

Freeing your Wi-Fi

by Andrew Fawcett - a.fawcett@tamimi.com - Abu Dhabi

April 2015

As people become more and more attached to their smart phones and tablets, your customers have come to expect to have free wireless internet connectivity when they are visiting your business premises - whether those premises are a cafe, hotel, restaurant or ordinary commercial premises.

Businesses offering Wi-Fi in the UAE need to be aware that the usage has to comply with certain requirements under regulations that were issued by the UAE's Telecommunications Regulatory Authority ("TRA") in 2009.

"Wi-Fi" is a wireless local area network ("WLAN") technology that allows an electronic device to connect to the internet using 2.4 GHz and 5 GHz radio spectrum frequency bands.

Strictly "Wi-Fi" refers to WLAN products based on a particular family of technical standards (i.e. IEEE 82.11) but the term "Wi-Fi" has become more commonly used than "WLAN" since most WLAN are based on the Wi-Fi standards.

Under *Federal Law by Decree No.3 of 2003 Regarding Organisation of Telecommunications Sector, as amended* ("Telecoms Law") the establishment and use of wireless transmission stations and the installation and use of any wireless transmission is expressly prohibited unless permitted by a radio spectrum authorization issued by the TRA.

The TRA's regulations concerning *Use of 2.4 GHz and 5.8GHz bands for WLAN and RLAN* ("Wi-Fi Regulations") expressly provide that the use of the 2.4 GHz and 5GHz bands "is allowed under Class Authorization" for indoor WLAN in the UAE for:

- Any person to connect devices such as personal computers and smart devices.
- Hotels, metro trains (inside trains and train stations) and airports to provide wireless internet connection for their customers.
- Public libraries and academic facilities such as university campuses, colleges and schools.
- Entities inside buildings for private use. This includes all type of data connectivity requirements like video data.
- Internet Cafes provided that such cafes are responsible for providing the TRA, upon request, a detailed history of all registered users and their respective information. The term "Internet Cafes" is not defined in the Wi-Fi Regulations, but as the regulations date back to 2009 probably refers to a retail establishment that rents computers by the hour. Media articles at the time suggest that the record keeping policy was to address concerns that cyber crime was being done at public places to avoid detection.

Usage of indoor Wi-Fi must comply with the following requirements:

- (1) Internet access for an indoor Wi-Fi has to be obtained from a "Licensee offering Internet Service".
- (2) Use of Type Approved equipment

(3) Use of VoIP is subject to the TRA policies and regulations.

The usage of the indoor Wi-Fi must also take into consideration any TRA Wi-Fi security guidelines.

Class Authorization

A “Class Authorization” is a radio frequency authorization from the TRA which permits the operation of a class of wireless equipment by any person within designated frequency bands subject to any terms and conditions stipulated therein. For example, usage of short range devices meeting certain technical conditions (routers, cordless phones, blue tooth earpieces, baby monitors and garage openers) is permitted in the UAE under Class Authorization without a separate radio frequency authorization being required.

A Class Authorization is equipment specific, rather than operator specific (i.e. once the wireless equipment has the radio frequency authorization, the equipment can be used by any person).

Generally it is the manufacturer, importer or supplier of the wireless transmission equipment which applies for Class Authorization.

Licensee offering Internet Service

In the UAE as only Etisalat and du are licensed to operate and manage public telecommunications networks, only they can be the internet service provider for the indoor Wi—Fi.

Type Approval

Under the Telecoms Law it is prohibited to use, sell, offer for sale or connect to any public telecommunications network in the UAE any telecommunications terminal equipment that has not been type approved by the TRA (“Type Approval”). Type Approval is achieved by registering the equipment with the TRA. Applications for Type Approval are generally made by a manufacturer, importer or supplier who is themselves registered with the TRA (“Registered Dealer”). You do not have to register wireless equipment for Type Approval if you procure the equipment from a Registered Dealer yourself who already has Type Approval for the equipment. If equipment has Type Approval the equipment or its packaging and user documentation will be clearly labeled with a label specifying both the TRA registration number and the dealer number.

Use of VoIP

Voice over Internet Protocol (“VoIP”) is a methodology and group of technologies for the delivery of voice communications and multimedia sessions over Internet Protocol networks such as the Internet. The term Internet Telephony is commonly associated with VoIP. Skype, Viber and WhatsApp voice use VoIP.

It is not intended to explain the legality of the use of VoIP in the UAE in this article. For present purposes it is sufficient to recognise that the use of VoIP technology per se is not illegal, but to the extent that a VoIP service is a “Telecommunications Service” within the meaning of that term in the Telecoms Law, then it is not permitted to supply that Telecommunications Service to subscribers or to sell it in the UAE unless authorised by a license or otherwise allowed under the provisions of the Telecoms Law. Only Etisalat and du are licensed to provide Telecommunications Services using the public telecommunications network.

VoIP services are specifically regulated under the TRA’s VoIP Policy issued 30 December 2009. Etisalat and du are expressly permitted to block VoIP services over their networks that are Telecommunications Services under the Telecoms Law which are provided by a person not licensed to do so under the Telecoms Law unless instructed by the TRA to do otherwise.

Security Guidelines

Although the Wi-Fi Regulations specifically refer to guidelines issued by the TRA for addressing security issues on Wi-Fi, the TRA has not published any such guidelines publically.

Etisalat and du are required under their public telecommunications licences to comply with any directions of the TRA or other competent authority issued on matters relating to the public interest, safety and/or national security.

Consequently, in practice Etisalat and du pass on compliance with such directions to customers under their terms of service.

For example, we understand that there is a direction that wireless internet access requires unique identifiers. du's General Terms and Conditions for Business Services, March 2012, provides that services may include the use of unique identifiers and the customer must comply with the requirements of any regulatory body which administers these identifiers (clause 12.1).

Outdoor Wi-Fi

While the use of indoor Wi-Fi is effectively allowed as of right under the Wi-Fi Regulations if the requirements discussed above are met, the use of the 2.4GHz and 5GHz bands for outdoor Wi-Fi is only allow upon obtaining a specific frequency spectrum authorization from the TRA.

What to do

If you are establishing a free indoor Wi-Fi at your business, your telecommunications service provider should be aware of and assist you to comply with the laws for usage of indoor Wi-Fi. However as you are ultimately responsible for compliance with the Wi-Fi Regulations you should do your due diligence when selecting the provider (for example, make sure only Type Approved equipment will be used).

Al Tamimi & Company's specialist Technology, Media & Telecommunications team is able to assist with legal issues related to Wi-Fi, VoIP or other ICT applications.