

TELECOMMUNICATIONS REGULATORY COMMISSION
VIRGIN ISLANDS

THE VIRGIN ISLANDS TELECOMMUNICATIONS MARKET REVIEW

FINAL STATEMENT,
INCLUDING REPORT ON THE CONSULTATION

2 December 2010

Reference Number: P/06/2010



Consultation on the Virgin Islands Telecommunications Market Review

1. Introduction

- 1.1. The Telecommunications Regulatory Commission (the “TRC”) published the consultation document on the Virgin Islands Telecommunications Market Review on its website (www.trc.vg) on 14th October 2010 and invited responses from the public by 1st November 2010. The TRC received responses from two licensed public suppliers: CCT and LIME (the responses are published on the TRC’s website separately). This final document sets out the approach of the TRC to conducting market analysis in the Virgin Islands (“VI”), summarising the points raised by the two respondents and outlining the TRC’s position with regard to such points.
- 1.2. Competitive market forces should be allowed to function fully in the Virgin Islands (the “VI”) to ensure the choice of high quality and reasonably priced communications services to the end user. In certain telecommunications markets, especially in the early stages of liberalisation, competition may not be effective and therefore some form of ex ante regulation may be required. Ex ante regulation can help to prevent anti-competitive behaviour as it is set in advance. Ex post competition policy can be applied after any misconduct has occurred to rectify the situation. The purpose of ex ante regulation is to apply a remedy as a form of preventive medicine for anti-competitive behaviour which results in consumer harm. The goal of regulation is to benefit the end user.
- 1.3. In order to determine where competition is ineffective in VI telecommunications markets, it is necessary to set out the different telecommunication market areas in the VI for further review and analysis. This document sets out the key telecommunication areas in the VI which are being prioritised for market analysis. At the market analysis stage, specific telecommunications markets will be defined. The defined market is then subject to market analysis which determines whether regulatory obligations should be imposed in order to create conditions for effective competition.
- 1.4. The key issue is to assess whether any public supplier is dominant in a defined market and to assess how it would be possible for that public supplier to abuse its market power to the detriment of consumers. In this way, the concept of dominance is synonymous with that of significant market power¹ (SMP) as employed by the European Commission under the European Framework for Communications². The relevance of the European regulatory approach to the VI is explained in section 5.2.

¹ The concept of dominance is synonymous with SMP at face value but different methods of application (backward looking or forward looking) may result in different outcomes.

² Official Journal of the European Commission 2002/C 165/03 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:165:0006:0031:EN:PDF>

2. The Legal Framework in the VI

- 2.1. Section 26 (3) of the Telecommunications Act, 2006 (the “Act”) empowers the Telecommunications Regulatory Commission (the “TRC”) to determine a public supplier dominant with respect to a relevant market. The Act defines a public supplier as dominant with respect to a telecommunications network or a telecommunications service where, individually or jointly with others, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors and users and, for such determination, the TRC shall take into account the following factors:
- a) The relevant market;
 - b) Technology and market trends;
 - c) The market share of the public supplier;
 - d) The power of the public supplier to introduce and sustain a material price increase independently of competitors;
 - e) The degree of differentiation among networks and services in the market; and
 - f) Any other matters that the TRC deems relevant.
- 2.2. The legal framework in the VI allows the TRC to define markets and assess whether there is significant market power in those markets and to declare a public supplier dominant. Section 26 (4) of the Act goes on to say that where the TRC determines that a public supplier is dominant in any market, the TRC shall include additional terms and conditions in the licence “for the purposes of regulating tariffs, protecting the interest of users and other licensees including the provision of adequate facilities and interconnection and access services, and of ensuring fair competition among licensees as it considers appropriate.” In other words, where the TRC finds a public supplier dominant, it is empowered by the Act to apply ex ante regulation.
- 2.3. The purpose of this document is to set out the TRC’s position on the framework and process for assessing the competitiveness of certain market areas and identifying dominant public supplier/s (if any) with a view to designing and applying appropriate regulation. The ultimate goal of this process is to ensure that the end user benefits from real competition in the marketplace. This document is not designed to make any judgment on the competitive state of any of the telecoms markets in the VI, it is simply to set out the TRC’s position on an appropriate process for assessing the competitive state of the telecoms markets in the VI. The purpose of the framework is to explain the process the TRC will follow in conducting a market review in order to ensure a level playing field for competitive telecommunications in the VI and to create certainty for market players and consumers alike.

