



Telecommunications Authority of Fiji

Industry Consultation on Licensing Regulations and Operator Licences – Response Report

A Report to the TAF Board and CEO recommending
Responses to Comments received in the Industry Consultation

Author: **Jim Holmes**, Director Incyte Consulting and ITU Expert



10 June 2011

1. Introduction

Following an Industry Workshop on Licensing Regulations and Operator Licences held in Suva on 31st March 2011, the draft Licensing Regulations were made subject to Industry Consultation.

The Industry Consultation was initially set to be completed by 12th May 2011. The deadline was extended by the CEO of TAF at the request of one of the operators to allow an extended opportunity for that operator's lawyers to examine and comment on its submission. The extension was therefore intended to improve the range and quality of submissions available to the TAF.

In the event submissions were received from the following industry stakeholders:

- Digicel (Fiji) Limited ("Digicel")
- Vodafone Fiji Limited ("Vodafone")
- FINTEL

2. Purpose of this Report

The report sets out the main comments received from each of the three stakeholders listed together with the response and action that the Expert recommends TAF should adopt in each case. The reason for the recommended response / action is stated in each case.

There is no requirement that the Response Report should be published. However publication of the report on the TAF's website is desirable in the interests of transparency and should be considered. The submissions received the three stakeholders might also be published for the same reason, after clearance with the stakeholder that they do not contain information that is considered to be commercially confidential and the publication of which would harm the commercial interests of the stakeholder.

3. Structure of this Report

Section 4 of the Report sets out the general comments in each of the submissions and, to the extent that they are not later addressed in relation to specific clauses of the Draft Licensing Regulations, a response is provided for each comment.

Specific comments on the clauses of the Draft Licensing Regulations are set out in section number order for convenience – in Section 5 of the report.

4. General comments and responses

Subject Matter	Submission Reference	Comment	Response	Action
1. Operating without a valid Licence	Digicel, p.1 para 5; also at pp. 10-11, paras 45-46	“During our meeting with TAF, it was mentioned that currently only two companies have valid licences in Fiji and all others are operating without a licence and/or their licences have expired. Digicel was confirmed as operating under a valid licence. Digicel is concerned that other entities do not hold valid licences. Such entities should be penalized and forced to comply with the Telecommunications Promulgation 2008.”	Noted. These specific matters – the collection of licence fees that have not been paid in the past, and taking action on unlicensed operations are complex matters and beyond the scope of this specific study into the development of Licensing Regulations and processes for the future. The reasons for the situation that is referred to were not discussed at the workshop and may not be as assumed by Digicel.	This matter is being pursued as a separate issue by the TAF. No action in this project.
2. Investment and licensing	Digicel, pp.2-3, paras 11-15	Digicel makes a general argument that “only service providers that have committed to invest significantly in Fiji should be licensed to provide telecommunications services at this time. In a nutshell, it is simply good social and economic planning.”	Apart from the enormous and virtually insurmountable practical difficulties of determining what adequate investment is, this proposal does not reflect the considered policy of the Government. The policy recognises the important contribution of facilities-based and service-based operators to the development of the sector in Fiji, and also recognises, through a single type of operator licences, that in one market an operator may be a facilities provider and in another be service-based. The individual operator and the market will determine outcomes. If those outcomes do not generate the social	No further action

Subject Matter	Submission Reference	Comment	Response	Action
3. Relative fee levels	FINTEL, email 2 May 2011, para (a)	FINTEL comments: “We propose that TAF should review the way License Fees are being levied in view of some telcos (service providers, value added service providers) having to pay less License fees than network service providers when they are almost targeting to offer similar products/services. The disadvantage for network provider is that they take time to recover heavy infrastructure investment costs while on the other hand the value added service provider does not have to pay much as they operate out of suitcase (as technology has dictated).”	<p>and economic benefits that are expected, there is always the possibility of policy and regulatory adjustment after proper review.</p> <p>TAF understands the point being made. TAF has, in the course of this review considered the arrangements that need to apply with a single type (unified) licence arrangement. In that arrangement it is appropriate for the fee scale to be applied on a common basis without regard to the infrastructure-based or service-based business model, and without regard to the types of service being offered. Consequently there will be a common fee scale for recovery of TAF and Tribunal costs and a separate scale reflecting Government policy in relation to nominated large telecommunications operators. In relation to the fees for cost recovery, there will be no differentiation of the kind that concerns FINTEL. Additional fees will reflect broader Government policy for the sector.</p>	Amend the draft Licensing Regulations accordingly

