



Government of
The Republic
of Vanuatu



TRR
Telecommunication &
Radiocommunication
Regulator

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A Consultation Paper on **Draft Telecommunications Class Exception: On-Premises Supply of Wi-Fi Internet Connectivity by Hotels, Cafés, Bars, Restaurants and Like Businesses**

INVITING PUBLIC COMMENT AND INPUT

8/04/2015

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CONSULTATION FEEDBACK INFORMATION

- TRR welcomes and invites comments and feedback to this consultation document from all interested parties;
- We would appreciate your response to be clear by quoting the corresponding main sections and sub sections when providing your comments;
- More general comments on the consultation document should be indicated accordingly;
- In the interests of transparency, TRR will make public all or parts of any submissions made in response to this Consultation Document unless there is a specific request to treat all or part of a response in confidence. If no such request is made, TRR will assume that the response is not intended to be confidential. TRR will evaluate requests for confidentiality according to relevant legal principles;
- Respondents are required to clearly mark any information included in their submission that they consider confidential. They shall provide reasons why that information should be treated as such. Where information claimed to be confidential is included in a submission, respondents are required to provide both a confidential and a non-confidential version of their submission. TRR will determine, whether the information claimed to be confidential is to be treated as such, and, if so, will not publish that information. In respect of the information that is determined to be non-confidential, TRR may publish or refrain from publishing such information at its sole discretion.
- TRR will accept comments in English, French or Bislama;
- If comments are submitted in printed format, they must be submitted on A4 paper accompanied, wherever possible, by a disk containing the comments, in electronic format;
- Comments on this consultation document should be provided to TRR via the following means:
 - Email address consultation@trr.vu
 - Faxed to (678) 24470
 - Posted or hand delivered to:
Public Input – Draft Telecommunications Class Exception: On-Premises Supply of Wi-Fi Internet Connectivity by Hotels, Cafés, Bars, Restaurants and Like Businesses
Telecommunications and Radiocommunications Regulator
P O Box 3547, Port Vila, Vanuatu
- The deadline for public Comments is **4pm, 30 April 2015**;
- For any phone enquiries regarding this Consultation document, please call the following numbers:
 - (678) 27621 or (678) 27487
- All comments will be reviewed by TRR’s established industry Advisory Working Groups (AWG), as appropriate. If TRR has not established an AWG, TRR only will review the comments. TRR will consider every comment submitted when finalizing its report or decision. For transparency, a record of every comment received will be made available for public information, unless comments are labeled ‘In Confidence’ (see also dot points 4 and 5 above);
- For more information about TRR’s Consultation Guidelines, please visit the following website <www.trr.vu>

- You are welcome to visit our website <http://www.trr.vu> for more details on the latest developments in the telecommunication services industry and other related matters.

1 PURPOSE

To provide a regulatory framework in compliance with the legislation authorizing the supply, subject to specified conditions, of on-premise Wi-Fi connectivity by hotel businesses, internet cafés, Restaurants, Bars, and like businesses.

2 LEGAL AND REGULATORY FRAMEWORK

The following term are defined in the *Telecommunications & Radiocommunications Regulation Act (2009)* (“the Act”) as follows:

“telecommunications service means:

(a). a service to provide any form of telecommunication to or from any place in Vanuatu, by means of a telecommunication network, where that service is provided, directly or indirectly, to the public or to any person outside Vanuatu; and

(b). does not include broadcasting of radio or television intended for reception by the general public”.

“telecommunication means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not;

telecommunications facility means any facility, apparatus or other thing that is used or is capable of being used for telecommunications or for any operation connected with telecommunications;

telecommunications network means a system or series of systems comprising telecommunications facilities.”

The Act is very broad in its definition of telecommunications services. Telecommunications service refers to any form of telecommunications to and from any place in Vanuatu whether direct or indirectly to the public. Internet connectivity, including by way of Wi-Fi access, is a form of telecommunications service and as such falls within the definition. The Act further provides that an authorization by way of a licence or an exception is required before any person can provide telecommunications service (Section 12 & 14 of the Act).

Pursuant to Section 14 of the Act, issuing a license to the class of persons at issue here would not be efficient, appropriate or necessary and, accordingly, TRR is issuing a class Exception.

The relevant circumstances include licenses supply a much broader range of telecommunications services and have additional obligations arising from this, including Universal Service obligations and levies, and also provide service for specified retail prices, with associated obligations relating to filing of retail prices, and billing. In contrast, a person subject to this Exception frequently will provide on-premises Wi-Fi without charge and frequently do not provide other telecommunications services. .

The Regulator, in accordance to his power under Section 14 of the Act, has studied the circumstances within which the class of service provider concerned in this paper is providing access to internet service and is of the view that issuing a licence to the would not be efficient or necessary:

“14. General provisions relating to exceptions

(1). Subject to Regulations, exceptions may be given by the Regulator where, in the Regulator’s opinion, issuing a licence would not be efficient or necessary.

(...)

(4). An exception may be given to a person or to a class of persons and may be given according to and within such divisions or categories as may be provided by Regulations.”

3 REGULATORY IMPACT STATEMENT

The decision on issuing a Class Exception under this particular circumstance is an implementation of the TRR Act as described under the “Legal and Regulatory Framework” section above. As the body responsible for implementing that Act, TRR endeavours to ensure that such law is complied with and equality of treatment is shared amongst telecommunications service providers, whatever the nature of their respective telecommunications business.

The issuance of the class Exception will also assist in the clarification of the position of that class of service providers within the telecommunications market, including their authorization under the Act to provide services within this Exception, and the obligations they have in relation to that activity. .

This draft consultation paper provides for general terms and conditions applicable to the holders of this proposed draft Exception, as stated therein, including that the Exception is proposed to be issued for a term of 1 year, and will remain in effect unless and until revoked by the Regulator. The document may be amended or revoked, with notice being provided to the holder before the Regulator takes such action.

Telecommunications consumers should actively participate in this consultation and be aware of the content of the exception, particularly because the draft exception prohibits this class service provider to make false and misleading claims with regard to information regarding their services and the equipment used. They may as well file complaints to the Regulator if they find or believe that an exception holder is in breach of this particular exception.

4 CONSULTATION QUESTIONS

Q1 Do you support TRR's proposal to provide the proposed Exceptions?

Q2 If the answer to Q1 is 'no', please indicate why not and provide alternative approaches that you would prefer to see. Please also state the reasons for your view in detail.

Q3 Is there any other terms and conditions you want the Regulator to take into consideration when finalizing the document?

Q4 Any other comments/views you want to share?