3. The Process of Market Review

- 3.1 In order to set out the relevant markets for review, it is necessary to take into account both the key product areas in the VI and the market areas where specific problems have been identified. These areas are then grouped into market clusters, which will be subject to formal market definition at the market analysis stage, and prioritised for review.
- 3.2 The identification of a market cluster for analysis does not in itself mean that the market requires regulatory intervention. It is only where the TRC finds that effective competition is

lacking on a respective market that the TRC will impose a remedy. The key aim of the regulatory framework is to maximise consumer benefits in terms of choice, price, quality and innovation by promoting and ensuring effective competition.

4. Market Areas for Review

4.1 The key telecoms products in the VI are:

- Fixed voice and data
- Mobile voice and data
- Multi-channel TV

Market areas with identified potential competition issues

4.2 The TRC has identified a number of areas with potential competition issues. These include issues which have been brought to the TRC's attention by stakeholders within the industry. The issues identified below are by no means exhaustive but are intended to help prioritise the market areas for review so that the TRC can address the areas with the potentially most pressing and/or serious competitive problems as soon as is possible.

1. Fixed Broadband Access (voice and data)

a) Fixed retail voice services

With one incumbent fixed line operator in the provision of fixed line voice service, fixed line voice national and international calls may not be subject to competitive pressures depending upon the substitutability with mobile and voice over internet protocol (VoIP) solutions. Business fixed voice services such as PBX connections may also have limited competitive pressures which could mean that the incumbent may be able to exert anti-competitive pressures to the detriment of consumers. In order to address the competition problems identified in addition to the analysis of a retail market(s), analysis of a related wholesale market consisting of upstream inputs in fixed retail voice services may be needed.

b) Broadband retail services

There is one fixed broadband licensee with an extremely significant share of broadband internet service subscribers. Actual behaviour of licensees suggests that an incumbent operator might be able to profitably sustain price increases of 5-10%. A level of competition in the provision of broadband service would also be related to the availability of competitive capacity through international connectivity (see below) and therefore it may be necessary to analyse the two areas in parallel. Furthermore, in order to address competition problems identified in addition to the analysis of retail market(s), analysis of related wholesale market(s) consisting of upstream inputs in broadband retail services may be needed.

2. Calls to specific Caribbean destinations

Operators with pan-Caribbean operations may be able to offer per minute retail prices to specific Caribbean destinations that may not be possible for other operators to replicate. This may present a competition problem whereby public suppliers without a pan-Caribbean operation are unable to compete on an equal basis. It may be necessary to define and analyse the wholesale market for calls to specific Caribbean destinations as well.

3. Call termination

Licensees with different shares and patterns of traffic may have different views on the appropriate level of termination rates. Termination rates are typically regulated in calling party pays regimes³ and it is now timely for the TRC to review this market. The wholesale markets for fixed and mobile voice call termination and SMS termination may be appropriate for review.

4. International connectivity

With only one operator having its own facilities for international connectivity there is a potential lack of competition in international connectivity which needs to be assessed. Licensees may have limited access to international links which may negatively impact the growth of new data services as well as, potentially, competition in relation to voice services.

5. Retail and wholesale markets for mobile roaming

The presence of pan-Caribbean operators creates asymmetry in relation to the abilities of public suppliers, without operations in other territories in the region, to offer roaming services on the same level and may allow anti-competitive practices which may allow for discriminatory pricing practices at both the wholesale and retail levels.

6. Multi-channel TV

A single provider of multi-channel TV services may be able to vertically restrain the distribution of content by charging a distribution fee to content providers, which have to rely on such a provider as the single option for their content to reach end-users. A single provider of multi-channel TV services may also restrict consumer choice and quality of service compared to a competitive market.

The TRC asked if there other market areas with competitive problems other than those identified under 4.2 that should be addressed through the market review.

Operator Responses

CCT stated that they did not see any other market areas with significant competitive problems.

³ Calling party pays regimes require the calling party who originates the call to pay the full price of the call and the receiving party does not pay to receive the call. This call can only be terminated on the called party's network and hence a monopoly price for termination may apply in the absence of regulation.

LIME suggested that the framing of the question “Are there other market areas with competitive problems other than those identified under 4.2 that should be addressed through the market review?” prematurely identified competitive problems in the market areas discussed.

