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13 October 2017,

## Initial Consultation Report on Proposed Amendments to the Telecommunications and Radio-communications Regulation Act, 2009

On 5 June 2017, TRR provided service providers and other stakeholders with a Consultation Paper about possible amendments to The Telecommunications and Radio-communications Regulation Act, 2009 ("the TRR Act").

The Consultation Paper sought information and comments from interested parties about 12 different topics or areas for potential amendment of the TRR Act. The purpose of the proposed amendments was to improve the effectiveness and clarity of the TRR Act based on TRR's experience implementing the TRR Act, including by addressing ambiguities and gaps that have been identified by TRR and service providers.

TRR has received comments on the Consultation Paper from Digicel (Vanuatu) Limited, Telecom Vanuatu Limited, Telsat Broadband, SpeedCast International, and Pacific ICT Regulatory Resource Centre (PIRRC).

TRR has considered and had regard to all comments, and thanks the commenting parties for the useful substantive points made, and questions raised.

Having reviewed and considered all comments, TRR has decided to significantly reduce the number of the proposed amendments, and has narrowed the scope of amendments that relate to regulatory powers of TRR. This has been done in part to seek to reduce controversy and address concerns of some commenters that the proposed amendments were overly broad.

In this Initial Consultation Report, TRR provides a summary of its proposed amendments, as revised following the initial consultation. TRR has carefully considered and had regard to all comments.

In response to comments the details of some of the proposed amendments were not sufficiently clear, TRR also has provided an illustration of the way in which the proposed amendments could be implemented by a specific change or changes to the TRR Act. TRR has done this for informational purposes, and reiterates that (as stated in TRR's Consultation Paper), the SLO has responsibility for actual drafting of any proposed amendments to be

submitted to the Parliament.

TRR also recently received a letter from the Prime Minister as to the consultation process, and the need for further consultation. As requested by the Prime Minister, TRR has circulated this Consultation Paper more widely to a number of Government departments or entities and is now providing a further opportunity for interested parties to comment on possible legislative amendments. TRR will also do a face to face consultation with specific Government Departments that needs to be consulted on.

After these further consultation steps, TRR will provide a report advising interested parties of the legislative amendments TRR will seek.

TRR requests that interested parties submit written comments within 21 calendar days, to TRR, at the following address details:

- Email address consultation@trr.vu
- Posted or hand delivered to:
- **Public Input –**
- Telecommunications and Radiocommunications Regulator
- P O Box 3547, Port Vila, Vanuatu;

The deadline for public Comments is **4:30pm, Friday 3rd November, 2017**. Given the limited proposals put forward for amendment, TRR considers a 3 weeks consultation period to be satisfactory.

For any phone enquiries regarding this Consultation document, please call the following numbers:

(678) 27621 or (678) 27487;

## TRRS VIEWS AND RESPONSES TO INITIAL CONSULTATION FEEDBACK ON PROPOSED NEW PROVISIONS IN THE ACT

### *1. Infrastructure Sharing*

TRR's Consultation Paper stated:

> "This proposed amendment would give specific powers to the Regulator to make regulations on infrastructure sharing.
>
> In particular, it is proposed that the Act be amended to include a positive statement promoting infrastructure sharing in the terms of the 2007 Policy and to specifically empower the Regulator to take reasonable and relevant steps to promote infrastructure sharing when addressing all issues that arise in the course of administering the Act."

Commenters generally recognized that efficient infrastructure sharing arrangements are important for the development of this industry, and the national economy, and that TRR should have an ability, under the TRR Act, to promote and in appropriate cases require such infrastructure sharing. Some commenters also were concerned that TRR's role in this area not be stated in overly broad or general terms, as this could be detrimental to investment in the sector.

TRR already has a general power, in Section 7(3) of the TRR Act to make regulations, provided that Ministerial approval is given. Section 7(4) provides specific enumerations of this power, which are stated to not be exhaustive of the types of regulations that can be made. Accordingly, the TRR Act already may provide for TRR to make infrastructure-sharing regulations, with Ministerial approval. However, the existence or scope of such a power appears to be disputed or questioned by some service providers.

TRR believes the best approach at this time is for there to be only a very limited amendment that would make clear that the power of TRR, with Ministerial approval, to make regulations includes a power to make regulations relating to infrastructure sharing. TRR would, of course consult with service providers and other interested parties before seeking Ministerial approval for any such regulation.

