

A public consultation document issued by the
Telecommunications Regulatory Authority of the
Kingdom of Bahrain

Criteria for Fit and Proper Person Test

18 June 2023

Ref: LAD/0623/021

The post address for responses to this document is:

Telecommunications Regulatory Authority

Building No. 852, Road No. 3618, Seef 436

PO Box 10353, Manama, Kingdom of Bahrain

Or alternatively, e-mail responses should be sent to the Authority's

email address at licensing@tra.org.bh

The deadline for submission of all responses is 16 July 2023

Section 1: Invitation to the public consultation

1.1. Request for comments

1. The Telecommunications Regulatory Authority (the 'Authority') invites all interested parties to submit their written comments with regard to the matters addressed in this public consultation document (the 'Consultation').
2. The Authority invites respondents to provide responses to each of the questions set out in Annex 1 of this Consultation and to substantiate the responses by providing appropriate reasoning and factual evidence, wherever applicable.
3. Any response submitted without substantiation may not be considered. In case of disagreement with one of the approaches proposed by the Authority, the respondent is invited to provide an alternative to such approach together with a detailed justification.
4. Responses should be sent directly to the Authority preferably by email at licensing@tra.org.bh or by post to the following address:

Telecommunications Regulatory Authority
Building No. 852, Road No. 3618, Seef 436
P.O. Box 10353,
Manama Kingdom of Bahrain

Submitted responses should include:

- a. the name of the company/institution/association etc.
 - b. the name of the principal contact person;
 - c. full contact details (physical address, telephone number and e-mail address);
and
 - d. in the case of responses from individual consumers, name and contact details.
5. In the interest of transparency, the Authority intends to make all submissions received available to the public. The Authority will evaluate a request for confidentiality in line with relevant legal provisions and the Authority's published guidance on the treatment of confidential and non-confidential information¹.
 6. Therefore, respondents are required to clearly mark any information included in their submission, which is considered confidential. Where such confidential information is included, respondents are required to provide both a confidential and a non-confidential version of their submission. If the submission is marked confidential in its entirety, the reasons for this should be provided. The Authority may publish, or refrain from publishing, any document or submission at its sole discretion.

¹The Authority, "A Guidance Paper issued by the Telecommunications Regulatory Authority on its treatment of Confidential and Non-Confidential Information: Guidance Paper No.2 of 2007, 10 September 2007 [Microsoft Word - Confidentiality Guidelines Final.doc \(amazonaws.com\)](#)

1.2. The way forward

7. This Consultation is open to public comments.
8. All relevant (substantiated) comments will be reviewed, and the Authority may, at its sole discretion, integrate those acceptable to it in the finalized version of the Criteria for Fit and Proper Person Test (“FPPT”). Therefore, the Authority will not be bound to comply with any comment or opinion received and may not respond to comments or opinions individually.
9. Once the Authority has received and reviewed all the comments raised by the respondents, it will issue a Consultation Report together with the final FPPT.
10. For further clarification concerning this specific consultation process, interested parties are invited to contact the Authority via email at licensing@tra.org.bh
11. The capitalized terms used throughout this document shall have the same meaning attributed to them by the Law.

Section 2: Introduction to the public consultation

1. This section is intended to provide a background to the Consultation and a brief overview of the main purpose set out in the FPPT.

2.1 Background

2. This document is issued by the Telecommunications Regulatory Authority (“the Authority”) of the Kingdom of Bahrain pursuant to Article 3(c)(1) of Legislative Decree No. 48 of 2002 promulgating the Telecommunications Law (“the Telecommunications Law”). The Fit and Proper Person Test will form part of the Licensing Guidelines that the Authority intends to consult on and publish in due course.
3. Article 29(c) of the Telecommunications Law requires the Authority, before giving a final decision with respect to all applications for Individual Licences, to ensure that the applicant has satisfied the conditions provided for in the Telecommunications Law and any other laws, regulations and resolutions issued in implementation of the provisions of the Telecommunications Law.
4. Article 29(c)(2) requires, among other things, that the Licence applicant meets those criteria that may be determined by the Authority from time to time.
5. Article 32(b) of the Telecommunications Law sets out that a Class Licence shall be granted to the applicant if such applicant meets the conditions issued and published by the Authority from time to time concerning such types of Licences.
6. The present public consultation provides an opportunity for all interested parties to contribute to the effort of the Authority to the introduction to the FPPT. Therefore, the Authority is seeking the views of all respondents in relation to the proposed draft FPPT.

