



**TATT's Position and Procedures in
respect of Non-Objections for Tower
Approval Applications to Town and
Country Planning Division**

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Maintenance History		
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1. Background

The Government of Trinidad and Tobago, through the Telecommunications Authority of Trinidad and Tobago (TATT), has embarked on the liberalisation of the Public Domestic Mobile Telecommunications Sector. The Government granted two (2) additional public mobile (cellular) concessions to introduce competition in the sector currently monopolised by the Telecommunications Services of Trinidad and Tobago (TSTT).

Fundamental to the operation of cellular networks is the construction of tower facilities for the mounting of base station antennae at various locations throughout the country to ensure there is adequate coverage for the provision of quality services to subscribers.

1.1 *The Role of the Town and Country Planning Division*

The construction of tower facilities for base stations requires the permission of the Town and Country Planning Division (TCPD) in the Ministry of Planning and Development. In July 2004, the TCPD developed a draft *Planning Policy for Personal Wireless Service Facilities*, which established guidelines for the submission and evaluation of applications for planning permission to the Minister responsible for town and country planning, for the construction of cellular tower facilities.

Under the provisions of the Town and Country Planning Act (chapter 35:01), TCPD is responsible for granting planning permissions for:

1. the development of sites involving the erection of towers or ancillary buildings for the housing of related equipment;
2. the placement or affixing of antennae onto buildings; and
3. the subdivision of lands, where necessary for the creation of smaller parcels for locating base stations.

In order to ensure that the necessary safety, environmental and structural obligations are met by applicants, before applications are approved/ rejected; the TCPD requires that the applicant obtains the relevant permissions from other authorities such as:

- The Environmental Management Agency (EMA),

- The Trinidad and Tobago Civil Aviation Authority,
- The Telecommunications Authority of Trinidad and Tobago,
- The relevant Municipal Authority, and
- The Tobago House of Assembly (for towers in Tobago).

In its policy document¹, the TCPD identified its major objectives as follows:

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1. *To balance the needs of the telecommunications industry with the need to promote the health, safety and general welfare of the citizens of Trinidad and Tobago by regulating the siting of base stations;*
2. *To provide a consistent and coherent policy for the design and establishment of sites for base stations that can be utilized in the development planning and development control aspects of the functions of the Town and Country planning Division;*
3. *To provide for the appropriate location and development of sites for base stations across the country, within the context of available telecommunications technology;*
4. *To minimize the adverse visual effects of telecommunications towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;*
5. *To avoid potential damage to adjacent properties through appropriate engineering design and the careful siting of tower structures; and*
6. *To protect residential and other sensitive land use activities from potential adverse impacts of base station installations, towers and antennae by maximizing the use of any new or existing towers through shared use to reduce the number of towers needed.”*

The TCPD’s planning policy promotes collocation of service providers to reduce the adverse environmental impact of multiple towers by the existing and potential new service providers in the sector.

1.2 Problems Encountered by the TCPD and Limitations of the Planning Policy

Over the past two years, the TCPD has been flooded with applications from TSTT and an infrastructure provider for approvals to erect tower facilities on existing buildings or parcels of land throughout the country. TSTT is in the process of expanding its GSM network in anticipation of competition. The infrastructure provider’s business plan is to

¹ Town and Country Planning Division. 2004. Draft Planning Policy for Personal Wireless Service Facilities

lease collocation facilities to existing and potential service providers, but is not seeking to provide cellular services to the public.

The TCPD and TATT were also approached by two other potential infrastructure providers during the latter half of 2004, who have expressed an interest in entering the business of constructing tower facilities for existing and potential cellular providers.

In seeking to deal with the various applications received and potential new applications, TCPD has realised that its governing legislation does not give them the authority to deal with the following issues that may lead to a tower proliferation problem in Trinidad and Tobago:

1. The TCPD has no basis for refusing to treat with an application submitted for planning permission once it satisfies the requirements prescribed in the policy. The policy's tower separation distance requirements are with reference to existing and proposed towers, however this parameter can only be measured with reference to towers that have actually been established. There is therefore the possibility that two or more applications can be approved for sites in close proximity to one another.
2. TCPD does not have the resources to monitor the sites of every approved application to determine when and if construction occurs.
3. TCPD does not provide time limited permissions.
4. An independent infrastructure provider may not be able to justify that the towers to be erected will actually be used for the purposes of telecommunications, in particular, the provision of mobile telecommunications services. Even if this information is available to TCPD at the time the application is being processed, TCPD currently does not have the authority to approve/reject an application on this basis.

5. Even though collocation is mandated by TATT and encouraged by TCPD's policy to minimise adverse environmental impacts, TCPD does not have the authority to mandate that operators seek collocation facilities on existing towers as opposed to seeking approvals for new sites.