5. Specific Comments on the Draft Licensing Regulations and Responses

Section Reference and Subject	Submission Reference	Comment	Response	Action
1. Section 1(1) Interpretation	Vodafone, p. 2	<p>Vodafone recommends that “certain terms that are used in the Regulations are defined in the Promulgation”, including ‘annual gross revenue’ and ‘service provider’.</p> <p>In addition, the definition of ‘general condition’ should be rephrased to refer to ‘general licence condition’, to match the use of that term later in the regulations. Vodafone suggests that the definition of ‘general licence condition’ should make reference to the conditions in Section 9 of the Regulations.</p>	TAF agrees.	Amend the draft Licensing Regulations accordingly
Section 3(2): Licence coverage	Vodafone, p.2	Vodafone suggests that “this clause should be amended to make it clear that the licence not only authorises all or any telecommunications services that the licensee may currently provide, but that it also authorises all or any telecommunications services that the licensee may provide in the future.” No additional authorisation would be required.	TAF agrees that this addition would make its intention even clearer.	Amend the draft Licensing Regulations accordingly
1. Section 3(3): Unified licence	Digicel, p.1 para 6	Digicel supports a unified (or single) licence arrangements, subject to its more	The point being made is generally accepted. The issue is not the point of	Amend the draft Licensing

Section Reference and Subject	Submission Reference	Comment	Response	Action
regime	Vodafone, p.2	<p>detailed comments later in its submission, and subject to resellers that modify, repackage or rebrand the telecommunications services of a licensee being required to hold a telecoms licence.</p> <p>Vodafone suggests that the introduction to section 3(3)(d) should be changed from “a licensee whose services are subject to resale shall...” to “a licensee whose telecommunications are resold by another service provider shall...”</p>	<p>requiring all telecommunications service providers to be licensed but how best to describe the exemptions – such as hotels who effectively resell services as an adjunct to their main businesses.</p> <p>TAF agrees, but will consider how this provision survives the review referred to in the response above.</p>	Regulations accordingly
2. Part 2: General and special conditions	Digicel, p.2, para 6 continued	“..it must be stressed in Part 2 for the avoidance of any doubt that while a single type of licence may allow eligible persons to make provide all or any telecommunications services in Fiji, the provision of such services is still subject to general and special conditions.”	This point is correct. It would be useful to avoid doubt in the manner suggested.	Amend the draft Licensing Regulations accordingly
3. Part 3: Qualified and experienced applicants only	Digicel, p.2, para 7	Digicel comments that the “the first preventative step [to avoid network failures] is to ensure that only telecommunications network operators and services providers with the requisite technical and commercial experience, as well as financial means, are permitted to be licensed in Fiji.”	TAF considers that the role of the regulator is to establish standards for network operations with which operators must comply. It is a matter for the licensed operator to employ competent people needed to operate the network and provide related services. It is inappropriate that the Regulator should go beyond that and specify personnel	The provision will be further reviewed but not to specify criteria of the kind envisaged in this comment.

