



Commission
Draft Annual Work Plan
and Budget 2018/2019
Consultation Document

Consultation

Publication date: 3 October 2018

Closing date for responses: 31 October 2018

Reference Number: 2/2018

About this document

The Telecommunications Regulatory Commission of the British Virgin Islands (**Commission**) is tasked with the regulation and development of the telecommunications services industry in the Territory.

To achieve this, we promote and protect the interests of consumers and business in the British Virgin Islands with respect to price, choice, quality of service and innovation in telecommunications services, while encouraging a competitive market place.

Under section 63 of the Telecommunications Act 2006 (**Act**), the Commission is required to publish its Annual Work Plan and Budget.

Our Annual Work Plan outlines some of the key work that we propose to undertake in order to realise our objectives in the coming year. We also highlight our on-going work, which supports these goals. This document is a draft of our Annual Work Plan and Budget for the Commission's 2017/2018 financial year.

We are publishing this draft to provide our stakeholders with the opportunity to comment on our proposed priorities, anticipated work for the year and attendant budget.

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Instructions for submitting a Response

The Telecommunications Regulatory Commission of the British Virgin Islands (the **Commission**) invites comments on this consultation document from all interested parties. Comments should be submitted by 31 October 2018.

We strongly prefer responses to this document to be sent by email to consultations@trc.vg (indicating the subject: "Consultation on the Annual Work Plan and Budget 2018/2019". Alternatively, responses may be sent to the address (or the P.O Box number) set out below:

Consultation on the Annual Work Plan and Budget 2018/2019 – Telecommunications Regulatory Commission, P.O. Box 4401 or 27 Fish Lock Road, 3rd Floor Road Town, Tortola, British Virgin Islands VG 1110.

Responses from corporate bodies (legal persons) should include:

- the name of the company/institution/association/other organisation;
- the name of a principal contact person; and
- full contact details (physical address, postal address, telephone number, fax number and email address).

Responses from individual (natural) persons, should include name and contact details (including email).

We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of the responses and help to maintain confidentiality where appropriate.

In the interest of transparency, the Commission will make all submissions received available to the public, subject to the confidentiality of the information received. The Commission will evaluate requests for confidentiality according to relevant legal principles.

Respondents are required to clearly mark any information included in their submission which they consider to be confidential and provide reasons why that information should be treated as such. Where information claimed to be confidential is included in a submission, respondents are required to provide both a confidential and a non-confidential version of their submission. The Commission will determine whether information claimed to be confidential is to be treated as such and, if so, will not publish that information. In respect of information that is determined to be non-confidential, the Commission may publish or refrain from publishing such information at its sole discretion.

Once the Commission has received and considered responses to this consultative document, it will deliver its final Work Plan and Budget for the 2018/2019 financial year and calculations of the industry levy to the Minister of Finance for approval and it will be published on the Commission's website.

Cover sheet for response to a Commission consultation

BASIC DETAILS

Consultation title: To
(Commission Contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

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 Organisation

Part of the response Details of Confidential Information

If you want part of your response, your name or your organisation 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

Signed (if hard copy)

Part 1: 2018/2019 Strategic Overview

Background

- 1.1 The Commission is the independent regulator for telecommunications in the British Virgin Islands, established in 2007 in accordance with the Act. Our mandate is to implement the Government's policy with respect to telecommunications as set out in the Telecommunications Liberalisation in the British Virgin Islands.¹ Our principal statutory functions are set out in section 6 of the Act.
- 1.2 Our mission is to promote value, choice, innovation, quality and competitive pricing for consumers and businesses in the British Virgin Islands. We work for consumers and businesses by promoting investment, effective competition, informed choice and the opportunity to have access to a wide range of telecommunications services.
- 1.3 To promote transparency and accountability, the Commission is required to publish an Annual Work Plan containing 'a general description of the work and activities that the Commission plans to undertake in the financial year.'²
- 1.4 In accordance with its statutory obligations, this document is the Commission's 2018/2019 Annual Plan, which will guide the Commission's work in 2018 in the telecommunications sector, for which it has responsibility. Also included in this document is the 2018 Budget, as required by section 63 of the Act.