Legal disclaimer

1. This Consultation is without prejudice to the legal position or the rights and duties of the Authority to regulate the provision of telecommunications services. Any views expressed in this document are not binding on the Authority and are without prejudice to the final form and content of any decisions the Authority may make.
2. This Consultation including the proposed FPPT Criteria is not a substitute for any regulation or law and does not constitute legal advice. Inappropriate reliance ought to not therefore be placed on the contents of this document.
3. The FPPT will be kept under review and amended as appropriate in the light of further experience and developing law and practice and any change to the Authority's powers and responsibilities.

Article 1

Definitions

For the purpose of these Criteria, any word or expression shall have the meaning given to it in the Telecommunications Law. Unless the context otherwise requires, the following terms or expressions shall have the meanings set out below:

Director: means a person who acts in the capacity of a director of a Licence applicant or Licensee (whether appointed or not, or whether titled director or not);

Criteria: means the criteria mentioned in Article 5.1 of this document that shall be considered by the Authority in carrying out the Fit and Proper Person Test;

Fit and Proper Person: means the person specified in Article 4.1 of this document who is reliable, competent and financially sound;

Fit and Proper Person Test: means the test adopted by the Authority to determine whether the person specified in Article 4.1 in this document is a Fit and Proper Person;

Fit and Proper Person Test Application Form: means the form that Licensees must submit to the Authority pursuant to Article 3.4.

Juristic Entity: a commercial company incorporated in the Kingdom of Bahrain shall take one of the following forms:

1. Public Shareholding Company (B.S.C), with the minimum share capital requirement of BHD 1,000,000;
2. Closed Joint Stock Company (B.S.C (Closed)), with the minimum share capital requirement of BHD 250,000;
3. Joint Liability Company, with the minimum share capital requirement of BHD 20,000;
4. Limited Partnership Company, with no minimum share capital;
5. Limited by Shares Company, with no minimum share capital; and
6. With Limited Liability (W.L.L), with no minimum share capital requirement.

The specified minimum share capital is that required by the Ministry of Industry and Commerce. The Authority may require a different minimum share capital as further discussed in paragraph 5.2 below.

Qualified Shareholder: means any person who controls, directly or indirectly, not less than 20% of the paid-up share capital in a Juristic Entity.

Article 2

Objective

- 2.1** The objectives of these Criteria are to:
- a.** Establish a Fit and Proper Person Test, which needs to be satisfied by all Licence applicants and all Licensees, prior to the grant of a Licence and the renewal of the said Licence.
 - b.** Provide the Authority with the assurance that the Licence applicant has sufficient resources, skills and expertise in the field of the subject matter of the Licence application and the application for the Licence renewal.

Article 3

Applicability

- 3.1** These Criteria apply to all Licence applicants and all existing Licensees.
- 3.2** The Authority shall exercise its discretion on whether to grant or renew any Licence, having regard to all relevant considerations in each individual case, including but not limited to, the Criteria stipulated in this document and any other conditions specified in the Telecommunications Law.
- 3.3** For the avoidance of doubt, the Authority will not grant or renew a Licence unless it is fully satisfied that any person referred to in Article 4.1 is a Fit and Proper Person to act in any capacity mentioned therein.
- 3.4** Licence applicants shall together with any licence applications submit a duly filled in Fit and Proper Person Test Application Form (attached to this document and marked as Annex 2).

Article 4

Persons Subject to the Fit and Proper Person Test

- 4.1** When the Authority is satisfied that:
- a.** The natural person(s) who exercises executive control over the daily or regular affairs of the legal entity through a senior management position, such as a chief executive officer (CEO), chief financial officer (CFO), managing or executive director, or president; or
 - b.** The natural person(s) responsible for strategic decision that fundamentally affect the business practices or general direction of the legal entity. This includes members of the legal entity's board of directors; or
 - c.** any person who is a Qualified Shareholder of a Licensee or Licence applicant

is not a Fit and Proper Person(s) to act in any capacity mentioned in paragraphs (a) or (b) above or that the holding by such person or persons of a Licence of any said capacity may pose a threat to public trust, public security or public order, the Authority will not grant or renew any Licence.

Where the Qualified shareholders of the licence applicant or licensee are an entity, then the Authority will consider if the individuals owning that entity are Fit and Proper.