Section Reference and Subject	Submission Reference	Comment	Response	Action
4. Part 3, section 5: Eligible Person	Digicel, p.2, paras 8 and 9	Digicel comments that “such technical and commercial experience, as well such financial means, should be included in the definition of an <i>eligible person</i> at section 5 of the draft Regulations.”	(and financial) tests and thresholds that the operator must meet. This would constitute a level of intrusion into the operations of a licensee that is not justified in a liberalised market. The proposal is not practical, because compliance could not be satisfactorily assessed.	No further action
	Vodafone, p.3	Vodafone suggests that “in relation to the eligibility of a partnership, at least one of the partners should be a <i>natural</i> person of at least 18 years of age” to ensure consistency with the eligibility of a natural person.	TAF agrees	Amend the draft Licensing Regulations accordingly
	Vodafone, p.3	Vodafone suggests that educational institutions may not be eligible for a licence (unless government owned) and that this could be important for broadband policies of the future.	TAF agrees. Other forms of association and incorporation than those listed will be considered and added.	Amend the draft Licensing Regulations accordingly
5. Part 3: Eligible Person	Digicel, p.2, para 10	Digicel comments that “given their transient nature, all service providers – as distinct from infrastructure providers - should be required to provide a performance bond of at least FJD 4 million to the Government to ensure their long-term commitment to Fiji. Long-term	This proposal would drive smaller operators from the market and would result in an effective reduction in the level of competition. In a competitive market it is to be expected that there will be entry and exit from the market. Imposing a bond will not necessarily	No further action

Section Reference and Subject	Submission Reference	Comment	Response	Action
6. Part 3: Eligible Persons – Service providers	Digicel, pp.2-3, paras 11-15	<p>should be at least 10 years from the grant of their licences. Infrastructure providers are already committed to Fiji as a result of their hugely costly sunk assets in Fiji. “</p> <p>Digicel argues the general case for promoting infrastructure based entrants and for preventing service based operators from entering the market. Digicel argues that only infrastructure based operators should be allowed at this stage of development because investment is needed. Digicel repeats the claim that service based operators have only short term commercial objectives and make no social or economic contribution. Digicel claims that prices may go up as a result of service based operators in the long term.</p>	<p>prevent exit, but it will certainly prevent entry.</p> <p>Digicel is making a general argument that is not supported by credible evidence and which is not compelling at all. In particular Digicel does not support its claims that service based operators are short term, make no contribution to the economy or the industry, and add to the risk of under-investment. Experience in Fiji and many other countries suggests otherwise and that experience has not been reviewed by Digicel.</p>	No further action
7. Section 6: Matters relevant to Grant of Licence	Digicel, p.3, para 16	Digicel comments that the discretion reserved to TAF should be more explicit, and is principally concerned with the past behaviour of the applicant. Digicel suggests that the discretion should not be limited to past behaviour in Fiji.	TAF agrees with this comment – on both counts. The discretion will be linked to the principle of matters affecting the ability to operate as a licensee and to provide continuing service to consumers. Past behaviour anywhere in the telecoms sector may be considered by TAF in relation to accepting an application.	Amend the draft Licensing Regulations accordingly

Section Reference and Subject	Submission Reference	Comment	Response	Action
Section 7(1): Process of Licence Applications	Vodafone, p.3	Vodafone considers that past convictions should be clarified to relate to both the applicant organisation (where incorporated) and the owners and directors of that organisation. Circumvention through establishing a new corporate entity is the problem Vodafone's comment is addressing.	TAF agrees	Amend the draft Licensing Regulations accordingly
	Vodafone, p.3	Vodafone considers that the references to the powers under Sections 19 and 18 of the Promulgation are inappropriate and should be removed.	The TAF has reviewed the draft provision and considers that it serves no purpose.	Delete draft section 7(1)
	Vodafone, p. 3	Vodafone proposes that a substitute section be included in lieu of the current 7(1) on administrative procedures such as written acknowledgement of receipt of an application, etc.	<p>There is an issue about the extent to which the Regulations should be filled with administrative procedures. In addition, the new content is in no sense a replacement for or in the same area as the deleted content.</p> <p>TAF will set out some essential administrative procedures, but these may not take the place of a comprehensive guide on the matter.</p>	Amend the draft Licensing Regulations accordingly
8. Part 4: Licence Conditions	Vodafone, p. 4	Vodafone comments that there needs to be authority for the TAF to create a distinction between general and special conditions. Actually in a later note on the	TAF agrees that it is desirable to establish a clearer basis of authority, but not that the distinction be removed. The idea of special conditions applicable in	Amend the draft Licensing Regulations accordingly