Board of the Commission

- 1.5 The Minister, with the approval of the Council, made the following appointments to the Board of the Commission:
 - Chairman: Michael Thomas (Re-appointed: 13 February 2017 to serve for a term of two years and six months)
 - Board Members: Jerry Samuel (Appointed: 1 March 2017 to serve for a term of three years)
 - Board Member: Delroy Williams (Re-Appointed: 1 May 2017 to serve for a term of two years)
 - Chief Executive Officer and Board Member: Guy L. Malone: Re-appointed 1 March 2017 for a term of two years)
- 1.6 The Board of the Commission, as constituted, is undertaking a thorough review of (a) work done by the Commission to date; (b) action required to bring the Commission into line and up to date with its duties under the Act; (c) the quality and speed of communications services being delivered in the Territory; (d) additional legislation that needs to be introduced to bring the BVI up to international standards and (e) staffing requirements to facilitate the delivery of the Commission's Work Plan.

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http://www.trc.vg/images/attachments/040_G00050_Telecommunications%20Liberalisation%20In%20The%20British%20Virgin%20Islands.pdf

² Section 63(2) of the Telecommunications Act 2006.

Our Principles of Regulation

- 1.7 We have adopted six essential principles of good regulation consistent with international standards and best practice:

Accountability: Our decision-making powers should be, with the constraints of confidentiality, exercised transparently and subject to appropriate scrutiny and challenge.

Focus: We will concentrate on protecting the interests of consumers and business in the British Virgin Islands by ensuring the operation of a well-functioning and contestable market.

Predictability: We plan to provide a stable and objective environment, allowing all those affected by our regulation to anticipate the basis for further decisions and make long-term investment decisions with confidence.

Adaptability: The framework of our economic regulation will be flexible enough to respond to a quickly changing technology and services environment, continuing to be relevant and effective over time.

Efficiency: Where we intervene, policy interventions will be proportionate and cost-effective, and our decision-making should be timely and robust.

Balance: Our evidenced-based approach to decision-making and our adaptability will ensure that we remain proportionate, consistent, fair and just.

Strategic Aims and Objectives 2018/2019

- 1.8 We have identified eight strategic aims and objectives for the 2018/2019 financial year:

1.9 An Enduring Culture of Compliance

We will strategically monitor all operator's compliance with the Act, their licences, the Telecommunications Code and any Instructions issued by the Commission, and take enforcement action as and when necessary. This is in line with our duties under the Act and our commitment to add value to the telecommunications industry in the British Virgin Islands, by fostering competition in the market and protecting the welfare of users.

1.10 Engagement with Consumers and Businesses

We are committed to supporting local businesses and consumers in the British Virgin Islands, recognising that there are several other industries that are critically dependent upon having a competitive and robust telecommunications market and infrastructure. Through a communications programme, we plan to engage with businesses and consumers to promote understanding of the market and our work, while also gaining a better understanding of their needs and concerns.

1.11 Proactive Stakeholder Relationship Building

Our interaction with stakeholders is critical as we prioritise our work plan with a view of providing a quick and effective response to market developments. In this regard, we will positively increase our interaction with local operators to better understand the challenges they face and opportunities for improvement; Government department to assist with the progress of various sectors; and the public to ensure that they are aware of our work to add value to their telecommunications experience.

1.12 Consistent Government Interrelations

Our function of advising the Minister of Communications and Works on positions and policies relating to telecommunications will be fulfilled through the provision of timely and high-quality advice. We will also continue to foster a good working relationship with the Minister and the Government of the Virgin Islands by providing consistent updates on our work and development in the telecommunications sector.

1.13 International Best Practice

We will ensure that we follow international best practice in regulation and competition law. We have improved our relationships with sectoral regulators including CANTO, OOCUR, OFCOM in the UK, and the FCC in the US, and other organisations including the GSMA, PCH, IANA and ARIN. We will be seeking closer relationships with the CTU, ICTA, UKRA and CICRA in the Channel Islands. Sharing knowledge and best practice will allow us to ensure consistency in our approach to economic regulation.

1.14 Enhanced Performance

We are committed to ensuring that the telecommunications industry provides consumer choice and quality of service. Therefore, the Commission will continue to encourage and incentivise licensed operators in the BVI to increase investment in the Territory, with a view to improving their network performance. We will also prioritise our work to ensure that we deliver the most benefit to consumers, enterprises and visitors in the British Virgin Islands.

1.15 Annual Report

We intend to publish an Annual Report during the 2018-2019 financial year, which will highlight the Commission's activities during prior years. This will also include audited financial statements up to the 2018 financial year, in keeping with our commitment of accountability to our stakeholders.

1.16 Disaster Management

Our learnings from the 2017 Atlantic Hurricane Season have proven telecommunications to be a key resource in the Territory. The Commission will work with Government to have telecommunications recognised as an essential service, while finalising a clear and coordinated strategy for the management of telecommunications during a disaster. We will also continue to support the operators in their respective rebuild activities to ensure ICT resilience.