In response to comments, TRR also has decided at this time to not propose amending the TRR Act to add a general policy statement about infrastructure sharing that is similar to existing or prior Government policy statements, or to propose any amendments that would give TRR specific powers, apart from a Regulation approved by the Minister, relating to infrastructure sharing.

TRR's proposed amendment relating to infrastructure sharing therefore now is only a limited

amendment to Section 7 of the TRR Act; to clarify that TRR may, with Ministerial approval, make regulations as to infrastructure sharing.

This proposed amendment could be implemented, for example, by adding to Part 2, Section 7(4) of the Act, a new subparagraph 7(4)(l):

> *"prescribing procedures, standards or requirements relating to the prices or other terms or conditions on which a service provider is required to provide access to or share a telecommunications facility or network it owns or operates with another authorized provider of telecommunications services in Vanuatu, such infrastructure sharing to be on fair, reasonable and non-discriminatory terms and at cost-based prices"*

***2. Access to land by Service Providers – Part 2 of the Act***

TRR has decided not to seek specific amendments to the TRR Act to provide for an expanded role of TRR to address the large backlog of cases relating to land access for the purpose of providing telecommunications services.

As TRR stated in its Consultation Paper, other government agencies or bodies have jurisdiction or involvement in these matters, which are frequently contentious and time-consuming. TRR considers that at the moment its time likely is better spent on other telecommunications issues that are more within its core competency and mission. In addition, if interested parties, including other relevant bodies, wish for TRR to provide additional assistance or have additional powers in relation to such matters, this may be pursued through a Regulation to be approved by The Minister.

***3. Liability of Regulator for costs of legal proceedings - Part 9 of the Act***

TRR is an independent statutory body, with a specific legal mandate under the TRR Act to act in the national and public interest, in a non-discriminatory and independent manner. TRR operates under a limited annual budget that is not funded by any Government monies. TRR's budget comes mainly from limited licence fees paid mostly by the two major telecommunications operators (Digicel and TVL).

Regulated parties have a right of judicial review of all TRR decisions, under Part 10 of the Act. Such judicial review proceedings can involve complex factual or technical matters, and sometimes are long and expensive for all parties. The expenses of regulated parties, which may involve overseas counsel, can run to several million Vatu, or more.

The regulated parties in Vanuatu (such as TVL and Digicel) generally have far greater financial resources than TRR, can spend significant amounts on litigation against TRR, and also absorb a costs order against them if their claim is not successful.

In contrast, TRR has very limited resources, such that TRR's staffing and operations would likely need to be severely curtailed if it were required to pay the costs of a regulated party in a major judicial review case (or cases). The risk of losing such a case and paying costs that form a large part of or even exceed TRR's budget also could inhibit TRR from taking reasonable and appropriate regulatory action, in good faith.

TRR therefore has proposed an amendment to prevent TRR's staffing and ongoing work from being negated or severely curtailed due to TRR having to pay legal costs to a regulated party.

There is precedent for such protection in other jurisdiction, which limit the ability of regulated parties to recover legal costs from regulators (like TRR) with limited resources and a mandate to act in the public interest.

For example, Section 78(4) of the Samoan "Telecommunications Act, (2005)" bars any award of costs against the Regulator or the Government in cases challenging regulatory action under that Act, as follows:

> "(4) The Government and the Regulator are not liable for any costs or damages in any legal proceedings challenging any action taken under this Act, or for any failure or refusal to take any action which is authorised by this Act."

TRR proposes a more limited protection, in particular that private parties still may recover legal costs against the Regulator in judicial review proceedings, but only to the extent that the challenged action of the Regulator involved bad faith, or was frivolous or vexatious.

This could, for example, be implemented by the following type of amendment to Section 50 of the Act:

> *"(1) The Regulator shall not be liable in any judicial review proceeding to pay legal costs of another party, unless the Court finds that the Regulator's decision was made in bad faith, was frivolous or vexatious, or breached TRR's obligations in Section 7(12) to act independently and impartially. The Regulator may recover its costs in a judicial review proceeding according to the general principles applicable in civil cases between individuals."*

Some regulated parties have objected to such an amendment by claiming that it would leave little or no incentive or reason for TRR to not make incorrect or harmful decisions.

TRR does not believe this concern is valid.