Article 5

Criteria

- 5.1** In assessing whether a person is a Fit and Proper Person to hold any Licence or to act in any capacity mentioned in Article 4, the Authority shall consider the following non-exhaustive list of Criteria and in particular whether the person:
- a.** has been refused or restricted in his or her right to carry on any trade, business or profession for which a licence, commercial registration or other authorisation is required by law in any jurisdiction;
 - b.** has been the subject of an investigation by the Authority that has led the Authority to conclude that the person was involved in any practice that prevented or reduced or distorted competition in the telecommunications market in the Kingdom;
 - c.** has been prohibited from providing telecommunications services by any telecommunications regulatory authority in any jurisdiction;
 - d.** has been convicted of any criminal offence in any jurisdiction;
 - e.** has not complied with the lawful orders of the Authority;
 - f.** has provided false or misleading information to the Authority;
 - g.** has been or is a Director or a Qualified Shareholder of a Juristic Entity that has had its Licence(s) revoked by the Authority or any telecommunications regulatory authority in any jurisdiction;
 - h.** has been or is a Director or Qualified Shareholder of a Juristic Entity that has gone into insolvency, liquidation or administration during the period they were Director or Qualified Shareholder of the Juristic Entity;
 - i.** has been or is disqualified from acting as a Director or disqualified from acting in any managerial capacity, whether in the Kingdom or elsewhere;
 - j.** has been penalised for any misconduct described under the Commercial Companies Law of the Kingdom of Bahrain;
 - k.** has personal integrity, good conduct and a sound reputation;
 - l.** has satisfactory educational qualification and the necessary skills, knowledge and competence to fulfil the obligations and responsibilities associated with the Licence;
 - m.** has sufficient experience in the Telecommunications field to fulfil the obligations and responsibilities associated with the Licence in accordance with any criteria that may be published by the Authority from time to time;

- n. has entered into a compromise or scheme of agreement with his or her creditors or made an assignment for the benefit of his or her creditors, whether in the Kingdom or elsewhere;
- o. is or has been subject to a final court judgment related to a financial debt, whether in the Kingdom or elsewhere;
- p. is or has been the subject of bankruptcy proceedings, whether in the Kingdom or elsewhere unless a period of 10 years has passed, during which the person has been able to meet all his/her financial obligations; and
- q. is financially sound.

Provided that where a person is subject to pending proceedings of disciplinary or criminal nature then the Authority may postpone its decision on the application until after the proceedings have concluded.

- 5.2** In assessing the list prescribed in Article 5, the TRA will take into account the criteria contained in point 5.1.(p). The TRA reviews each application on a case-by-case basis, taking into account all relevant circumstances.
- 5.3** Without prejudice to the foregoing, any applicant for the grant of a Licence or for the renewal of a Licence shall ensure that it has a paid-up share capital that is sufficient and commensurate with the services it seeks to provide and the activities it seeks to undertake.

Article 6

Request for Information

- 6.1** The Fit and Proper Person Test Application Form is required to be submitted along with the Licence Application Form and/or the renewal request.
- 6.2** The Authority shall review the Fit and Proper Person Test Application Form as soon as reasonably practical and in any event no later than thirty (30) calendar days following the receipt of a duly completed Fit and Proper Person Test Application Form and all relevant information.
- 6.3** The Authority may, for the purposes of ascertaining whether any person referred to in Article 4 is a Fit and Proper Person to act in any capacity mentioned therein, require within such time as it may consider reasonable in the circumstances, such information as the Authority may deem appropriate from the licence applicant or the Licensee at any time for the purposes of ensuring compliance with this document.

Article 7

Refusal of Licence Application

- 7.1** Failure by any person to meet one or more of the Criteria stipulated in Article 5 may lead to a refusal of a Licence application.

Annex 1

- Q1. Do you agree with the criteria apply to all Licence applicant and all existing Licensees in the proposed FPPT? If not, please present your argument as to why, along with your recommendation.
- Q2. Do you agree with the scope of the persons covered by the proposed FPPT? Do you have any other suggestion with regards to persons subject to FPPT to hold any Licence or to act in any capacity and are not addressed on Article 4?
- Q3. Do you have any other comments in relation to the list of Criteria mentioned on Article 5?
- Q4. Do you agree with the proposed Fit and Proper Person Test Application Form in setting the Criteria for the Grant or Renewal of Telecommunications Licences? If not, please present your argument as to why, along with your recommendation.
- Q5. Do you have any other comments in relation to FPPT.

