Arabia) and throughout the world (e.g. Singapore, Malaysia, Mexico and Kenya).

This distinction draws a clear line for potential and existing licensees to know what activities are and are not permissible, thus promoting regulatory certainty and encouraging investments in the market. As such, the existing Licensing Framework is more aligned with international best practices than the proposed framework, which would create at least two categories of facilities-based licensees. Under the proposed framework, Individual licensees and Standard licensees would be permitted to build out and operate network infrastructure.

The existing framework is, in fact, superior to the proposed framework in various ways. First, countries within the region and around the world draw the same facilities-based vs. services-based distinction in their frameworks. Second, potential licensees can clearly know which application they would need to complete to ensure that they are able to meet the eligibility criteria. Third, this certainty allows applicants to more confidently prepare their business plans and strategies, as well as gain access to capital and other resources. Fourth, distinguishing between facilities- and services-based categories ensures that all licensees permitted to offer the same services enjoy the same rights and are subject to the same obligations.

Further, the existing framework establishes an appropriate list of qualification criteria that applicants must meet in order to be awarded their relevant licenses. Class I license applicants are subject to more stringent requirements than other applicants. In particular, Class I applicants must demonstrate that they will likely be successful (are economically viable), including their vision of network build-out and service provision, organisational structure, and financial capability and strength, competition strategies, and technical plan and capability. However, all applicants must meet rigorous standards that help ensure they are viable candidates in a competitive market. The requirement, as set out in Article (21) of the Telecom Act, for a Class I application to be subjected to a multi-review process by the TRA and Ministry of Transport and Communications ("Ministry" or "MoTC") prior to being issued by a Royal Decree further helps to ensure that candidates possess the technical and financial capabilities to be successful. As a result, the licensing process is robust, but not overly burdensome or onerous. For Class II and license applications, a two-month decision-making period is relatively fast, but still affords the TRA sufficient time to review thoroughly applications and follow-up with any Questions.

The existing Licensing Framework is also technology-neutral, allowing licensees to offer any type of network or service within their range of licensed activities, provided they notify the TRA of any proposed changes to networks or services. In addition, it already follows an open entry model in which there is no predetermined number of licensees; however, applicants must meet the stated qualification criteria, including the viability of their business plan given existing market conditions. In this way, a reasonable balancing between the openness of entry and the viability of an applicant can be carried out. The current framework also establishes a separate authorisation process (through auction or comparative selection) for the use of spectrum resources to help ensure that these scarce resources go to those who most value them and are capable and willing to build out network infrastructure. These attributes are hallmarks of international best practices for licensing frameworks.

### ***1.3 Any modifications to the Licensing Framework should be addressed after other pending regulatory reform initiatives that impact the licensing regime***

In addition to the above, we express reservation about the *timing* of this initiative. Right now, at least seven regulatory reform proceedings have been initiated by the TRA, the Ministry and other Omani government agencies. Currently, there are open proceedings related to a review of

the ex-ante and ex-post Regulation Framework, a review of the Sector Policy, the formulation of a National Broadband Strategy, the possible establishment of a National Broadband Infrastructure Company, principles for build-out of passive telecommunications infrastructure in Economic Development Zones), considerations of a potential tender for a third mobile operator and, not least, a review of the Telecommunications Act ("Telecom Act") or Considering the above, and as we find that there are few concrete provisions contained within this Consultation relating to licensing rules, we would understand this phase of the process to be more of an initial notice of inquiry to obtain the reactions/input of the relevant stakeholders.

Each of the above-highlighted initiatives is integrally linked and influences each other; therefore, it is critical that the TRA takes into consideration its own initiatives, as well as those of the Ministry and other agencies before concluding modifications to the current Licensing Framework. For example, creating a National Broadband Infrastructure Company impacts any changes to the existing Licensing Framework as the decision would need to be made as to whether and how the company would be licensed to provide telecommunications/electronic communications services. Amending the Licensing Framework in conjunction with establishing the company could likely lead to inconsistencies in certain respects between the two initiatives. Likewise, simultaneous discussions to introduce a third mobile operator and reforms to the Licensing Framework can create uncertainty as to which service and spectrum authorisation processes would apply. Therefore, Respondent B recommends that the TRA view this Consultation as a key first step towards reforming the licensing framework and encourages the TRA to allow clarity to develop on these other initiatives prior to proceeding to other stages of the licensing project. Respondent B also encourages the TRA to take into consideration inputs and other involvements by the Ministry and other relevant agencies prior to making final decisions on the Licensing Framework as their input and support will be vital to the Telecommunications Regulatory Act amendment. In , this context, Respondent B would like to express its support and constructive contribution and will continue in its dialogue with the TRA and other parties during the course of these important sector reforms.

