

Unofficial Translation

**TRA Decision No. 60/2014
Issuing the Regulation for the Utilization of/ Access to Passive Infrastructure**

Pursuant to the Telecommunications Regulatory Act issued by Royal Decree No. 30/2002 and;

The Executive Regulation of the Telecommunications Regulatory Act issued by Decision No. 144/2008 and;

The approval of TRA Board of Directors at its meeting No. 4/2013 dated 22/5/2013 and;

Based on the exigencies of the public interest;

It is decided:

Article (1)

The provisions of the attached Regulation shall be applicable for the regulation of the utilization of/ access to Passive Infrastructure.

Article (2)

All that is contrary to the attached Regulation or conflicting with its provisions shall be revoked.

Article (3)

This Decision shall be published in the Official Gazette and shall come into force from the day following the date of its publication.

**Issued on: 7 Dhil' Hijja 1435 H
Corresponding to: 1 October 2014**

**Mohammed Bin Hamad Al-Rumhi
Chairman, Board of Directors**

Regulation for the Utilization of/ Access to Passive Infrastructure

Chapter One Definitions and General Provisions Article (1)

In the application of the provisions of this regulation, the terms and expressions used herein shall express the exact meaning exhibited in the Telecommunications Regulatory Act and its Executive Regulation, whereas the following terms and expressions shall have the meanings shown against each, unless the text otherwise requires:

1. **Passive Infrastructure** includes all the civil engineering and non-electronic elements of telecommunications network infrastructure, such as physical sites, buildings, shelters, towers and/ or masts, power supply and battery backup, ducts, trenches, dark fiber, Distribution Frame, etc.
2. **Real Estate Complex:** means a building consisting of owned or leased residential or commercial units, whether adjacent or separated.
3. **Passive Infrastructure Provider:** means any party that is not engaged in telecommunications as its key activity of business, and is authorized to utilize the passive infrastructure in accordance with the provisions of this regulation.
4. **Utilizing the passive infrastructure:** means leasing the passive infrastructure to licensee or an authorized network owner.
5. **Access to the Passive Infrastructure:** enabling the licensee to use the Passive Infrastructure of the real estate complex to provide telecommunications services; free of charge.
6. **Authorization:** approval granted by TRA for the utilization of the passive infrastructure.
7. **Authorized network:** Any telecommunications network exempted by TRA from licensing requirements pursuant the Telecommunications Regulatory Act.
8. **Commercial Agreement:** contract between the Passive Infrastructure Provider and the licensee or the authorized network owner regarding the utilization of the passive infrastructure.

Article (2)

The Passive Infrastructure Provider and the real estate complex owner shall be exempted from the licensing requirements stated in the Telecommunications Regulatory Act in accordance with the provisions of this Regulation.

Article (3)

TRA may share the details of existing as well as future passive infrastructure plans with the other concerned government entities, the licensee or the authorized network owner.

Article (4)

The Passive Infrastructure Provider shall make it available on a non-discriminatory and on a non-exclusive basis.

Article (5)

The owner of the real estate complex shall enable the licensee to access the passive infrastructure on a non-discriminatory and on a non-exclusive basis.

Chapter Two Objectives of the Regulation

Article (6)

This Regulation aims at achieving the following:

- A. Utilize and access the Passive Infrastructure.
- B. Encourage investment in appropriate technology/ facilities of Passive Infrastructure.
- C. Reduce the cost of establishing Passive Infrastructure.
- D. Reduce cost of end user services.
- E. Facilitate and ensure sharing of accurate information on existing and planned capacity of Passive Infrastructure to help service providers in their planning.
- F. Avoid digging of roads and sideways to bury ducts to carry fibre cable where extra capacity is available in the same area/route owned by other party.
- G. Ensure access to real estate complexes on a fair and non-discriminatory basis by the Public Telecommunications Service Providers.
- H. Increase national broadband penetration and its applications.

Chapter Three

Procedures to obtain authorization and provisions of commercial agreement

Article (7)

Application for the authorization shall be submitted of four copies of the form designed for this purpose and shall include the following:

- a. Valid Commercial Registration.

- b. Valid ID card or passport of the authorized signatory.
- c. Valid Certificate of Affiliation to Oman Chamber of Commerce and Industry.
- d. Names of authorized signatories and their specimen signatures.
- e. Details of the Passive Infrastructure intended to be utilized.
- f. Payment receipt of RO 300/= non-refundable for processing the application.
- g. Any other documents or information required by TRA.

Article (8)

- A. The concerned department at TRA shall study the application and resolve it within (45) forty five days from the completion date of all the required documents. In case of rejection, the rejection decision must be justified.

Any person aggrieved by the rejection decision may submit a complaint to the Executive President within (60) sixty days from the notification date. The complaint shall be resolved within (30) thirty days from the date of its submission.

- B. On approval, the applicant shall be notified to pay the authorization issuance fees of RO (3000) three thousands within (30) thirty days of the notification date and the concerned department shall issue the authorization after obtaining proof of fee payment.
- C. The concerned department may, based on a request by the applicant, disregard the periods set out under this article should there be subjective reasons justifying that.

Article (9)

The duration of the authorization is (3) three years renewable based on the applicant's request and for the same issuance fee set out in article (8) of this Regulation.

Article (10)

The Commercial Agreement shall be entered into on the basis of a request in writing by the licensee or the authorized network owner to the Passive Infrastructure Provider expressing the interest in leasing the Passive Infrastructure. Both parties shall comply with the following:

- A. Not to obstruct the negotiations without adequate reasons.
- B. Provide information relevant to the negotiation including information necessary to identify the facility needed, within the reasonable time frame.
- C. Not to disclose confidential and commercial information of either party without its prior consent.

Article (11)

The duration of the agreement shall be clearly stated and shall be based on the following considerations:

- A. Life term of the asset.

- B. Type of asset.
- C. Term of the telecommunications service authorization or license.

Article (12)

The Passive Infrastructure Provider shall comply with the following:

- A. The Guidelines issued by TRA with regard to the utilization of the Passive Infrastructure.
- B. Obtain the authorization.
- C. Allow the physical separation of the licensee and authorized network owner's equipment's, where applicable.
- D. File copies of the commercial agreements and any subsequent modifications with TRA within (15) fifteen days from signing the agreements or making the modifications.
- E. Not engage into anti-competitive behavior.
- F. Ensure that tariff of Passive Infrastructure utilization is reasonable and on cost-oriented basis.
- G. Utilize the Passive Infrastructure that is registered with TRA.
- H. Utilize the Passive Infrastructure according to the choice of a licensee/ authorized network owner, if technically feasible and commercially viable.
- I. Reach a commercial agreement with the licensee/ authorized network owner within (90) ninety days of receiving all the documents and information pertaining to the application.

Article (13)

In the event of failure to reach a commercial agreement within the time frame specified in Para (I) of article (12) of this Regulation or resolve any arising differences, either party may refer the dispute to TRA to resolve it in accordance with the Dispute Resolution Procedure.

Chapter Four Violations Article (14)

In the event of violating the provisions of this Regulation, TRA may, as the case may require, take one or all of the enforcement measures stipulated in article (51) Repeated of the Telecommunications Regulatory Act.