LIME took issue with the use of the terms market and market area stating that “In competition law, regulatory policy, and economics, the word ‘market’ has specific meaning and should only be applied after an empirical analysis of potential substitutes has been conducted. Accordingly terms “market” and “market area” in the question and throughout the section are used inappropriately.” LIME suggested that such language should be removed from the question.

LIME suggested that the TRC had already carried out a preliminary market definition exercise which had identified one operator with “an extremely significant market share” in the market for “broadband internet service,” and had already identified the market for call termination and should make this market definition analysis available.

The TRC Response

The TRC has been very careful not to define any of the market areas or market clusters as specific markets at this stage. As set out in subsections 1.3, 3.1, 4.3 and section 6, market definition will take place at the beginning of each market analysis. However to get to the stage of commencing market analysis in order to identify any signs of dominance or anti-competitive behaviour, it is necessary to identify a market area to establish a starting point for definition of relevant markets and further analysis. As set out in subsection 3.2 the market areas have only been identified for the analysis of potential competition issues and the TRC has not drawn any conclusions on the levels of competition at this stage. The TRC has received information from stakeholders which suggests that potential competition issues may be arising in these identified market areas and the TRC intends to analyse these market areas without prejudice as to the outcome. It may be the case that a market analysis concludes that a defined market has no competition issues. In finalising this document the TRC has in certain places adjusted the wording to remove even a slight possibility to interpret anything in this document to mean that the TRC has any preconception in relation to the final definition of markets and actual presence of competition problems in such markets.

Once the TRC has completed its market definition and analysis, the TRC will put the analysis and the basis for the conclusions drawn to consultation.

Prioritise cluster markets for market analysis

4.3 By taking account of the key telecommunications products in the VI and the list of problem areas, in the consultation document the following market clusters have been identified and prioritised in the following order for analysis:

1. Wholesale Call and SMS termination on individual fixed and mobile networks
2. Wholesale call termination to specific Caribbean destinations
3. Fixed Broadband Access (and fixed voice services; may include analysis of related wholesale markets)

4. International roaming in the Caribbean (retail and wholesale)
5. Multi-channel TV services and distribution of broadcasting content
6. Wholesale International connectivity

The first relevant market cluster to be reviewed is the Wholesale Call and SMS termination on fixed and mobile networks. It is necessary to analyse this market cluster first as the conclusions drawn on interconnection will impact further market analysis. The purpose of this framework is to create a predictable regulatory environment whereby public suppliers can anticipate the path of regulation where appropriate whilst regulation may be applied to the most pressing areas to address concerns in the pan-Caribbean calling and fixed broadband access markets.

In all these market clusters, the first step is formal market definition followed by an analysis of evidence of any significant market power within that market (or markets).

The TRC asked if the respondents agreed with the list of market clusters set out in 4.3 for analysis by the TRC.

Operator Responses

CCT agreed that the list contains the most significant market clusters.

LIME repeated its assertion that since the markets had not yet been defined it was not appropriate to set out these market clusters.

TRC Response

The market review process is an essential part of building a competitive marketplace for telecommunications in the VI. It is incumbent upon the TRC to ensure that this process happens as efficiently as possible whilst adhering to the provisions of the Act. The Act states that when determining dominance the TRC shall take into account the relevant market as one of the factors to consider. As explained above, identification of market clusters provides a starting point for definition of relevant markets and further analysis. Therefore it is without prejudice to actual market definition, which will be an outcome of the process outlined in section 6.

The TRC asked respondents if this is the appropriate prioritisation of markets for review.

Operator Responses

CCT suggested that the prioritisation of market clusters could be reordered as follows:

1. Wholesale call termination to specific Caribbean destinations (following the filing of a specific formal complaint by CCT concerning this area)
2. International roaming (retail and wholesale) (following the filing of a specific formal complaint by CCT concerning this area)

3. Wholesale International connectivity (in CCT's opinion this analysis should precede the Fixed Broadband analysis to set a clear vision of the capacity available and the appropriate charging structure)
4. Wholesale call and SMS termination on individual fixed and mobile networks
5. Fixed Broadband Access
6. Multi-channel TV services and distribution of broadcasting content

LIME requested that the TRC provide further information on the criteria used to prioritise the market clusters for review.