1.3 The Role of the Telecommunications Authority of Trinidad and Tobago

In recognition of the limitations under TCPD's governing legislation and its July 2004 draft policy to treat with the issue of tower proliferation, the TCPD approached TATT as the agency responsible for the regulation of the telecommunications and broadcasting sectors, and the Ministry of Public Administration and Information (MPAI). The draft policy makes provisions for consultation with the Authority prior to seeking approval of the TCPD. In this regard, a Policy Committee was set up by TATT, comprising representatives from the MPAI, TATT and the TCPD to develop a policy to inform the drafting of the relevant regulations under Section 78 of the Act. It was proposed, at the time, that applications for planning permission submitted to TCPD should be accompanied by the written approval of TATT confirming the suitability of the facility.

2. TATT's Position

Considering that:

1. The TCPD, under its governing legislation, cannot approve/ reject an application to build structures dedicated to the provision of telecommunications ('telecommunications structures') on the basis of whether or not an 'independent' infrastructure provider will attract the business of a telecommunications provider to lease facilities for installation of telecommunications equipment;
2. The TCPD, under its governing legislation, cannot mandate collocation and the conditions of establishing a collocation agreement to discourage the construction of more telecommunications structures than required in a given area;
3. It is possible to develop a Transmitter Site Inventory for Trinidad and Tobago that takes into consideration the site and coverage requirements of all telecommunications providers regardless of the technology employed. Implementing such a system will significantly reduce the possibility of more telecommunications structures than required being erected in a given area;
4. TATT has the authority to mandate a concessionaire to provide access to facilities that it *'owns or controls'* for collocation or otherwise, upon the request of another concessionaire, in accordance with Section 26 of the Act.
5. Pursuant to Section 18 (1) (p) of the Act, TATT's functions include ensuring the orderly and systematic development of telecommunications in Trinidad and Tobago. This responsibility would seem to include ensuring that the construction and use of telecommunications structures occur in an orderly and beneficial manner. The prevention of the proliferation of telecommunications structures is in keeping with this country's ideals on environment preservation and the orderly development of telecommunications;

6. Despite the above, TATT has no clear authority, under the Act, to ensure or to regulate the manner in which collocation is agreed between a concessionaire and an infrastructure provider who is not a concessionaire if a dispute arises. This can result in anti-competitive practices by 'independent' infrastructure providers who may have specific business interests with particular concessionaires;
7. TATT's involvement in the site application approval process of the TCPD will be limited to the extent that the Act does not give TATT any directly enforceable power over the installation of telecommunications structures;
8. Neither TATT nor TCPD has the authority, under their respective governing legislation, to mandate that only concessionaires should be allowed to erect telecommunications structures;
9. The business model of providing telecommunications structures is an attractive and feasible one at this time, with the imminent entry of new service providers who require the facilities for installation of telecommunications equipment;
10. The current business model of 'independent' infrastructure providers is also attractive to existing and potential concessionaires since it can be a more economic solution than internal management resources for telecommunications structures;
11. TSTT already has telecommunications structures throughout the country, some of which cannot be modified to accommodate collocation of telecommunications equipment of additional service providers. More than likely, the new service providers will also require structural facilities in these areas;

12. The existing legislation does not ensure that where ‘independent’ infrastructure provision is concerned, powers exist to prevent the proliferation of telecommunications structures;
13. Any further amendment to the Act to give TATT any reasonable power over ‘independent’ infrastructure providers with respect to collocation agreements, would require a significant amount of time that is not currently available to deal with the present issues. TATT will seek appropriate amendments to the Act to treat with these issues in due course; and
14. The TCPD has made amendments to their *Planning Policy for Personal Wireless Service Facilities* to require that one of the criteria for an approval of an application for planning permission would be that the applicant obtains approval from TATT certifying that the telecommunications structure should be erected to achieve the coverage requirements of concessionaires and licensees for the provision of telecommunications and broadcasting services. The TCPD has prepared a final version of their policy “Planning Policy for Public Mobile Telecommunication Services” May 2005.

In light of the considerations above, the Authority has:

1. Developed ‘*Access to Facilities Regulations*’ under Section 78 of the Act to make provisions for concessionaires with respect to access to, and location of telecommunications structures to ensure the orderly and systematic erection of dedicated structures for telecommunications and broadcasting services; that collocation is mandatory where feasible and to prevent anti-competitive practices in collocation agreements.
2. Consulted with existing and potential public service providers to determine the details of their proposed radio plans, and create a Transmitter Site

Inventory (TSI) that will assist TATT in ensuring collocation by identifying existing sites that can be used for collocation with a view to prevent a proliferation of towers and to ensure the efficient use of telecommunications structures;