Part 2: The 2018/2019 Work Plan

The Commission's objective for the British Virgin Islands' telecommunications market is to ensure that it satisfies all reasonable demands for telecommunications services by promoting competition and encouraging investment.

Our critical projects for 2018 and 2019 are set out below.

Ensure optimal spectrum efficiency so that this resource is used for the maximum benefit of consumers and enterprises.

- 2.1 In January 2018, the Commission published the new Spectrum Management Framework, the National Frequency Allocation Table for the British Virgin Islands and its Implementation Plan. In keeping with the Implementation Plan, the Commission has launched a public consultation on the proposed assignment process for the expedited release of critical spectrum that has been highlighted by operators as desirable for their network rebuild activities. This consultation closes in September 2018; following which, the Commission will conduct the assignment process for the Phase 1 spectrum. The release of spectrum is expected to be completed during the first quarter of the financial year. Thereafter, other activities identified in the Implementation Plan will be prioritised by the Commission.
- 2.2 We will complete a thorough review and network audit to establish how efficiently and effectively the spectrum frequencies are being used by the licensed operators and to assess the qualities of service that current exist in the British Virgin Islands.
- 2.3 The Commission has initiated processes in relation to the acquisition of a spectrum management software tool to facilitate the management of spectrum in the British Virgin Islands and a spectrum monitoring unit to allow the Commission to more accurately monitor the use of spectrum throughout the Territory. This dual acquisition will be completed during the first quarter of the financial year.

Facilitate continued development of a first-class telecommunications infrastructure that delivers choice, value and quality of service for consumers, enterprises and visitors to the British Virgin Islands.

- 2.4 Having completed a review of stakeholders' comments relating to the implementation of Number Portability in the Territory, the Commission will take further steps towards determining technical, financial and consumer implications of implementation along with assessing the strengths and capabilities of the operators to deliver a seamless solution. This will be completed by the second quarter of the financial year.
- 2.5 The Commission remains committed to the reactivation of the Internet Exchange Point in the Territory. The installation of root servers as part of the Exchange is expected to enhance the overall stability and resilience of internet services in the Territory. This project, which is currently ongoing, is expected to be accomplished by the second quarter of the financial year.
- 2.6 Recognising the growth in the world's internet population, the continued rise in the number of internet-connected devices and the imminent exhaustion of IPv4 address space, the Commission will encourage the expansion and proliferation of IPv6 across the Territory in conjunction with the Operators and the wider business communication.

Ensure compliance by each of the operators with the Act, the Telecommunications Code, their license and any relevant directive or instruction given by the Commission.

- 2.7 Conduct a targeted compliance audit of the licenced operators to review any areas of inefficient use of their licence and non-compliance and work with each operator to bring them into compliance as the Commission deems to be necessary, proportionate and appropriate.
- 2.8 Consult upon and implement guidelines which the Commission will consider when exercising its discretion in taking enforcement action for any breach of the Act, any licence, the Regulations, the Telecommunications Code and any instructions issued by the Commission.
- 2.9 Regularise any incidences of operator non-compliance with licence conditions identified in the audits, in 2.2 and 2.7above.

Review the legislative framework and propose the introduction of applicable amendments and new or revised Telecommunications Code.

- 2.10 Identify and make recommendations where necessary for new legislation and amendments to existing legislation, regulation and/or regulatory policy.
- 2.11 Consult upon a suite of telecommunications codes, including without limitation, consumer complaints and consumer protection. This consultation will commence no later than the second quarter of the financial year.
- 2.12 Consult upon formal guidance on disaster management of telecommunications to ensure efficient and coordinated efforts in the event of a disaster or other such occurrences. This consultation will commence by the third quarter of the financial year.

Targeted economic regulation aimed at those areas where market forces alone are not sufficient to protect consumer and business interests.

- 2.13 Hire a Chief Economist to take forward the programme of work relating to market review and the implementation of policies and procedure to enhance fair competition in the British Virgin Islands' communications market.
- 2.14 Review operator licences to determine the appropriate approach to consolidation and, dependent upon the outcome of the review, consult upon merger control guidelines.
- 2.15 Assess market competitiveness to analyse trends and progress since liberalisation with a view to looking at improvement of market conditions.

Ensure that the Commission is adequately skilled, involved with telecommunications users, and has the appropriate financial framework to fulfil its duties under the Act.