TRR already is legally required under the TRR Act to act fairly and in the public interest, and

independently and impartially, and has no reason or incentive to make wrong or harmful decisions, or decisions that are biased against or discriminate against a service provider. The risk of TRR losing a judicial review case, and having to pay and absorb TRR's own legal costs, is very strong additional incentives against incorrect decisions. TRR's proposed amendment also allows regulated parties to fully recover legal costs from TRR by showing TRR's position was frivolous, vexatious or involved bad faith.

TRR also faces regulated parties with much "deeper pockets" than TRR. Unlike TRR, these parties can readily fund litigation and pay their own and the other side's legal costs, if they lose. These regulated parties also frequently or generally will have will have a financial interest and incentive to engage in judicial review litigation to avoid regulatory obligations or decisions. Litigation thus frequently is a financially-motivated course for regulated parties and a cost of business they can afford, in a way that never occurs for TRR, which has no financial interest in making, or not making, any given regulatory decision, and which has a far more limited budget and funding.

In light of the very different funding, and purpose and role in litigation, of regulated parties, as compared to TRR, it is appropriate that some protections be afforded to TRR in relation to paying legal costs to private regulated parties.

**4. *TRR Enforcement Powers - Part 9 of the Act***

A specialist regulator in a technical area such as telecommunications, generally will, and should, be able to investigate and make technical or factual findings and decisions, and to give effect to those decisions by making remedial orders. The remedial orders may involve requiring party to cease engaging in unlawful conduct, and/or to pay a fine. Such decisions and orders also are subject to judicial review.

Under the Telecommunications Licences issued by the Minister, TRR is given powers to make remedial orders for anti-competitive conduct that breaches the Licences, and to impose fines for such breaches, and other breaches, of the Licences. (See, e.g. Paragraph 12.4 & 23 of Digicel's and TVL's Licences).

In contrast, the TRR Act does not provide for TRR to make such remedial orders, or impose fines, for breaches of the TRR Act. Instead, the TRR Act requires that TRR ask the Supreme Court to consider and make any such orders or monetary "penalties".

Such a judicial process would be lengthy and expensive, and may result in significant delay in conduct being determined to be unlawful, and ceasing. This approach also requires the Court, instead of reviewing a TRR decision, to itself make detailed findings and decisions as to technical telecommunications regulatory matters in which TRR has specialist expertise, and

the Court may not. [1]

TRR proposes an amendment to bring the TRR Act into alignment with the usual regulatory practice, (and the Licences) by providing for TRR, subject to judicial review, to make orders to remedial orders or impose fines to address violations of the TRR Act.

TRR's power to impose fines, under the Licences, for breaches of the Licences, also is not sufficient, as the TRR Act contains numerous obligations over and above those in the Licences, and TRR also needs to be able to enforce the TRR Act by appropriate orders or fines. It is inappropriate that TRR have powers to enforce breaches of the Licences (which are supplemental to the TRR Act), and not have powers to enforce the TRR Act itself.

Regulated parties are not unfairly prejudiced by such an amendment to the TRR Act, because they may seek, by judicial review, to stay and invalidate any such orders or fines, and in such a case are protected by a wide-range of defences established by Part 9 of the TRR Act.

This proposed amendment could be implemented, for example, by revising Section 47 of the TRR Act as follows:

*'Penalties And Remedial Orders By The Regulator"*

*(1) "Any penalty provided for under this Act may be imposed by the Regulator, subject to judicial review under Part 10 of this Act"*

*(2) In relation to any breach of this Act, whether a penalty is imposed or not, the Regulator may make remedial orders, including that:*

*a. conduct in breach of this Act cease;*
*b. affirmative steps be taken by a party in breach of this Act to cure or address in whole or in part the effects of the breach;*
*c. periodic reports be provided to TRR; or*
*d. for corrective advertising or a written apology to be made and published in terms determined by TRR.*

*-- by amending Section 48 (1) to state: "The Supreme Court has jurisdiction to enforce any Orders or decisions of TRR whether made under this Act, a regulation or a* licencing

[1] TRR also notes that its Consultation Paper contained some incorrect or confusing commentary relating to TRR's remedial powers for breaches of the Act, as compared to breaches of the Telecommunications Act. TRR regrets any confusion caused by this and confirms that this proposed amendment relates only to TRR's power under the TRR Act to address violations of the TRR Act. It is not related to TRR's powers, under the Licences, to remedy or fine for conduct in breach of those Licences. TRR also believes that the claim in the current litigation that TRR cannot impose a fine for anti-competitive (or other) conduct under the Licence, for breach of the Licences has no merit.