Annex 2



Telecommunications Regulatory Authority of the
Kingdom of Bahrain
Fit and Proper Person Test Application Form

INSTRUCTIONS

1. This Application Form (“**the Application**”) should be completed by referring to the Criteria for the Grant or Renewal of Telecommunications Licences (“**the Criteria**”). The Criteria that the Authority will consider in assessing a Fit and Proper Person are found in Article 5 of the main document.
2. The Shareholder / Director / CEO should satisfy themselves that they meet the Criteria before submitting an Application.
3. This form contains the principal elements that are required but should the Shareholder / Director / CEO wish to submit additional information in support of their Application, then that information should be attached to this Application. It should not be assumed that information is known to the TRA merely because it is in the public domain or has previously been disclosed to the TRA or any other regulatory body.
4. The Shareholder / Director / CEO is expected to complete all sections as fully as possible, attaching supporting documentation and continuation sheets where appropriate. The Application should be written in black or blue ink in BLOCK CAPITALS or typed. It must be signed by the Shareholder / Director / CEO in a color other than black.
5. Failure to provide all the required information may result in significant delays in processing. The TRA does not accept responsibility for any loss caused to the Shareholder / Director / CEO by any delay.
6. All documentation provided to the TRA must be either in Arabic or in English.
7. The Application must be accompanied by certified copies of original identification documents which contain a photograph of the concerned Shareholder / Director / CEO, the Shareholder / Director / CEO’s full name and details of the date of birth. These would include any passport and/or identity card from the home country of the Shareholder / Director / CEO.
8. If any question is not applicable given your particular circumstances, please clearly indicate by marking ‘N/A’, with an explanation as to why it does not apply. Please note that failure to provide the required may prejudice an Application and may cause delays.

DECLARATION

I declare that the information in this Application is accurate and complete to the best of my knowledge and belief and that there are no other facts relevant to this Application of which the Telecommunications Regulatory Authority (“**the TRA**” or “**the Authority**”) should be aware of.

I understand that if any of the information provided in this Application is found to be false or misleading or inaccurate in a material way then the licence may be revoked at the Authority’s sole discretion. The provision of false information may constitute a crime.

I authorise the TRA to make such enquiries and seek further information it deems necessary in considering this Application.

I undertake to inform the TRA of any changes material to the Application which arise while the TRA is considering this form. I further undertake that, in the event that approval is granted, I will notify the TRA of any material changes to or affecting the completeness or accuracy of the information provided in the Application as soon as possible, but in any event no later than 21 days from the day that the changes come to my attention.

Shareholder / Director / CEO’s Name	_____
Shareholder / Director / CEO’s Signature	_____
Date	_____

CONTACT INFORMATION

Please provide full contact details of the Shareholder / Director / CEO and an authorised representative of the Licensed Operator (e.g. Board member or senior management) or of the person seeking a licence with whom the TRA can communicate with, regarding this Application/notification.

Authorised Representative of the Licensee/ Licence Applicant

Name*: _____

Title*: _____

Telephone*: _____

E-mail*: _____

SECTION I – SHAREHOLDER / DIRECTOR / CEO DETAILS

1. Name(s) of the Licensee(s) in respect of which this Application is being made:

2. Name of the Shareholder / Director / CEO:

First Name(s): _____ Last Name(s): _____

3. Has the Shareholder / Director / CEO had any previous name(s) which he or she were known by?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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If yes, please specify: _____

4. Date and Place of Birth:

Date: ___ / ___ / _____ Place: _____
dd mm yyyy City, Country

5. Shareholder / Director / CEO's Nationality: _____

6. Shareholder / Director / CEO's Current Address: _____

7. Smart ID Card (CPR); Passport Number; National Insurance Number and/or Social Security Number and Country of Issue

ID Card (CPR) Number: _____ Date of expiry: ___ / ___ / _____
dd mm yyyy

Country of Issue: _____

8. Passport Information

Passport Number: _____ Place of Issue: _____

Date of issue: ___ / ___ / _____ Date of expiry: ___ / ___ / _____
dd mm yyyy dd mm yyyy

9. Please attach a certified copy of your passport, Smart ID Card (CPR) and driving licence.

The individual submitting this Application must include clear contact details.

Attached:	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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SECTION II – QUALIFICATIONS AND EXPERIENCE

1. Please provide details of any professional qualifications, the year and place in which these were obtained.

Professional Qualification	Year Obtained

2. Please provide details of any experience that you believe will be relevant for the purpose of TRA's consideration:

Employment period	Name of Employer ¹	Address	Nature of Business	Position

3. Please provide details of any body corporate of which you are currently a director, financial controller, or company secretary or other, and the countries in which you are registered.