Section Reference and Subject	Submission Reference	Comment	Response	Action
	Vodafone, p.4	<p>same page Vodafone suggests that the distinction between special and general conditions should be removed.</p> <p>Vodafone contends that Part 4 of the Promulgation does not give the TAF power to make a conditional grant of an application for a licence at the time it grants a licence (section 34 referred to) and further that it may only specify conditions when deciding whether or not to renew. (Section 35(3) is referred to.)</p> <p>Vodafone goes on to comment that once the regulations are finalised and licences issues pursuant to it that modifications to conditions would need to be via the formal determination process under section 18 of the Promulgation</p>	<p>particular circumstances that have no general application is an important one for licensing and should be preserved.</p> <p>TAF disagrees with this interpretation of the plain words of section 34(1), especially para (b). It would be a nonsense to enable conditions to be added on renewal but not on initial grant of a licence. The Part does contain limitations on the exercise of powers but does not have the effect contended.</p> <p>The appropriate process will be determined when and if the need for a medication arises. TAF is able to review the Regulations as required from time to time, however. There is no need to determine appropriate methods of modification in this consultation process.</p>	No further action.
	Digicel, pp.3-4, para 17	<p>Digicel comments that the single type of licence should not include an automatic right to provide public cellular mobile telecoms services. Digicel proposes that this right be carved out of the licence. Digicel is concerned that there will be no-cost entry leading to loss of revenues for the Government, and loss of asset values</p>	<p>The regulations do not deal with spectrum without which any new entrant into the market who wishes to provide mobile services would be operating as an MVNO. FINTEL already has the option of being an MVNO. This arrangement will not have the consequences referred to.</p>	No further action

Section Reference and Subject	Submission Reference	Comment	Response	Action
9. Part 5, Section 12: Annual Charges for Licence Fees	Vodafone, p.4 – item (c)	<p>held by current mobile operators.</p> <p>Vodafone suggests that TAF should refrain from seeking to modify those licence conditions or imposing general or special licence conditions in the future.</p>	<p>TAF is seeking to establish stable conditions that are not going to be frequently changed. Presumably stability of licence conditions is what the comment is based on. TAF cannot resolve to not change licence conditions in the future because it has a duty to exercise its powers when and if appropriate. It is not for TAF to decide in advance not to exercise its powers when it is appropriate to do so.</p>	<p>No further action.</p>
	Digicel, p.5, paras 22-23	<p>Digicel comments: “Section 12 of the draft Regulations set a maximum and minimum level the annual licence fee of a licensee. Although section 12 makes reference to a percentage in Part 2 of Schedule 2, this percentage is not determined in the current draft. We understand, however, that Mr. Holmes at the Public Consultation Workshop on 31 March indicated that this percentage is likely to be “around 1.5% ex VAT”.”</p> <p>Digicel continues in para 23 of its submission to say that: “Annual licence fees at the levels suggested we understand by Mr. Holmes would be contrary to the</p>	<p>By way of correction, the current draft of the Licensing Regulations has no percentage. At the 31 March Workshop Mr Holmes merely noted that the previously circulated drafts had a figure of 1.5%. He did not predict how that might change, if at all. He said he had no further information on that matter.</p> <p>Mr Holmes did not make the suggestion or forecast. However the discussion proceeded on the basis that the default licence arrangement being considered</p>	<p>No further action.</p>