3. Developed “*Procedures in respect of applications to TCPD for the erection of Towers for hosting Telecommunications and Broadcasting Equipment*” (included at Section 3 of this document) to ensure that facilities built for the purposes of installing any type of telecommunications equipment have sufficient capacity for collocation in accordance with the relevant regulations developed by the Authority. The procedures will also ensure that tower facilities will be *owned or controlled* by concessionaires under the Act, and that where there are leasing agreements for towers between concessionaires and non-concessionaires, these agreements must give sufficient control to the first concessionaire situated on the tower for the purposes of Section 26 of the Act;

4. Included in the “*Procedures in respect of applications to TCPD for the erection of Towers for hosting Telecommunications and Broadcasting Equipment*” :
 - Public notification by concessionaires or the Authority of any new telecommunications structures to be built, to give the public an opportunity to comment on the proposed site location;
 1. A period during which public objections will be accepted by TATT, before granting the necessary approvals in the TCPD tower site application process;
 2. The criteria that will determine the type and level of objections that would cause TATT to not grant an approval.

5. Provided, in the concessions for public telecommunications networks/ services and broadcast services, that concessionaires utilise dedicated telecommunications structures *owned or controlled* by other concessionaires, to ensure that negotiations with respect to collocation and other access services are conducted in accordance with Section 26 of the Act and any regulations under Section 78 regarding access to the facilities of concessionaires. TATT will however reserve the right to grant exemptions to the above requirement in specific circumstances which will be outlined in the procedures and/or the concession. These circumstances may extend to the availability of telecommunications structures that are privately owned that may be technically feasible alternatives to the construction of an additional tower.

The Authority will also:

1. Accept and process applications of concessionaires in accordance with the *“Procedures in respect of applications to TCPD for the erection of Towers for hosting Telecommunications and Broadcasting Equipment”* and the TSI to satisfy the criteria of TCPD’s planning approval application process;
2. Require public domestic mobile concessionaires to seek collocation on any existing telecommunications structures of the Authority’s TSI for cellular networks, unless reasonable justification is provided to, and accepted by, the Authority in accordance with the relevant regulations;
3. Require public domestic mobile concessionaires to erect towers with sufficient capacity to support the collocation of base station antennae for three (3) service providers. Where necessary and structurally feasible, the Authority will require concessionaires to modify their tower facilities to support

collocation, upon the request by another concessionaire. The Authority will however reserve the right to grant exemptions to the above requirement where the radio frequency plans of existing operators do not warrant it;

4. Require that the cost of modification be borne by the party requesting collocation, where a tower has been erected *before* the coming into force of the relevant regulations, and the concessionaire owning the facility is required to upgrade the facility to provide collocation to other concessionaires; and
5. Require that the cost of modification be borne solely by the owner of, or the concessionaire controlling, the tower, where a tower has been erected *after* the coming into force of the relevant regulations, where the tower was not constructed with the required capacity without exemptions granted by the Authority in respect of that tower pursuant to (9) above, and the concessionaire owning the facility is required to modify the facility to provide collocation to other concessionaires. Otherwise, such costs will be borne by the party requesting collocation.

3. Procedures in respect of Applications to TCPD for the Erection of Towers

The procedures for obtaining TATT's approval in respect of the erection of a tower for the purposes of the provision of telecommunications or broadcasting services require the applicant to submit an application form² containing all relevant information required by TATT.

Upon submission of an application for approval, the applicant will be informed by TATT as to the decision made on the application within twenty-one days of receipt of the application. If approval is denied by TATT, TATT will inform the applicant of the reasons for the decision.

The timeframe for the decision may vary depending on, but not limited to, the following factors:

- Additional information required from the applicant.
- Audit field tests needed to verify the possibility of collocation.
- Technical discussions required between TATT and the applicant.
- Objections received from the public.

3.1 Application Submission

An applicant requesting approval from TATT must submit a completed application form with all relevant information and accompanying documentation.

A completed application submission shall contain the following:

1. A completed application form
2. Evidence of collocation feasibility where appropriate. See section 2.6
3. Geographic coordinates of tower

² Application form for Tower Approval (TA)

4. Full postal address of tower in Trinidad and Tobago
5. Height of tower above ground and above sea level
6. Height of platforms for placement of equipment
7. Purpose
8. Type and quantity of equipment to be placed on tower including timeframes
9. Related licence/concession for use of the equipment or evidence to show appropriate lease arrangement with a existing concessionaire/licensee
10. Capacity of tower : weight and quantity of equipment
11. Proof of public notification for objection

3.2 Application Review Process

1. Upon receipt of a completed application, the Authority shall evaluate the application based on the criteria established by the TATT. See section 2.8.
2. Subject to the application meeting the Authority's criteria and if there are no existing towers in the area, approval will be granted by TATT. See section 2.5.
3. Where there are existing structures in the area, a feasibility of collocation must be submitted. See section 2.6. The Authority's decision to approve an application in such a case shall be subject to the application meeting the Authority's criteria and dependent upon the feasibility of collocation which may involve an audit for verification of the evidence submitted and discussions with the applicant.
4. When the Authority has made a decision on an application, the applicant shall be informed in writing of the decision within thirty days of the application and all supporting and relevant documents being received by the Authority. Only when all relevant and supporting documentation is received by the Authority will the thirty-day timeframe begin.

