

June 6, 2003

The Managing Director
Information Communications
Technology Authority
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Via E-Mail and Fax

Re: Public Consultation Process re: Confidentiality, R(2003)2a/b, Closing Date June 15, 2003

Dear Sir or Madam:

AT&T Wireless appreciates the opportunity to provide comment regarding the Information Communications Technology Authority's Draft Confidentiality Rules, R(2003)2a/b.

We highly commend the ICTA for the care it has devoted to ensuring a transparent, open and vibrant public consultation process, along with appropriate rules for those circumstances in which the need for confidentiality can be demonstrated to outweigh the need for openness.

AT&T Wireless offers the following feedback to the Draft Confidentiality Rules proposed:

1. It appears that, as presently drafted, the Confidentiality Rules would not afford protection to a prospective licensee or other party submitting information to ICTA. AT&T Wireless proposes that the Confidentiality Rules should apply not only to licensees, but also to any party submitting information to ICTA. Therefore, we suggest Section 4(1) of the proposed Rules should refer to "any submitting party" rather than "any licensee."
2. AT&T Wireless suggests several refinements to the definition of "confidential information" as contained in Section 4(1) of the draft Confidentiality Rules. First, the definition should include "legally privileged information," as ICTA's rules should presume that information subject to the attorney-client privilege is not subject to public disclosure and dissemination. In addition, that definition should exclude information that is otherwise available to the public, as ICTA should be under no obligation to stop further dissemination of information that is already public, even if a submitting party views it as sensitive or treats it as confidential. AT&T Wireless proposes deleting the language "treated consistently in a confidential manner by the person who submitted it" and replace it instead with language to the effect of "not otherwise publicly available."



3. AT&T Wireless suggests the ICTA specify in greater detail the nature of the showing that a submitting party must make to withhold information from public disclosure and dissemination. At present, the showing described in Section 5(1)(b) of the draft Confidentiality Rules requires only a statement of "reasons" and "sufficient details." These requirements could be interpreted differently by various submitting parties and would not provide ICTA with sufficiently detailed or consistent information on which to evaluate claims of confidentiality. AT&T Wireless therefore proposes a more detailed showing that would allow ICTA to evaluate consistently whether the information in question actually qualifies as confidential as defined in Section 4(1) of the draft Confidentiality Rules. ICTA should require a submitting party seeking to withhold information from public disclosure and dissemination to provide a statement of reasons including the following details:

- a. Identification of the specific information for which confidentiality is sought and which is subject to the redaction requirement in Section 5(1)(c) of the draft Confidentiality Rules.
- b. Explanation and justification of the period during which the submitting party asserts that the material should not be available for public disclosure and dissemination by ICTA.
- c. Description of the circumstances giving rise to the submission of information for which confidentiality is sought, including references the relevant ICTA regulations, proceedings, and licenses.
- d. Explanation of the nature and degree to which the information is a trade secret or financial, commercial, scientific, or technical in nature.
- e. Identification of measures taken by the submitting party to prevent unauthorized disclosure.
- f. Explanation of how disclosure of the information could reasonably be expected to result in significant financial loss or gain to any person, to prejudice significantly the competitive position of any person, or to affect contractual or other liabilities of any person.
- g. Explanation of the degree to which the information is available to the public, regardless of source or location, and the extent of any previous disclosures to the public, whether authorized or not.
- h. Explanation of the degree to which the information pertains to a service that is subject to competition under ICTA's regulations.

Thank you for the opportunity to participate in this Public Consultation process. If required, please do not hesitate to contact me at 773-230-0062 or via e-mail at lori.buerger@attws.com.

Sincerely,



Lori Buerger
Director – External Affairs