Section Reference and Subject	Submission Reference	Comment	Response	Action
10. Part 5, Section 12: Annual Charges for Licence Fees	Digicel, pp.5-7, paras 24-33	legitimate expectations upon which we bid and paid so dearly for our licence in Fiji.” Digicel argues that the fee arrangements in the Licensing Regulation will need to be consistent with the Telecommunications Promulgation 2008. Digicel further argues that the Section 24 of the Promulgation requires fees and charges to be set to cover the budgeted costs of the Tribunal and TAF for the following year, as set out in its business plan.	would be a percentage of revenue – a consistent approach for a single type licence. Digicel’s analysis of the Promulgation is noted. This matter is now with the Government to determine if changes are required to the Promulgation to make its intentions in this matter clearer and to establish appropriate authority for its licence fee plans.	Next action on this matter is with the Government and relevant Ministries to amend the Promulgation.
11. Section 13: Annual Return to be filed by Licensee	Vodafone, 99.5-6 Digicel, p.7, para 34	Vodafone advances the same argument about the power of the TAF to set licence fees as does Digicel, above. Digicel comments: “Section 13 of the draft Regulations state that a licensee shall within two months from the end of the licensees’ financial year lodge its annual return with the TAF. In practice it may take longer than two months after the end of the financial year to lodge the annual return. We therefore suggest to allow either a longer period or allowing a provisional annual report to be lodged for the purposes of these regulations.”	As above TAF accepts this suggestion and will redraft the provision to permit provisional returns within 3 months and final returns (if a provisional return has been lodged) within 6 months.	As above Amend the draft Licensing Regulations accordingly

Section Reference and Subject	Submission Reference	Comment	Response	Action
12. Invoice for Annual Charge	Digicel, p.7, para 35	Digicel suggests that the annual charge should be payable within a period calculated from the date of receipt of an invoice because “it is not inconceivable that a licensee may never receive an invoice issued by the TAF.”	There are practical difficulties for the TAF in determining the precise date of receipt of an invoice by a licensee. An alternative approach would be to make the date payable 30 days from the date of issue, but to explicitly provide for adjustment of that date in the event of receipt later than 3 days from the date of issue or non-receipt by the licensee. It will be a matter for the licensee to demonstrate late-receipt or non-receipt in these circumstances.	Amend the draft Licensing Regulations accordingly
13. Section 16: Payment of Annual Charge	Digicel, p.8, para 36	Digicel argues that Section 16 is discriminatory because it provides that there shall be no first year annual charge for new licensees but that there will be a charge for licensees with replacement licensees.	The current draft provision can be better expressed. The issue is that a new licensee will not have revenue on which to base a fee until the end of the first year of operation. The revenues for the first year of operation will not be known until the end of the year. The provision will be recast. There is no issue about discrimination and this will become clearer on re-draft.	Amend the draft Licensing Regulations accordingly
14. Part 6, Section 18: Renewal of Licence	Vodafone, p.6	Vodafone comments that Section 18 duplicates Section 18 of the Promulgation and is unnecessary.	TAG considers that inclusion of an amended reference here serves a purpose in clarifying that this is one way of amending licence conditions.	No further action other than as shown below.

Section Reference and Subject	Submission Reference	Comment	Response	Action
Section 19: Renewal of Licence	Digicel, pp.8-9, para 37	Digicel proposes that the draft Licensing Regulations should be amended to reflect the procedure in section 36 of the Promulgation and that the draft should be altered to read: <i>“A licensee may apply to vary the terms of a licence by initiating a determination procedure under section 18(1), in accordance with the requirements of section 36 of the Promulgation.”</i>	There was no intention of the Regulations being in any way inconsistent with the Promulgation and TAF does not believe that they were. However the proposed alternative text is acceptable and will avoid any possible doubt on the matter.	Amend the draft Licensing Regulations accordingly
	Vodafone, p. 6	<p>Vodafone comments that section 19(2) adds nothing to section 35 of the Promulgation, with the implication that it should be deleted.</p> <p>Vodafone further contends that section 19(3) is incorrect and should be deleted – because section 19 of the Promulgation does not apply to applications for the renewal of a licence.</p>	<p>TAF disagrees. A text comparison will reveal the procedural and other additions in the draft regulation.</p> <p>TAF considers that the reference is inappropriate and should be removed.</p>	<p>No further action</p> <p>Remove section 19(3).</p>
15. Section 20: Payment of Annual Charge	Digicel, p.9, paras 38-39	Digicel comments that the draft requirement will lead to higher and avoidable administrative burden, and that the provision should be concerned with changes of overall ownership and control. Digicel considers that section 20(1)(b) is superfluous and should be deleted.	TAF agrees.	Amend the draft Licensing Regulations accordingly