3.3 Rejection of Application

When it is determined that TATT will reject an application for Tower approval, TATT will inform the applicant of the decision in writing stating the reasons for rejection. If the applicant is aggrieved by TATT's decision and wishes to appeal the decision, the applicant shall make such an appeal in writing to the Authority within thirty days of the date of rejection letter. See section 2.7 for the appeal process.

3.4 Approval of Application

If TATT approves a request, then a letter of approval will be done in the name of the applicant containing the relevant information as indicated in the application. A copy of TATT's approval letter will be sent to TCPD. Where an approval is granted by the Authority and not submitted to TCPD within three months of the date of the approval, the approval shall expire and will no longer be valid. Upon submission to TCPD the applicant shall notify the Authority of proof of submission of such application.

3.5 Feasibility of Collocation

A potential applicant can, upon request, obtain a list of towers for a particular area from TATT's updated Transmitter Site Inventory in order to identify if any tower exists in that particular area which is being considered for the erection of a new tower by the applicant. The feasibility evidence relating to collocation must be submitted with the application for tower approval and shall comply with the Authority's regulations in force at the time of the application.

Where the applicant is making claims that collocation is not feasible due to technical reasons including those related to RF planning and interference, the applicant must present this evidence clearly, using RF patterns and maps where necessary to prove their

claim. The evidence must cover scenarios whereby modification to existing towers may be able to accommodate the applicant's equipment.

3.6 Appeal Process

The appeal process will begin upon receipt of the applicant's letter requesting an appeal. The process may involve meeting with the applicant and other further investigations given any new information the applicant may bring to the Authority's attention in the appeal. The appeal process is to allow the applicant the opportunity to justify their request given TATT's reasons for rejection and any further information to support their case.

3.7 Criteria for Evaluation

The evaluation criteria are as follows:

1. Completeness of application
2. Evidence of existing towers in requested area
3. Tower saturation in the area
4. Feasibility of collocation
5. Proposed tower specifications (Including:
 - a. Grounding,
 - b. Material similarity at joints,
 - c. Anti-corrosion measures etc.
 - d. Necessary separation between transmitter brackets to ensure EMF isolation)
6. Community non-objection
7. Health and safety considerations
8. Interference analysis
9. Appropriate authorisation for use of telecommunications or broadcasting equipment

3.8 *Community non-objection*

The applicant is required to publish a non-objection advertisement giving details of the intended tower to be erected, including a reference number, the address, the height and the purpose and requesting that any objections be sent to the Authority. It would also be useful to include a brief description of the type of tower to be erected (e.g. lattice, monopole, stealth).

This advertisement should run for at minimum three (3) times a week in at least one (1) daily newspaper over a two-week period. It should indicate a timeframe of no less than fourteen days from the date of the first advert as the deadline for any objections to be considered by the Authority to be valid. The objections submitted by members of the public should also include the reference number of the tower in question.

The Authority should be informed about the advertisement in writing prior to it being published and a copy of the published advert shall also be sent to the Authority.

Objections received will only be considered as part of the evaluation criteria, where these objections are reasonable and valid. Some of the conditions for which objections can be made include, but is not limited to:

- Health Concerns as a result of Radio Frequency (RF) emissions and proximity of tower to residence, school or health facility;
- Proximity of tower to any building (including residential property);
- Proximity of tower to another existing tower, which can be used for collocation as an alternative to erecting a new one;
- Impact of tower on property value, based on proposed location and type of tower proposed.

All objections should be sent to the Authority **in writing to 76 Boundary Road, San Juan**, however objections relating to RF emissions and collocation will be addressed by the Authority, while all other objections will be forwarded to TCPD for the necessary action to be taken.

The advertisement published should therefore advise the public accordingly.

4. Requirement of Applicant on obtaining TCPD approval

After an applicant has obtained approval from the Authority and is successful in obtaining final approvals from TCPD and the relevant Municipal Authority to construct a tower, the applicant shall inform the Authority of those approvals in writing and provide a copy of the approval documents within seven days of receiving the approvals. The Applicant shall also provide to the Authority, within 14 days of the date of completion of the tower, information as prescribed by the Authority, which may include information on:

- Sign posting to provide warnings in relation to health and safety requirements;
- Labelling for tower identification;
- Adherence to requirements as stipulated by the relevant authorities.