Name of Corporate Body	Position Held	Country of Registration
	<input type="checkbox"/> Executive Director <input type="checkbox"/> Non-Executive Director <input type="checkbox"/> Financial Controller <input type="checkbox"/> Company Secretary <input type="checkbox"/> Other – (Kindly identify the position)	

If additional corporate positions are held, please complete an additional sheet.

¹ If self-employed, mark as self-employed.

SECTION III – PERSONAL BACKGROUND

1. List the name of companies or businesses that the Shareholder owns 20% or more.

Name of Business	Address	Telephone Number	Nature of Business	Country of Incorporation

If additional businesses qualify, please complete an additional sheet.

2. Details of any outstanding litigation and/or any current proceedings against the Shareholder / Director / CEO relevant to Article 5 of the Criteria.

3. Details of any judgment against the Shareholder / Director / CEO relevant to Article 5 of the Criteria.

4. Has the Shareholder / Director / CEO, or any body corporate or partnership to which the Shareholder / Director / CEO has, or has been associated with as a director, financial controller, or company secretary, ever applied to any regulatory authority in any jurisdiction for a licence or other authority to carry on insurance activity.

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please list all licence application forms showing whether they have been successful or unsuccessful.

SECTION III – PERSONAL BACKGROUND (CONTINUED)

5. Has the Shareholder / Director / CEO at any time been convicted of any offence by any court, including civil or military (excluding any minor traffic offence(s))?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the court by which the Shareholder / Director / CEO was convicted, the offence and the penalty imposed and the date of conviction.

6. Has the Shareholder / Director / CEO ever been censured, disciplined, or publicly criticized by any court of law or by any officially appointed enquiry whether in the Kingdom of Bahrain or elsewhere or by any professional body or trade association to which the Shareholder / Director / CEO has belonged or been the subject of a regulatory order?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place and the party having taken this action.

7. Has the Shareholder / Director / CEO, or any body corporate or partnership to which the Shareholder / Director / CEO has, or has been associated with as a director, financial controller or company secretary been the subject of an investigation by a governmental, professional or other regulatory body?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place and the party having taken this action.

SECTION III – PERSONAL BACKGROUND (CONTINUED)

8. Has the Shareholder / Director / CEO been dismissed from any office or employment or barred from entry to any profession or occupation?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place.

9. Has the Shareholder / Director / CEO ever been disqualified from acting as a director of a company or from acting in the management or conduct or the affairs of any company or partnership?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place.

10. Has the Shareholder / Director / CEO been adjudged bankrupt by a court?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place.

11. Has the Shareholder / Director / CEO ever at any time been declared bankrupt and/or have any money judgments been made against the Shareholder / Director / CEO which have not been satisfied in full?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place.

SECTION III – PERSONAL BACKGROUND (CONTINUED)

12. Has the Shareholder / Director / CEO, in connection with the formation or management of any body corporate or partnership been adjudged by a court civilly liable for any fraud, misfeasance or other misconduct by the Shareholder / Director / CEO towards such a body or company or toward any members thereof?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place.

13. Has any body corporate or partnership with which the Shareholder / Director / CEO is or was associated as a director, financial controller, partner or company secretary been compulsorily wound up or made a compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while the Shareholder / Director / CEO was associated with it or within one year after the Shareholder / Director / CEO ceased to be associated with?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the action taken, where and when it took place.

14. Has the Shareholder / Director / CEO ever been a director, partner or manager of a corporation which has been liquidated or under administration?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the situation, including where and when it took place.

(Please note that if deemed necessary the TRA may request the Shareholder / Director / CEO to provide a 'Good Conduct Certificate').

SECTION III – PERSONAL BACKGROUND (CONTINUED)

15. Has the Shareholder / Director / CEO been prohibited from providing telecommunications services by any telecommunications regulatory authority or any other regulated industry (e.g. banking or insurance) in any jurisdictions?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the situation, including where and when it took place.

16. Has the Shareholder / Director / CEO been or is a Shareholder / Director or CEO of a Juristic Entity that has had their Licence(s) revoked by the Authority or any telecommunications regulatory authority in any jurisdiction?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please give full particulars of the situation, including where and when it took place.

17. Does the Shareholder / Director / CEO have sufficient experience in the Telecommunications field to fulfil the obligations and responsibilities associated with the Licence in accordance with any criteria that may be published by the Authority from time to time?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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