

Query regarding Section 58 of the RIC Act

Section 58 of the Regulated Industries Commission ("RIC") Act Chapter 54:73 states as follows:

"It is a condition of every licence that-

(a) a service provider shall allow a Commissioner or any officer or other person

authorized by the Commission to inspect the accounts, books, papers,

records and documents of the service provider at any reasonable time;

(b) any authorized representative of the Commission shall, upon presentation

of his official identification, be allowed entry into the premises of a service

provider for any of the purposes of this Act."

The RIC is therefore empowered, to request information from the service providers in the manner set out in the said section, by making the provisions set out in section 58 of the RIC Act a condition of the licences of the service providers (who are named in the First Schedule of the said Act).

The onus is thus upon the service providers, to ensure that they are in compliance with the law as per the said section and to comply with their licences, as per the condition included therein by the RIC Act.

The said condition is one of the regulatory compliance tools embedded within the legislation, which the RIC can utilize to ensure that information which it requires (insofar as the category of information is contained in the said section), is provided *"for any of the purposes of this Act"*.

The RIC can use this specific tool where the circumstances require that such action be taken.

Further, the RIC is empowered by section 57 of the RIC Act (which also makes it a condition of the service providers' licences) to *"furnish to the Commission at such time and in such form as the Commission may require-*

(a) all tabulations, computations and all other information required by the

Commission to carry into effect any provision of this Act;

(b) all annual reports.”

Finally, it must be noted that section 59 of the RIC Act also makes it a condition of the service providers' licences that the information requested by the RIC be submitted to the RIC, as it is stated at section 59 subsections (a) – (c) that

“any return of information required to be furnished to the Commission; any answer to any question submitted by the Commission; and any information required by the Commission which is in the possession or control of a service provider, shall be prepared and furnished to the Commission within the time and in the manner and form and with such particulars and certification as are required by this Act.”

Query regarding section 49 of the RIC Act

Section 49 of the Regulated Industries Commission Act (“RIC”) Chapter 54:73 is best understood within the context of the provisions of sections 6 (1) (h), 6 (1) (j) and section 48 of the RIC Act.

Section 6 (1) (h) of the RIC Act states that the RIC “may have and exercise such functions, powers and duties as are imposed on it by” this Act and in particular- establish the principles and methodologies by which service providers determine rates for services”.

Section 6(1) (j) of the RIC Act provides that the RIC “may have and exercise such functions, powers and duties as are imposed on it by” this Act and in particular- carry out periodic reviews of the rating regimes of service providers.”

Section 48 of the RIC Act further provides that the RIC “shall review the principles for determining rates and charges for services every five years or, where the licence issued to the service provider prescribes otherwise, at such shorter interval as it may determine.”

Sections 6 (1)(h), 6 (1) (j) and section 48 of the RIC Act therefore creates the power and the duty for the RIC to establish principles and methodologies for the determination of rates for services, but also for the review and determination of the rating regimes and rates and charges for the service providers as provided for by the said Act.

For completeness, it should be noted that section 48 states that the RIC “shall review the principles for determining rates and charges for services every five years or, where the licence issued to the service provider prescribes otherwise, at such shorter interval as it may determine.”

Section 49 (1), however, permits the service providers (so listed in the First Schedule of the RIC Act) to request a review of the principle for determining rates for the service which it provides.

Section 49 (1) states that “Notwithstanding section 48, where it is the opinion of a service provider that there has been such a fundamental change in circumstances as to warrant a review of the principle for determining rates for the service which it provides, it may give written notice to the Commission requesting a review of the principle except that it may not request a review more than once in any year.”

However, such a request must be made via a written notice to the RIC which must be published in the Gazette and at least one newspaper in circulation in Trinidad and Tobago and must contain the following as per section 49 (2)(a):

*“(i) the existing duly established rate or formula;
(ii) the proposed new rate or formula;
(iii) the justification for the review of the principle;
(iv) the date from which the service provider proposes
that the new rate or formula, as the case may be,
should take effect; and
(v) any other particulars which the Commission may
from time to time specify;”*

The process set out under section 49 also provides that the justification referred to in section 49 (2) (a) (iii) must contain particular criteria (as delineated in section 49(3)) and must include consultation as set out in the legislation.

Despite the service providers’ ability to request the review in the manner provided for by section 49 of the RIC Act, the RIC is empowered to decline to conduct the requested review, pursuant to section 49 (5) of the RIC Act which states that “Where the Commission is of the opinion that the rates proposed by the service provider do not accord with any principle established pursuant to section 6(l)(h), the Commission shall notify the service provider in writing that a review is not warranted.”