

Cover sheet for response to a Commission consultation

BASIC DETAILS

Consultation title: Annual Work Plan, Budget 2016/2017 & Introduction of the Industry Levy

To (Commission Contact): consultations@trc.vg

Name of respondent: Averad Penn, Chief Executive Officer, Caribbean Cellular Telephone

Representing (self or organization): Caribbean Cellular Telephone

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CONFIDENTIALITY

Please tick below which part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organization

Part of the response

Details of Confidential Information

If you want part of your response, your name or your organization not to be published, we can still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

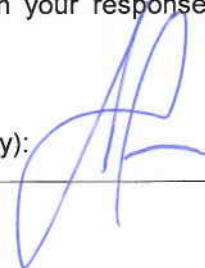
DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that the Commission can publish. However, in supplying this response, I understand that the Commission may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, the Commission can disregard any standard email text about not disclosing email contents and attachments.

The Commission seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name: Averad Penn

Signed (if hard copy):



August 10, 2016

Mr. Guy Lester Malone
Chief Executive Officer
Telecommunications Regulatory Commission
Road Town, Tortola
British Virgin Islands

Dear Mr. Malone:

Re: Annual Work Plan and Budget 2016 / 2017 and Introduction of the Industry Levy

In order for CCT to appropriately comment on the Annual Work Plan and Budget 2016 / 2017 and Introduction of the Industry Levy published June 30, 2016 ("Consultation"), we would require information about the Telecommunication Regulatory Commission ("Commission") operations and activities for previous financial years. Furthermore, our understanding is that pursuant to Section 64 of the Telecommunications Act, 2006, these records should be a matter of public record. Nevertheless, we will provide commentary on the Consultation, based upon our limited understating and regional benchmarking.

1. Considering the ratio of Payroll Cost (i.e. Executive Member Compensation and Staff Cost) to Professional Services we believe it is appropriate to reconsider the competency and compensation at the Commission. The FY 2016 Budget identifies Payroll Cost of \$1,311,235.64 vs. Professional Services of \$859,251.00, or a ratio of [1.5] to [1.0] which is higher than every telecommunications regulatory organization in the Caribbean. Furthermore the FY 2017 Budget identifies Payroll Cost of \$1,440,828.47 vs. Professional Services of \$1,325,200.00, or a ratio of [1.1] to [1.0] which represents and even further dependence upon outsourced services. Therefore the budget financials suggest there may be fundamental disconnect between skillsets required by the Commission and those embodied by their executives and staff. This continuous and increasing dependence on outsourced services creates an undue burden on the British Virgin Islands telecommunications industry and is in direct conflict with the public interest. For the purposes of comparison please consider ratio of Payroll Cost to Professional Services at Eastern Caribbean Telecommunications Authority for 2014 which was [6.0] to [1.0] and at Jamaica's Office of Utilities Regulation for 2014 which was [18.2] to [1.0].



2. Considering the overall expenses of the Commission relative to the size of the British Virgin Islands telecommunications market we believe it is appropriate to reconsider the structure of the Commission. The FY 2016 Budget identifies an Estimated Operating Expenditure of \$2,957,773.92 which is nearly as much as the Eastern Caribbean Telecommunications Authority expenses of \$3,384,942.41 (after converting from Eastern Caribbean Dollars to United States Dollars) in 2014 to regulate St. Lucia, Dominica, Grenada, St. Kitts and Nevis, and St. Vincent and Grenadines telecommunications markets. Therefore the Eastern Caribbean Telecommunications Authority effectively regulated a telecommunications market of over 530,000 people with an area of 2,365 square kilometers for nearly the same amount that the Commission expends regulating the British Virgin Islands telecommunications market of about 35,000 people in an area of only 153 square kilometers. Furthermore the FY 2017 Budget increases Estimated Operating Expenditure to \$4,080,710.21 which further demonstrating our concerns regarding the structure of the Commission. For the purpose of comparison please consider Jamaica's Office of Utilities Regulation expenses of \$5,771,885.27 (after converting from Jamaican Dollars to United States Dollars) in their 2016 budget to regulate a telecommunications market of over 2,950,000 people with an area of 10,991 square kilometers.