Section Reference and Subject	Submission Reference	Comment	Response	Action
16. Section 21: Application to Assign or Transfer a Licence	Vodafone, p. 6	Vodafone comments that 5% of issued shares is an unnecessarily low threshold for notification, and that the TAF's need to know is unclear.	TAF agrees on the 5% issue as noted above. TAF has a clear need to know that the ownership of a licensee is changing so that it monitor for changes in licensee behaviour and alert the FCC as appropriate to anti-competitive market structures that might result from ownership and part-ownership changes.	As above
	Digicel, pp.9-10, paras 40-41	Digicel notes that the charges for the application processing should be related to the administrative costs, and that approval should not be unreasonably withheld.	TAF agrees on the first point. On the second point the language of an approval "not being unreasonably withheld" is more appropriate to commercial agreements not to legislative instruments. However the point is noted and a suitable provision will be included in the draft.	Amend the draft Licensing Regulations accordingly
Section 26: Licensee ownership and structure	Vodafone, p. 6	Vodafone comments that section 19(3) should be deleted.	TAF agrees, but because no value is added by the reference to section 19 of the Promulgations.	Delete section 21(3)
	Vodafone, p. 6	Vodafone comments that the relationship between sections 20 and 26 of the draft Regulations should be resolved because it is unnecessary to have two separate sections dealing with aspects of the same requirement.	TAF agrees that the sections should be merged into one.	Amend the draft Licensing Regulations accordingly

Section Reference and Subject	Submission Reference	Comment	Response	Action
17. Section 27: Agreements between licensed operators	Digicel, p.10, para 42	Digicel has queried what the purpose might be for the TAF to require agreements between licensees to be notified. Digicel suggests M&A and wholesale service purposes.	TAF considers that the obligation is quite clear and that all agreements between licensees need to be notified. Digicel has identified the main purposes as relating to the maintenance of arms-length competition.	No further action.
18. Section 30: Service of notices	Digicel, p.10, para 43	Digicel suggests alternative text so that hand delivery should be effective when signed upon receipt.	TAF accepts the additional words suggested by Digicel for hand delivery.	Amend the draft Licensing Regulations accordingly
19. Section 31: Transitional arrangements	Digicel, p.10, para 44	Digicel raises the possibility of allowing some existing licences to run for their term and then be renewed with a new licence at that time.	TAF considers that equality of treatment and obligation considerations are important factors in this situation. Consequently, it is seeking to have all licensees licensed on the same basis at the same time.	No further action.
	Vodafone, p. 6	Vodafone suggests that the term 'existing licensee' be adopted and defined and used instead of 'holder of a prior licence'.	TAF has used the term 'holder of a prior licence' to avoid issues associated with whether a licensee can be said to be existing if it has not paid its fees or is otherwise in breach of its licence conditions. The term will be defined to be included in a further term 'existing licensee' and the latter will be defined.	Amend the draft Licensing Regulations accordingly
	Vodafone, p. 6	Vodafone suggests that the purpose of section 31(3) is unclear.	The purpose of section 31(3) is to clarify the difference between applications for	Amend the draft Licensing

Section Reference and Subject	Submission Reference	Comment	Response	Action
	Vodafone, p. 6	Vodafone comments that section 31(4) is unclear in relation to what process is to occur when a licensee with spectrum needs and seeks a replacement licence. Vodafone suggests that the provision might instead say that applications for additional spectrum are not covered by the draft Regulations.	<p>new licences and for a replacement licences. TAF agrees that section 31(3) is unclear and it will be revised.</p> <p>TAF agrees with the point made and the suggested alternative.</p>	<p>Regulations accordingly</p> <p>Amend the draft Licensing Regulations accordingly</p>

During February and March 2011 the Expert reviewed the draft Licensing Regulations and the earlier industry responses. As a result he prepared a further draft of the Licensing Regulations which was more streamlined and included some of the industry suggestions for improvement. This amended draft was used as a basis for interviewing key industry participants on 28th, 29th and 30th March in Suva.