TRC Response

In a market review process, it is essential to analyse the market cluster for wholesale call and SMS termination first. The results of this market analysis impact upon further market analysis and will impact the analysis of wholesale call termination to specific Caribbean destinations as it will allow a better comparison of national and international termination rates. It impacts analysis of International Roaming as the national termination rate is an important factor in assessing the relevant costs of roaming. Furthermore, wholesale termination rates impact the analysis of the wholesale international connectivity market and fixed broadband networks as both sets of analysis must take into account the relevant cost and value of voice and data. The TRC agrees with CCT that international connectivity is an important input in provision of the Internet and related services and therefore considers it appropriate to analyse the market cluster for wholesale international connectivity before analysing Fixed Broadband Access. However it considers that the latter should be afforded sufficient priority because of importance of such services to consumers in the Virgin Islands and recent development related to the Internet services. Therefore the TRC has decided to prioritise the market clusters for analysis as follows:

1. Wholesale Call and SMS termination on individual fixed and mobile networks
2. Wholesale call termination to specific Caribbean destinations
3. Wholesale International connectivity
4. Fixed Broadband Access (and fixed voice services; may include analysis of related wholesale markets)
5. International roaming in the Caribbean (retail and wholesale)
6. Multi-channel TV services and distribution of broadcasting content

The TRC also notes that the prioritisation of market clusters and justification of order of analysis is not required by the Act. The purpose of such prioritisation is simply to assist with an efficient organisation of the TRC's efforts as well as to provide clarity to market players in this regard. Inclusion of such prioritisation in the consultation document afforded stakeholders with an opportunity to provide their suggestions as to whether specific market cluster should take priority. As described above, the TRC evaluated such suggestions in finalising the order of market clusters for analysis.

5. Market Analysis

5.1 The TRC will conduct market definition and analysis. The purpose of market analysis is to assess if there is any significant market power ("SMP") which enables anti-competitive behaviour. It is the

assessment of significant market power or equivalently of dominance which determines whether ex ante regulation should be applied or not. The SMP assessment focuses on the market power of a specific licensee in a given market with a view to determining whether that public supplier should or should not be made subject to ex ante regulation in that relevant market. Ex ante regulation will only be justified if one or more public suppliers are found to have significant market power on a market.

- 5.2 This market analysis framework is intended to assess how competitive each relevant market is in the VI. It is designed to assess which markets are functioning competitively and which are not and to identify the causes of a lack of competition and to identify the appropriate remedy to ensure effective competition. This framework for ex ante regulation reflects some of the basic principles of the European Commission's common regulatory framework for electronic communications networks and services. The European framework follows a methodology of market definition and analysis which equips Regulators to make well-reasoned decisions to apply ex ante regulation based on a stable and predictable framework rather than in an ad hoc manner. In the case of the VI it is necessary to identify which markets require analysis and possible ex ante regulation rather than simply to translate the European system across to the VI. The European system presents a framework, which has been implemented in or adapted to a variety of countries of different sizes and market characteristics. Therefore it can be adapted to the needs and competitive nature of the VI allowing for local circumstances.
- 5.3 It is essential that ex ante regulatory obligations should only be imposed where a defined market is not effectively competitive. This would be in the case of a market where one or more undertakings have significant market power. For the purposes of this framework, as is the case in the European Commission Guidelines on market analysis and the assessment of significant market power⁴, the definition of significant market power is equal to the concept of dominance. An analysis of effective competition should include an analysis as to whether the market is prospectively competitive over a short to medium timeframe (normally, one to two years) and thus whether any lack of effective competition is durable. Under the European framework, newly emerging markets are traditionally not subject to regulatory pressure, where de facto the market leader is likely to have a substantial market share. Market definition and competitive structure change over time therefore it is necessary to conduct market reviews on a periodic basis. If one or more public suppliers are found to have significant market power in a relevant market, following the market analysis, specific obligations (including obligations of non-discrimination) may be imposed to address the market failures in that market. The range of remedies may include granting access to specific services and/or facilities to competing public suppliers, price regulation, requirements of non-discrimination, transparency, accounting rules (accounting separation), cost accounting etc. depending upon the nature of the competitive problem. As a result, competitive forces assisted by a regulatory framework should bring the desired benefits to end users.