*instrument, including Orders or decisions for the payment of any fine or penalty, or to cease or engage in conduct.*

*--- by amending adding the word "Enforcement" at the start of Section 48(3)..*

TRR also proposes to correct a drafting oversight in the TRR Act, which allows for fines to be imposed generally for breaches of the TRR Act, but inadvertently omits reference to breach of an important obligation of regulated parties, namely the obligation to provide relevant documents and information pursuant to Section 8 of the TRR Act. It is illogical for there to be no fine available under the TRR Act (whether by a Court or TRR), for a breach of this obligation.

TRR therefore proposes that Section 44(1) of the Act be amended to allow for a penalty to be imposed due to a service provider breaching the obligation, in Section 8, to provide relevant documents or information to TRR. This amendment could be accomplished, for example, by adding the words "or Section 8 of the Act, after "Regulation." This amendment needs to be made whether or not Parliament makes the other amendments proposed here to Section 9 of the TRR Act.

***5. Scope of the Act: Section 3 (a) and (b) of the Act: Act to bind the State – Part 1 of the Act***

TRR has given further consideration to this proposed amendment, and concluded that it is not necessary or desirable to modify Section 3 of the TRR Act so that there is no immunity of Government from the application of The TRR Act, regardless whether Government is acting in a sovereign or commercial capacity.

In particular, an exemption of the Government from the anti-competitive conduct, and fees and charges portions of the TRR Act, continues to be appropriate unless the Government is acting in a wholly commercial capacity as a supplier to the public of telecommunications services.

This amendment also is consistent with the purpose stated in The Consultation Paper, namely to not disadvantage private sector service providers if the Government seeks to engage in competition with them.

This proposed amendment could be implemented, for example, by the following type of change to Section 3 of the TRR Act.

*"This Act binds the State and the Government of Vanuatu, except as to:*

*(a) the payment of any fees, charges and levies whatsoever; and*
*(b) the operation of Part 5,*

*The State and the Government of Vanuatu are bond by this Act as to these matters only where, and to the extent that they act as suppliers to the general public (and not merely to Government or Government-affiliated entities) of telecommunications services"*

### *6. Exception versus Licence – Part 3 of the Act*

After assessment of all submissions received, TRR has decided not to seek specific amendments to the TRR Act to clarify the distinction between an Exception and a Licence, or to use a terms different than "Exception."

As TRR has explained to a number of service providers, an Exception does not exempt a service provider from complying with the TRR Act, or other Vanuatu laws (something TRR could not do). Instead, an Exception is a more flexible way for TRR to authorize a party to provide telecommunications services, subject to compliance with the TRR Act, and the other conditions in the Exception. TRR may, for example, wish to issue an "Exception" for a very limited class of services, or for a more limited time period, than for a Licence. As these issues already have been clarified with service providers, amending these parts of the TRR Act are not necessary at this time round.

### *7. Universal Access – Part 4 of the Act*

TRR proposes an amendment that would permit flexibility in providing Universal Access and Services programs, including along the lines of the current "Pay or Play" approach.

These proposed amendments generally received support from commenters, and could, for example, be implemented as follows:

1. *delete add a Sub-section 19(3)(a);*
2. *add a new Subsection before the current Subsections 19(6) and (7), as follows:*

*(6) "The Regulator will during or for each year, implements a Universal Access and or Services programme consistent with the Government's Universal Access and Universal Services Policy. This program may involve a "Pay or Play" approach, in which the Regulator:*

*(a) contracts with one or more service providers to undertake specific universal access and or universal service work such that the service provider is, if it performs its contractual obligations, not liable to pay a UAP for that year, and*

(b) *applies a UAP levy to other service providers in that year, based on their net revenues as a portion of the remaining amount the Regulator considers is needed to fund universal access and or universal services projects in that year.*

***8. Designation of Dominance - Part 5 of the Act, Section 21***

The Act (and the Licences) provides that a "dominant" service provider in a market or markets has additional obligations. Section 21 also allows the Regulator to designate a service provider as dominant in a particular market or markets.