6. Industry Workshop

An Industry Workshop was conducted on 31st March and included:

- The CEO and staff of TAF associated with the licensing function
- Representatives of the major operators including Digicel, FINTEL, TFL and Vodafone
- Representatives of other service providers, such as ISPs
- Representatives of broadcasting companies
- Representatives of the Commerce Commission
- A representative of the Ministry for Communications

The Workshop ran from 9 am to 1 pm. Its purpose was to outline current best practice in Operator Licensing to provide a context for presentation of the draft Licensing Regulations. The Expert was able to alert the participants to a range of very useful comments and issues that had arisen during the individual stakeholder interviews as well as explain the rationale behind specific draft regulations.

Participation and discussion was encouraged at the Workshop. The main issues that were raised either at interview or in the Workshop (or both) included:

- The definitions in the Promulgation and whether these might need expansion in some cases in the Licensing Regulations;
- The proposal to have a single individual licence covering network operation and service provision (this was widely supported without dissenting voices – in particular the proposal was regarded as a progressive way of avoiding category disputes of the kind that have frequently arisen in the past);

- The basis on which the licence fees would be set and whether the only purposes of the fees was to cover the budgeted costs of the TAF and the Tribunal (it was explained that the purpose was to *at least cover* those requirements but not to be limited to that level of fee revenue);
- Migration issues in relation to current and prior licence holders;
- Licence year and financial year definitions;
- Period of a licence (the Promulgation says not in excess of 15 years for any licence);
- The relationship between the TAF and the Commerce Commission;
- Technical and other standards and rules to which the licences will refer; and
- The aggregated imposition that all licences create for operators.

The discussion was constructive and very helpful in enabling some issues to be addressed by the CEO and the Expert, and for misunderstandings to be corrected. On many issues, including the draft Licensing Regulations themselves, the views put forward by the CEO and the Expert were suitably qualified by reference to the need for the TAF to decide on the issues involved after more formal consideration of all relevant issues.

7. Next steps discussed with the Workshop participants

The industry generally sought a further opportunity to comment in writing on the issues that have been raised in the draft Licensing Regulations and at the Workshop. Because of Easter and in response to specific requests the CEO indicated that the deadline for comments would be extended to 12 May 2011, but that there could be no further extensions beyond that. It was indicated that the TAF was now seeking to conclude the project expeditiously.

8. Further deliverables to be prepared by the Expert in conjunction with the CEO

There is still much to be done by the Expert, working in conjunction with the CEO, to finalise the licensing arrangements in operational form so that, following TAF Board approval, there will be an implementable arrangement. The deliverables that remain to be completed following the receipt of further industry comments in the current public consultation process are:

- A Response Report (in which the comments received from industry and other interested stakeholders on or before 12 May are considered and a suggested TAF response is set out. Because the comments themselves are not being published there is no requirement for the Response Report to be published. It is therefore for internal TAF use.)
- Final version of the Regulations for TAF Board approval
- Explanatory Memorandum (setting out the rationale and other relevant comments for each clause of the Regulation – this is intended for external publication and guidance)
- Manual (for internal TAF staff use)
- Register format – for applications
- Register format – for approved licences
- Licence format (this will be fairly simple as indicated in the workshop this morning)
- Application form with advisory notes for licence applicants

9. Assessment of the Workshop

The CEO and the Expert assessed the Workshop as successful, having regard to way these events turn out. It was successful because:

- A spirit of good will and cooperation was apparent and was reinforced (not that there is no guarantee that this will last);
- Most participants felt able to speak openly about their licensing concerns and the issues involved;

- The industry recognised that the TAF was now being staffed to undertake serious work programs and responded positively to the CEO taking up duty;
- The industry has been invited to raise all licensing and other issues with the TAF with the promise that they will be listened to; and
- There appears to be strong acceptance of the basic principles in the draft Regulations relating to licensing simplicity, transparency and ease of administration.

However there remains a lot to be done to implement a comprehensive and effective licensing regime and to clear up the backlog of issues that have arisen over recent years. A successful Workshop is a good start but, in itself, no more than that. The good will engendered by the event will need to be followed up and reinforced by completing the project by around mid-year.