⁴ European Commission Guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic networks and services (2002/C 165/03) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:165:0006:0031:EN:PDF>

5.4 The objective of the framework is to ensure that the communications sector functions competitively to the maximum benefit of consumers in the VI. Therefore the purpose of the market analysis is so that the Regulator:

- i) Ensures that all users derive maximum benefit in terms of choice, price and quality
- ii) Ensures that there is no distortion or restriction of competition in the electronic communications sector
- iii) Encourages efficient investment in infrastructure and the promotion of innovation

This framework is aimed at enabling effective competition in the VI telecoms markets and in guaranteeing legal certainty.

The first step in the market analysis will be to define the market under review.

6. Market definition

6.1 The market clusters set out for market analysis will be subject to formal market definition. Each market cluster may be formally defined as a market (without prejudice to the possibility of defining a market that is broader than a market cluster identified) or number of markets. Under market definition both the product market and the geographic market are defined.

6.2 A product market is usually defined through the demand-side and supply-side substitutability tests. These tests take the case of a hypothetical monopolist who increases price by 5-10% and can profitably sustain this price increase. This test is also called the small but significant non-transitory increase in price test or SSNIP test. The demand-side substitutability test assesses whether there are any substitutes to a product in a defined market. So for example, if the product in question is fixed line broadband access, then if the hypothetical monopolist was to increase price by 5-10% and there were to be little change in demand such that the price increase is profitable to the monopolist, then the market would be defined as fixed line broadband access. If as a result of the price increase there were to be a significant reduction in demand and a switch to another product such as mobile broadband access then the market would need to be widened to include both mobile and fixed broadband internet access. The definition of this market would then be continuously widened until no further substitution took place. A supply-side substitutability test assesses if there are close substitutes to the seller. So if the hypothetical monopolist were to increase price, then the test is to assess if any other suppliers can enter the market to supply the product or an alternative product. The test is again, can the hypothetical monopolist sustain a profitable price increase and if not then the market needs to be widened. Demand-side substitutability focuses on the delineation of the market from the buyer's point of view and supply-side substitutability may help to strengthen the market definition by identifying the number of market participants.

6.3 A geographic market is defined with respect to the scope of service within a defined territory, within which competitive conditions are sufficiently similar. In many instances the geographic market would coincide with the territory that the licensees are licensed to operate their networks or provide their services in. In theory, sub-national markets could be defined. However, because of the size of the VI, the necessity to use resources of the TRC and market players efficiently, and the fact

that there are no sub-national licences, it is unlikely that it might be the case in the VI. The TRC may also define transnational markets.

6.4 The next step is to establish whether any public supplier is dominant on the market.

7. Designation of significant market power and dominance

7.1 As per Section 26 (6) of the Act the TRC must hold a public consultation before determining that a public supplier is dominant. The TRC must publish details about the consultation in the Gazette, on the TRC's website and in a VI newspaper at least fourteen days before the commencement of the consultation.

7.2 Section 26 (3) of the Act states that "the Commission may determine that a public supplier is dominant with respect to a telecommunications network or a telecommunications service where, individually or jointly with other, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors and users". This definition is very much in line with the European definition in the Framework Directive⁵. The Directive goes onto explain that two or more undertakings can be found to be in a joint dominant position even if in the absence of structural or other links between them, they operate in a market the structure of which is considered to be conducive to coordinated effects. The structure of this market is likely to display the following characteristics:

- Mature market
- Stagnant or moderate growth on the demand side
- Low elasticity of demand
- Homogeneous product
- Similar cost structures
- Similar market shares
- Lack of technical innovation, mature technology
- Absence of excess capacity
- High barriers to entry
- Lack of countervailing buyer power
- Lack of potential competition
- Various kinds of informal or other links between the undertakings concerned
- Retaliatory mechanisms
- Lack or reduced scope for price competition

This list is not exhaustive or prescriptive, it simply highlights the kind of evidence required to support the assertion concerning the existence of joint dominance.

7.3 Section 26 of the Act empowers the TRC to designate an undertaking as dominant on the basis of market share as explained in section 2.1. In line with the European Commission guidelines on

⁵ Article 14 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, Undertakings with Significant Market Power <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0021:EN:HTML>

market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications and services⁶, firms with market shares of no more than 25% are unlikely to enjoy a position of significant market power. Firms with market shares over 40% are likely to have significant market power and be dominant. In line with established case law, market shares over 50% are evidence of dominance. A firm with a large market share may have SMP and be in a dominant position, if its market share remains stable over time. If a firm is gradually losing market share, this may be a sign that the market is becoming more competitive but it does not mean that the firm still does not have SMP. Similarly, fluctuating market shares may be indicative of a lack of market power in a defined market. Market shares are not wholly indicative of economic strength in a market and hence other factors will be taken into account when assessing dominance and market power.