The Definitions in Section 2 of the Act state: "**dominant service provider** means a service provider that currently or for any prior period meets the criteria in Section 21 service provider designated by the Regulator under Section 21 or under the terms of a prior Licence."

These provisions could have the consequence that, unless a service provider has been "designated" in advance as dominant by the Regulator, the service provider has no obligations as a dominant service provider, even if it is in fact dominant.

That would mean that even if a service provider clearly was in a dominant position in a particular market, the Regulator could not, as part of investigating a complaint of anti-competitive conduct, make a finding of dominance and abuse of dominance. In that event, the service provider could, for no valid reason, escape legal liability for unlawful conduct that harms consumer and the industry.

<u>In order to clarify and correct this issue, the Act should be amended to make it clear that a prior designation of dominance is not necessary for a service provider to be found dominant during any particular or past period, or be liable for abuse of dominance, and that TRR, or a Court, may find that prior conduct involved an abuse of dominance, where no such prior designation was made</u>.

This proposed amendment could, for example, be implemented by:

*Changing the definition section of the Act to read: "dominant service provider means a service provider that currently or for any prior period meets the criteria in Section 21, whether or not the Regulator has designated the service provider as dominant, pursuant to Section 21 or under the terms of a prior Licence;" and*

*Changing the first sentence of Section 21(1) to read: "A service provider is dominant within a telecommunications market if:"*

*Deleting the word "designated" from Section 21(2); and*

*Add to the beginning of the current Section 21(3):*

> *"The Regulator also may designate a service provider as dominant in a particular market if the Regulator considers that the criteria as defined in Section 21(1) are met. The Regulator or another party may rely on such a designation of dominance in any determination or other proceeding for abuse of dominance, but such a prior designation is not required for a service provider to be liable for an abuse of dominance, or for TRR to make a determination of dominance or abuse of dominance by a service provider.*

One commenter suggested that this amendment was not necessary, as TRR could, on an ongoing basis, identify all relevant telecommunications markets and maintains updated declarations of any and all dominant service providers. This suggestion is not valid due to the limited resources of TRR, and its many other regulatory responsibilities. TRR also does not believe that it is standard practice for regulators in this region to undertake and complete this onerous and extensive task, or that any Regulator actually has done so. Requiring TRR to do this also would tend to lead to unnecessary collateral disputes or litigation as to "dominance', which would detract from resolution of more important issues of whether anti-competitive conduct occurring that abuses dominance.

### *9. Pre-Approval – Section 24 of Part 5 of the Act*

After assessment of all submissions received, TRR has decided not to seek specific amendments to the TRR Act on this proposal.

### *10. Interconnection – Part 6 of the TRR Act*

TRR is proposing two amendments as to interconnection. One is not a substantive change as it addresses a typographical error.

Part 6 currently provides for TRR to determine interconnection terms and conditions including, pursuant to Section 27, as part of TRR's determination of a Reference Interconnection Offer ("RIO"), or, pursuant to Section 31,[2] when a dispute over interconnection terms is referred to TRR by a service provider.

Section 31 contains a typographical error, namely the reference to TRR determining interconnection terms after a "written notice provided under section 27". The reference to

[2]

Section 27 is incorrect as Section 27 concerns a RIO, which contains interconnection terms already determined by the Regulator. This reference to Section 27 is intended to be to Section 26, which concerns good faith negotiations between service providers over interconnection terms.

The second proposed change to Part 6 relates to the fact that Section does not allow TRR to address interconnection charges that are not cost-based, or are discriminatory or anti-competitive, where those charges are contained in an agreement between one or more dominant service providers. This is an appropriate power for TRR to have, as dominant service providers may agree unduly high interconnection charges that can distort competition or result in excessive prices to consumers.

This proposed amendment could be achieved, for example, by:

(i) *adding to Section 30, after "section 27": "or where the Regulator considers that existing interconnection prices are anti-competitive, do not reflect cost plus a reasonable rate of return, or otherwise contrary to this Act . . . "; and*

(ii) *deleting from Section 31(1) the phrase "within a period of 30 days from the date of receipt of a written notice provided under section 27".*

***11. Tariffs – Part 7***

TRR has considered the various comments received, and concluded that Part 7 should be clarified and simplified in a number of ways that make price regulation more flexible and less onerous to service providers, and assist TRR to efficiently to deal with existing pricing in the marketplace that may be excessive, predatory, anti-competitive, or otherwise contrary to the purposes of the TRR Act.