- 2.16 The Commission will go on a staff retreat aimed at improving focus within the organisation. Telecommunications, and equally its regulation, is vital in the British Virgin Islands. Therefore, to ensure that the Commission continues to serve the public interest, the time will be used to revise our mission and vision and to gain guidance on the best ways of performing our duties. This is anticipated for the first quarter of the financial year.
- 2.17 We will also acknowledge and celebrate the annual World Telecommunications and Information Society Day and will use this opportunity to engage with consumers and businesses.
- 2.18 Audited financial statements for 2016 and 2017 are projected for completion during the first quarter of the financial year. Thereafter, our 2018 audited financial statement will be commenced, with a view for completion during the second quarter of the financial year.

Part 3: On-Going Work to Fulfil Our Duties

Under section 6 of the Act, the Commission has a broad range of duties and responsibilities. Much of this work is non-discretionary and is outlined in the Act.

Our broader programme of on-going work, as outlined below, helps us to fulfill our wider mandate and supports the work identified in Part 2 above.

3.1 Protect consumer interests

As one of the key safeguards of the public interest, we establish quality of service indicators and reporting requirements. We enforce and monitor the effectiveness of operator performance to ensure an optimum consumer experience in the telecommunications sector.

3.2 Enforcing competition conditions

To ensure effective competition in the market, we investigate operator issues in relation to interconnection and shared facilities, enabling timely and amicable resolutions, as necessary. We also enforce regulatory conditions that we impose on communications providers to promote competition.

3.3 Managing spectrum usage

The Commission ensures that the radio spectrum is used in the most efficient way, which limits interference between users and maximises benefits to consumers. We authorise the use of spectrum through the issuance of frequency authorisations. Where appropriate, we issue exemptions to allow spectrum use without a frequency authorisation. We also audit bands used by mobile and fixed broadband access services.

3.4 Eliminating harmful radio interference

To help resolve harmful interference, the Commission advises and assist spectrum users by monitoring marine traffic and handling reports of interference, while carrying out activities to protect and manage the radio spectrum. The Commission has developed an awareness and enforcement programme, which includes providing notifications and coordination with Government entities to eliminate any instance of harmful interference. We will continue to take action, to enforce the ban of unlicensed European DECT systems within the Territory. Additionally, we are engaged in formal discussions with the FCC towards establishing clear guidelines for frequency coordination between the British Virgin Islands and the US Virgin Islands.

3.5 Determine licence and frequency authorisation applications

We assess applications for commercial TV and radio service, and other licences and frequency authorisations based on application policies and regulations. Where licence or frequency authorisations are granted, we monitor and enforce effective compliance. In this regard, we are also currently identifying use of the spectrum by the Government of the Virgin Islands and will issue frequency authorisation to accurately reflect their usage.

3.6 Addressing consumer complaints

The Commission regularly investigates and resolve complaints by telecommunications users in the BVI in relation to telecommunications products and services and facilitates relief, as necessary. We regularly monitor complaints and actively enforce regulatory conditions, to create a firm and effective outcome where we see harm.

3.7 Monitoring telecommunications developments

Our policy work is informed by technical and commercial developments in the industry. Therefore, to ensure that we are properly informed of future opportunities and challenges, we monitor, analyse and consider respective developments to ensure that our regulation and promotion of expansion are appropriate.

3.8 Advising the Government of the Virgin Islands

The Commission engages with the Government to advise on positions and policies relating to telecommunications issues and advancement in the telecommunications industry. We also work closely with other regulators in the Region to ensure a coordinated approach to regulation.

3.9 Engaging with international stakeholders.

We believe that discussing best practice is of utmost important to ensuring consistency in our regulation of the telecommunications. In light of this, the Commission engages with international stakeholders in the telecommunications industry, to learn from their experiences and join policy discussions that may impact the BVI telecommunications sector.

3.10 Building our human resource

We undertake comprehensive internal and external staff training and development to ensure increased knowledge and awareness of the communications and technology sector as well as the responsibilities of the Commission.

3.11 Collection of fees

We assess and collect all fees and other charges payable to the Commission, including without limitation, licence fees, royalties, and spectrum fees. We anticipate discussions with the industry on the Industry Levy with a view of collection during the 2018/2019 financial year.