- 7.4 Where a market is deemed effectively competitive no ex ante obligations shall be imposed or obligations shall be withdrawn. Where a market is deemed not effectively competitive, the TRC shall identify the undertakings with significant market power on that market (dominant undertakings) and shall normally impose, amend or retain ex ante regulatory obligations.
- 7.5 Regulatory intervention should, as a matter of best-practice, be proportionate to the problem. Therefore, it is necessary to have access to information concerning each market which may be susceptible to anti-competitive behaviour to assess the need for and impact of regulatory intervention to ensure that any regulatory intervention is as well-targeted and justified as possible. However, the TRC will have to take into account the availability of information on the market and the need to exercise judgement, where information may not be available at all or at the required level of granularity.

The TRC asked if respondents had any comments on the proposed market definition and analysis procedure.

Operator Responses

CCT requested that the TRC consider the implications of operators with a presence in other Caribbean countries for the analysis of dominance in the VI market.

LIME stated that its response was “subsumed in its response to questions 1 through 3”.

TRC Response

The TRC will carry out the formal market definition and analysis procedure as set out in sections 6 and 7. The TRC will consider the presence of locally licensed public suppliers in other jurisdictions in as far as it impacts upon the competitive environment in the VI.

⁶ European Commission Guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic networks and services (2002/C 165/03) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:165:0006:0031:EN:PDF>

8. Remedies

8.1 The final step under this process is to apply a remedy or remedies if a public supplier is determined dominant on a market. Further to the general right of the TRC to impose appropriate remedies as set out in Section 26 (4) of the Act (reproduced in paragraph 2.2 above), under Section 29 (2) of the Act, the TRC is empowered to establish price regulation regimes where a licensee has a dominant position in the relevant market. In general, remedies will be applied only when necessary and will be proportionate to the weight of the competitive problem. The remedy applied may include price regulation of the retail and/or wholesale market but the full range of remedies will be considered in each case depending on the source and nature of the identified competitive problem.

9. Conclusion: Recommended Relevant Market Clusters for Review

9.1 It is the view of the TRC as set out in section 4.3 (and as adjusted in response to the views submitted in the process of the consultation), that the following market clusters should be prioritised in order to deliver the maximum benefit to consumers within the minimum timescale:

1. Wholesale Call and SMS termination on individual fixed and mobile networks
2. Wholesale call termination to specific Caribbean destinations
3. Wholesale International connectivity
4. Fixed Broadband Access (and fixed voice service; may include analysis of related wholesale markets)
5. International roaming in the Caribbean (retail and wholesale)
6. Multi-channel TV services and distribution of broadcasting content

9.2 Despite the relatively small size of the VI telecoms market, a regulatory framework needs to be put in place to ensure stable and predictable regulation to the benefit of consumers and public suppliers alike. The same regulatory issues will arise in the VI as in the largest telecoms market for example, issues of on-net dominance, but the key in a small market such as the VI is to have the structure in place and to be able to react quickly with the appropriate remedy or safeguard mechanism.

9.3 The TRC therefore will define and analyse these market clusters. All licensees will be required to submit information under the Act and will be allowed adequate time to do so. The TRC will analyse each market for evidence of significant market power. The TRC will take an evidence based approach to determining the competitiveness of each market (having regard to possible limitations of data available) and will take into account international benchmarks and best practices. The guiding principle for assessing and addressing any dominance must be the ultimate impact on consumers.

10. Next steps

10.1 The TRC thanks the two respondents for their comments on the consultation which the TRC has duly considered in producing this final document. The TRC considers that the public consultation that was conducted is sufficient in affording an opportunity for stakeholders to present their views to the TRC at this stage. Therefore it does not consider that a further consultation on the content of

this document is needed. In finalising this document, the TRC has made some slight adjustments to the document (in addition to the changes specifically explained above) without changing the intended meaning of the text. Stakeholders, however, will have an opportunity to provide their views in the further stages of the market review as explained in the document. The TRC will commence the process of market analysis now that the consultation has closed.

Tomas Lamanuskas
Chief Executive Officer