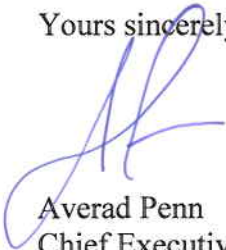
3. Considering the accelerating expenses of the Commission relative to the growth of the British Virgin Islands economy we believe it is appropriate to reconsider the scope of the Commission. The FY 2016 Budget identifies an Estimated Operating Expenditure of \$2,957,773.92 whereas the FY 2017 Budget identifies an Estimated Operating Expenditure of \$4,080,710.21 or an increase of 40%. This increase far exceeds any increase in Consumer Price Index and can only be seen as fundamental change in regulatory scope which heretofore has never been justified by the Commission. In fact even the current Estimated Operating Expenditure represents an undue burden on the British Virgin Islands telecommunications market pursuant to regional benchmarking that is preventing the Government of the Virgin Islands from receiving any revenue from the industry. These increases range from the relatively high increases in Executive Member Compensation [+11%}, Staff Cost [+7%], Office Services [+9%], Maintenance Expense [+14%], and General Administration [+11%], to the absolutely incredible increases in Professional Services [+54%], Conferences, Training & Travel [+60%], and Rent & Utilities [+78%]. However, we contend it would be wholly inappropriate and in fact irresponsible to continually increase the Commission's budget without careful considerations of fiscal responsibility and industry impact.



4. Considering the Commission has never fulfilled their duty to disclose financial records pursuant to Section 64 of the Telecommunications Act, 2006, we believe it is entirely inappropriate timing to introduce an Industry Levy. The Commission's contention that they gave notice to the Licensees on February 23, 2016 of their intention to implement an Industry Levy for the Commission's 2016 / 2017 financial year is dubious at best considering we had no knowledge of their Estimated Operating Expenditure until the publishing of the Consultation on June 30, 2016. Furthermore, CCT still does not have even proximate knowledge of what portion of the Commission's revenue is derived from our royalties as the Commission presented no such financial information with the Consultation. Lastly, this Industry Levy is completely ancillary to existing cost of goods sold including Commission Royalties as well as other expenses associated with telecommunications services in the British Virgin Islands, and would result in an across the board increase in consumer cost. Therefore, the Commission is essentially endeavoring to radically increase their Estimated Operating Expenditure and simultaneously pass this cost on to the Licensees and ultimately the consumer, without the Commission ever even coming into compliance with their own reporting requirements. Lastly, the Industry Levy is particularly caustic because despite Licensees having no prior understanding of how much they will need to pay, they are expected to satisfy this capricious demand within just four weeks.

We have taken the liberty of copying the Dr. the Hon. D. Orlando Smith, OBE, Premier of the Virgin Islands and Hon. Mark Vanterpool, Minister for Communications and Works in this letter because the Commission's budget is subject to their approval. However, despite our contention that the Commission's Annual Work Plan & Budget 2016/2017 is grossly inflated and the Introduction of the Industry Levy is utterly unfair, we are confident that a workable compromise can be reached that ensures appropriate regulation of the British Virgin Islands telecommunications market without unduly burdening the Licensees and ultimately the consumer. We recommend perhaps organizing an industry work group including representatives from the Government of the Virgin Islands, the Commission and the Licensees to explore alternative solutions to ensure government revenue, Commission funding and protect consumer / public interest.

Yours sincerely,



Averad Penn
Chief Executive Officer
Caribbean Cellular Telephone



Cc: Dr. the Hon. D. Orlando Smith, OBE, Premier of the Virgin Islands
Hon. Mark Vanterpool, Minister for Communications and Works
Board of Directors, Telecommunications Regulatory Commission
Board of Directors, Caribbean Cellular Telephone