#### ***1.4 Respondent B's views on promoting competition through the proposed Licensing Framework***

As we have illustrated the benefits in terms of competition that has been realized through the current licensing framework, it is important to consider how competition may be further enhanced through the licensing framework itself. In this regard, Respondent B offers the following:

- An increase in the *number* of market players should not be treated as an end objective, but should be viewed as one of the means towards achieving sector goals
- At this stage, sector goals have been defined (part of the framework for sector policy and draft national broadband strategy) to improve the availability and uptake of broadband networks and services and at reasonable prices for consumers

- As the business case to provide ubiquitous and affordable broadband services not only in Oman but globally is proving to be more challenging than the business case was for voice business, viability will become a more important consideration
- As such, we believe that the quality of an applicant should not be compromised and that the tools for testing the viability of the business model of an applicant must be maintained or enhanced. Ultimately, ensuring that all competitors are financially healthy and active is more important for competition in the market than the sheer number of licensed enterprises.
- Improving regulatory response times in the licensing process and minimising delays between the various authorities responsible for granting licenses is important. In line with these views, Respondent B broadly supports measures that introduce consistency and standardisation across license application and award processes in order to ease market entry.

Based on the same, we believe that improvement in terms of the licensing framework may rather relate to parity, transparency and clarity, e.g. how the framework is applied. In view of this, we share some observations relating to some recent developments

- After the licensing process of a second mobile and a second fixed operator in Oman, the Licensing Framework, in the context of FTA negotiations, changed to become open to entry and with minimum entry conditions. However, no transitional arrangements were defined to ensure parity between new and existing licensees
- [Sentence removed to preserve identity]
- Respondent B was offered a 2.3 GHz spectrum and paid RO 10 M and agreed to take on coverage obligations.
- New IGW licensees (Samatel) have paid a fraction of these prices for an IGW license and interconnection with existing licensees based on LRIC.
- Such awards have allowed the new licensees to create a business by exploiting an arbitrage opportunity, while the existing licensees are subjected to significantly more onerous obligations that were formulated at the times of granting their licenses.
- Furthermore, Samatel failed to launch operations within one year after receiving its IGW license as required in the license conditions, yet its license has not been revoked.
- Recently, Awaser Oman 8: Partners was awarded a license which has raised a number of Questions
- It appears that the TRA does not consider previous regulatory conduct as part of its licensing procedures. Awaser Oman won the second fixed line license but failed to meet

the obligation to pay the licensing fee within the stipulated time. Likewise, Awaser Oman also attempted to obtain a USO license but failed to submit a reasonable offer within the specified timeframe; however, it has recently been granted a license.

- It also appears that the existing licensing framework is interpreted and applied differently to various applicants, which allows tailoring of licenses to fit certain requests. Awaser Oman may have been granted an IGW license on a Metropolitan basis Muscat) although an IGW is supposed to be national. Regionalisation of licensees was never a topic for review until after Awaser Oman's license was granted its license.

In view of these observations of TRA's licensing practice, it is important to pause to reflect on the appropriate responses before taking any actions or moving forward with any reforms:

- In a fully liberal economy, it is commonly understood that the existence of failing companies is part of a market economy. This was a view the TRA took when it granted 6 mobile reseller licenses at the same time with a minimum set of qualification criteria and obligations. Now we have witnessed a process through which only two have survived. In view of these experiences, the following may be noted:
- Market failures can be very disruptive with exiting companies often leaving unpaid debts which in turn increase the perceived risk of investors in the sector and can make future investment more difficult. In addition, struggling companies sometimes adopt unsustainable pricing policies by focusing on cash flow rather than sustainable profits in order to delay their exit while they search for an investor. Such a cash flow company strategy can hurt the healthy firms in the market.
- In particular, spectrum exhibits the typical volatility in values of fixed assets and can attract risky ventures. When such ventures fail, they often have highly negative effects, including by preventing scarce resources from being developed by providers willing and capable to make efficient use of them. Other areas of the telecommunications sector also prove attractive for entrants that might underestimate the required financial capacity and overestimate the financial rewards available in the industry. Appropriate licensing criteria set out in the framework should play a pivotal role in minimising the risk of such failures.
- Given the potential negative impacts that can arise from extensive "open entry" licensing, taking a liberal view of market economy, we would caution against allowing the licensing framework process to be the vehicle to accommodate, support and sustain failed licensees.
- In particular, once a regulatory authority has granted certain rights for entrants, there may be an expectation, albeit unreasonable, by entrants that they will be assisted further by the regulator. For example, Respondent B believes that the financial difficulties of some Class II licensees have been due to their unsustainable business