First, TRR proposes to address the disputes that have existed over the meaning of the term "tariff". Some service providers have claimed that this means a "standard" offered price that may be substantially different from the actual prices charged. This claimed interpretation would allow service providers to not advise TRR of the prices actually charged and largely escape regulation or accountability for the actual prices being excessive or anti-competitive.

TRR therefore seeks an amendment to make it clear that the regulatory powers in the TRR Act relate to the actual prices being charged, not some quoted "standard" price that is or may be different from the actual prices. This proposed amendment could be achieved; for example, would be implemented by:

*" replacing the term "tariff", wherever it appears in the TRR Act, with the terms "prices, rates or charges", and including a definition in Part 2 of the TRR Act stating that " prices, rates or charges" mean the actual prices, rates or charges in effect and being paid, net of any*

*discounts."*

TRR also proposes that service providers have clearer and more limited obligations to "file", that is, report to TRR the prices being charged or offered. In particular, service providers that are not dominant would no longer be required to file pricing with TRR. In addition, as retail pricing often is the subject of extensive variation and change, including special offers and promotions, and involves more diverse service offerings than for wholesale services, dominant retail providers only would be required to file with TRR prices that have been in effect for a continuous period for more than 30 days.

These proposed amendments could be implemented, for example, as follows:

*(i)* *delete Section 33(1), and substitute:*

*(a) "A dominant service provider must file with TRR all prices for retail services that have been in effect for a continuous period of more than 30 days, and must file any such revised or different charges with TRR within 7 Business Days of those prices taking effect,*

*(ii)* *delete Section 33(2) and substitute:*
*"The Regulator may require a dominant service provider to obtain advance approval for pricing of telecommunications services in which event the service provider shall not charge prices unless so approved."*

*(iii)* *Delete Sections 33(3) and 33(4)*

*(iv)* *Section 33(5), delete "The Regulator may dispense with the requirement in subsections (1) and (2) in whole or in part where he or she considers that;" and substitute:*
*"The Regulator will not require prior approval of pricing under this Section where he or she considers that:"*

*(v)* *Section 35, delete and substitute:*

*(vi)* *(a) "A dominant service provider must file with TRR all of its prices for services provided to one or more other service providers, and must file any such revised or different charges with TRR within 7 Business Days of those prices taking effect; and*

*(b) must comply with any orders made by the Regulator in relation to such prices".*

## 12. *TRR Independence and Government Remuneration Tribunal - Part 2 of the Act*

This proposed amendment seeks to resolve an issue that arisen, namely whether TRR is an independent statutory entity whose remuneration is not to be determined or controlled by the Government Remuneration Tribunal under the Government Remuneration Tribunal Act.

Under the definitions set out in The Interpretation Act, the Regulator is a "Statutory Entity," that legally does not form part of the "Executive Government of the Republic of Vanuatu."

TRR's separate and independent status also is referred to in the TRR Act, (Section 7(5)):

> "The Regulator is to have a separate and independent legal personality and may, by and under the name "Telecommunications and Radiocommunications Regulator":
>
> (a) enter into contracts; and
> (b) sue and be sued; and
> (c) employ staff and
> (d) accept, in his or her sole discretion, the secondment of public servants to his or her staff to act under his or her direction; and
> (e) authorise staff to act in his or her name".

The purpose and objective of the GRT Act is to provide for effective use and management of public monies (comprised of appropriated funds or property of the Executive Government of Vanuatu). However, this purpose does not arise in relation to TRR, as its salaries and other operating expenses are not funded by general Government revenues, and are instead funded by external sources, mainly licence fees paid by telecommunications service providers.

The Regulator also does not determine his or her own salary. That is determined, under Section 4 of the TRR Act, by the Minister of Telecommunications as part of and at the time of the Regulator being duly appointed.

<u>TRR proposes an amendment to Section 7 of the TRR Act to confirm that it is an independent statutory entity that is not part of the Executive Government of Vanuatu and not subject to the jurisdiction of the GRT</u>.

The amendment could be implemented, for example, by adding a new subsection to Section 7 of the TRR Act, as follows:

> *"The Regulator and any employed staff are not subject to the jurisdiction of the Government Remuneration Tribunal, but public servants seconded to TRR under Section 7(5)(d) are within the jurisdiction of the Government Remuneration Tribunal".*