



Government of
The Republic
of Vanuatu



Telecommunication &
Radiocommunication
Regulator

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TRR Response to feedback made on the consulted draft Mast Sharing Services Document

TRR, 23 June 2011

**This document contains responses to the feedback received in the
consultation period for the draft proposal on Mast Sharing Service**

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1. BACKGROUND

On 10 March 2011, TRR has released a draft Mast Sharing Services document for consultation and invited comments from Licensees and any other interested parties. The draft Mast Sharing Services document was sent to licensees and posted on TRR's website. On 11 April and 6 May 2011, TRR received comments and responses from TVL and Digicel on the document. TRR also received comments from e-Government, Can'l and other operators on the document.

2. AIM

TRR is pleased with the feedbacks and comments received from the Government, Can'l, TVL and Digicel on the draft Mast Sharing Services document. All comments were noted and given consideration. The aim of the Mast sharing Services document is to:

- ❖ Support self-regulation;
- ❖ encourage and facilitate service providers to share masts;
- ❖ provide a direction and transparent process for service providers to follow;
- ❖ support service providers to have access to infrastructure;
- ❖ support the environmental measures.

TRR is required under the Telecommunications and Radiocommunications Regulation Act (the Act) in Section 7 (2) (a) (ii) and (b) to advise the Minister and to make regulations to implement facilitate and enforce the provisions of the Act.

The overall Objects of the Act include the requirement to facilitate the development of the telecommunications sector in Vanuatu (Section 1).

TRR wishes Licensees to develop a reasonable self-regulatory approach to Mast Sharing but if this proves impossible TRR will create the necessary regulations to achieve the objectives of the Act.

3. RESULTS & COMMENTARY

The following are pertinent points related to the feedback on the draft Mast Sharing Service document for which specific responses are noted:

No.	Comment Received	Position Taken
1.	No legal Powers of TRR	<p>The purpose of the Mast sharing Service document is to encourage mast sharing.</p> <p>The document provides a transparent process to provide operators direction when offering mast sharing. TRR will amend where necessary and welcomes comments from service providers.</p> <p>Nothing in the Mast Sharing Service document mandates TRR to intervene. However, TRR propose to intervene if operators refer any matters to TRR with a view to attempt to resolve any dispute. This is a similar approach as set out in the Act (ss31 (1) for interconnection matters and ss41 (3) for end-user disputes).</p> <p>TRR retain its right to invoke its general powers under Section 7 (2) (a) and (b) to advise the Minister as to making of regulations in relation to mast sharing.</p>
2.	Mast Sharing should be made on commercial basis.	<p>The Mast sharing service document is a guidelines and should be used as such. It should not discourage any commercial negotiations. It however provides guidance for operators when processing applications and entering into commercial negotiations.</p>
3.	Jeopardizing the Promotion and Incentive to invest in Infrastructure	<p>Mast sharing is becoming an international best practice. It can have positive benefits to encourage investment and economic efficiency. It provides a “build or buy” option for companies seeking to invest in the telecom sector of this nation.</p>
4.	Mast sharing is not Bottleneck facilities per definition in law.	<p>If required, mast and towers could be considered a bottleneck facility considering such issues as:</p> <ul style="list-style-type: none"> • Access to land; • Environment; • Planning restrictions;

		<ul style="list-style-type: none"> Economies of scope and scale. <p>If the industry does not self-regulate effectively TRR will use its powers under the Act to resolve mast sharing to support the national interest, environment and economic efficiency.</p>
5.	Existing problems	TRR has received various requests for assistance from operators seeking mast sharing. TRR must find ways to deal and address this issue. Operators seeking mast sharing have not had satisfactory responses from other Licensees. TRR wish to assist through the providing of the Mast sharing Services document and wish to see reasonable prices and time scale.
6.	Rights to property-mast towers	This Mast Sharing Service Document is not intended to remove the rights of ownership from any service providers.
7.	Over regulation	TRR's approach is to provide guidelines to assist the development of the Sector and encourage self-regulation.

We thank Operators for their input in commenting on the Mast Sharing Service document. All the points raised by both companies will help TRR in finalizing the Mast Sharing Service document. We also want to thank the Chief Information Officer, for confirming the Government's approval and intention to use this mast sharing service document for other operators that wish to share the Government masts.

Should anyone wish to discuss any aspects of this report in further detail, we invite you to please make an appointment with the Regulator on Tel +678 27621.

Made at Port Vila, 23 June 2011.

Alan Horne

Telecommunications & Radiocommunications Regulator