model and operational deficiencies rather than the terms of their reseller licenses.  
[Sentence removed to preserve identity]

- Respondent B saw a symbiotic business opportunity when it decided to host Renna and Friendi. These firms address market segments that Respondent B had previously not been able to reach, and since their launch they have significantly increased competitive pressure [removed to preserve identity]. Therefore, resellers can succeed under the current framework when there is a genuine business opportunity for such companies. It should not be believed that some of the resellers' problems were due to restrictive licenses or insufficient regulation and Respondent B believes that this provides sufficient evidence to show that reducing the importance of the financial viability test is counterproductive.

Respondent B re-iterates that:

- [Sentence removed to preserve identity]
- Mobile reseller licenses have been issued, two of which have firmly established themselves in the market and have engaged in commercial negotiations with the host network
- Samatel received an IGW license.
- Awaser Oman, in 2012, was granted a license for the metropolitan area of Muscat.
- Numerous VSAT licenses have been awarded
- Maritime license was awarded to Al Madakhil Investment Company.

Based on these facts, Respondent B cannot agree with the TRA that there is a lack of entry into the market and does not think that the existing Licensing Framework has failed in this regard. However, we do believe that the licensing practice can be improved.

### ***1.5 Conclusion and recommendations***

Respondent B commends the TRA on advancing with the review of and reforms to the existing Licensing Framework and welcomes the opportunity to offer input into the future of Oman's telecommunications licensing regime. Respondent B agrees with the TRA's initial view that any new licensing framework should:

- Establish a common licensing procedure that would be applied in a consistent and transparent manner to all applicants. This includes the approach to a unified and technology-neutral license, both of which Respondent B supports.
- Establish a framework for separate spectrum licensing or spectrum authorizations.

Given the success of the system of infrastructure-based competition with commercial resale, Respondent B believes that, while licensing reform may be needed to address the sector initiatives and a changing technological landscape, any future modifications to the Licensing Framework should be based extensively on the existing framework. In other words, a more incremental approach will allow certain aims to be fulfilled (unified licensing, standardised process, and technology neutrality), without the risks of transition and unexpected outcomes associated to a completely overhauled system. As stated above, this Consultation should be considered by the TRA as an initial step in implementing licensing reforms.

For these reasons, Respondent B recommends the following:

- Use this Consultation as an initial step to gather input from relevant stakeholders regarding any amendments to the Licensing Framework and continue with further consultations as mentioned above.
- Use an incremental approach to licensing reform and modify the existing framework rather than completely overhauling the current framework. This will reduce regulatory uncertainty and promote continuity with targeted modifications to areas of the existing framework in need of improvement.
- Prior to concluding proceeding relating to licensing reforms in Oman, it is highly critical that the TRA should provide and consult on:
  - license templates to enable stakeholders to know exactly what rights and obligations they would be subject to and provide the relevant stakeholders an opportunity to comment on said templates
  - transitional arrangements (any eventual migration of licensees from current framework to the new framework) to ensure these are well-defined
  - licensing processes and rules to determine, allocate and award scarce resources

Respondent B would like to emphasise that such a process will provide the credibility required for all parties to be engaged and supportive in any decisions to implement reforms that ultimately involve the conditions upon which they operate as commercial entities.

## **Responses by the Authority to matters arising from comment reproduced in this annex**

The Authority considers that the principal thrust of the arguments within the material that has been supplied is toward the preservation of the present licensing framework or at least its principles.

The Authority does not find the arguments for preservation of the fundamentals of the status quo to be compelling and will proceed with its proposals for change, on the bases described elsewhere in this document.

Notwithstanding, its disagreement with the thrust of many arguments put forward by the respondents, the Authority acknowledges the value of much of the comment that has been supplied and thanks the respondents for their considerable efforts.