Part 4: Budget for the 2018/2019 Financial Year

Estimated Income

FY 2018 Budget - Income	FY 2018 Budget	FY 2019 Budget
Domain Registration Fees	40,000.00	32,000.00
Industry Levy Fees	-	4,265,066.60
Radio License Fees	60,000.00	45,000.00
Royalty Fees	2,444,746.51	2,220,629.73
Spectrum Fees	190,400.00	516,650.00
Submarine Cable Fees	500,000.00	500,000.00
Finance Income	10,000.00	10,000.00
Estimated Income	3,245,146.51	7,589,346.33

Estimated Expenditure

FY 2018 Budget - Expenditure	FY 2018 Budget	FY 2019 Budget
Non-Executive Members Honoraria and Expenses	40,800.00	40,800.00
Employee Compensation	1,259,884.88	1,242,445.01
Government Fees and Staff Benefits	594,590.76	591,036.99
Professional Services	735,200.00	801,950.00
Conferences, Training and Travel	343,937.44	244,822.86
Rent and Utilities	397,222.88	415,222.88
Maintenance Expenses	59,502.17	47,113.44
Consumers Education and Public Relations	48,000.00	48,000.00
General and Administration	169,374.40	217,622.20
Special Project	100,000.00	100,000.00
Estimated Operating Expenditures	3,748,512.53	3,749,013.38
Contingency Amount	579,244.24	516,053.22
Total Estimated Expenditures with Contingency	4,327,756.77	4,265,066.60
Net Income before Regulatory Contribution	(1,082,610.26)	3,324,279.73
Less: Regulatory Contribution	-	(2,220,629.73)
Estimated Net Income (Loss) after Regulatory Contribution	(1,082,610.26)	1,103,650.00
Capital Expenditure	2,043,929.83	1,411,518.83

Overview of Budgetary Items

Income

- **Domain Registration Fees:** This income comprises of new and renewal dot.vg subscribers. This is an emerging market that the Commission wishes to grow. The Commission hopes, in the future, that all local registered companies will have a DOT.Vg account.
- **Industry Levy Fees:** As per section 59 of the Telecommunications Act 2006, the Industry Levy represents the Commission's operating cost assessed by the Commission on all Licensees.
- **Radio Licence Fees:** This income represents fees from individual radio operators, boat captains, and registered boats that renew or apply for a radio licence to operate in the BVI.
- **Royalty Fees:** This income represents royalties received from the licensed operators annually. This amount is 3% of the gross income of the licensed operators. This income decreased by 9%, as a result of impact to the Territory during the 2017 Atlantic Hurricane Season.
- **Spectrum Fees:** This is a relatively new revenue stream for the Commission, since the LTE award process in 2016. This is an annual fee, payable every August by the holders of the LTE spectrum.
- **Submarine Cable Fees:** A fairly new revenue stream for the Commission, because of CWC submarine cables that terminate or transit the BVI, pursuant to the Submarine Cable Directive dated 18th Dec 2014. This revenue is capped at \$500,000.00 per annum.
- **Finance Income:** Interest Income on bank deposits.

Expenditures

- **Non-executive Members Honoraria and Expenses:** This represents the budgeted cost for all members of the Board of the Commission. This expenditure has remained the same over the financial periods reported (2018 and 2019).
- **Employee Compensation:** This represents remuneration for all employees, inclusive of 18 full time positions. However, there are currently 3 job vacancies – Chief Legal Advisor, Chief Economist and a Compliance Officer. This figure has decreased by 1% over the prior budget year.
- **Government Fees and Staff Costs:** This represents employer social security, NHI, PAYE, pension cost, health benefits, staff recognition program, housing allowance, travel allowance, telephone allowance, entertainment allowance, performance management and gratuity scheme. This figure has decreased by 1% over the prior budget year.
- **Professional Services:** This represents auditing services, economics service, legal and litigation services, research and development services, and technical and human resource services. This figure has increased by 9% from prior periods.
- **Conferences, Training and Travel:** This represents travel, local and internationally, for members of the Board and employees, to attend meetings, conferences, seminars, and workshops for continued development on behalf of the Commission. This figure has decreased by 29% compared to the prior year's budget. The priority of the Commission is to ensure that each member of staff is

adequately knowledgeable in their area considering ever-changing technology, while fostering business relationships with regulatory bodies worldwide.

- **Rent and Utilities:** This represent occupancy of the 2nd and 3rd floor of the LM Business Centre; the latter floor was leased by the Commission from December 2016 to accommodate increased staffing. Accordingly, this figure has increased 5% over the prior budget year due to additional rental space needed to carry out the efficient role as the regulator.
- **Maintenance Expenses:** This represents automobile maintenance, building maintenance, cleaning and cleaning materials, computers, equipment and site, fuel, and office equipment. This figure has decreased by 21% over the prior budget year.
- **Consumers Education and Public Relations:** This represents initiatives aimed at educating and informing consumer on various aspects of the telecommunications sector, including community outreach; utilisation of other media avenues; and acknowledgement of various telecommunications days/events. This expenditure has remained the same over the financial period reported (2018 and 2019)
- **General and Administration:** This represents subscriptions, customs duties, general office expenses, and messenger services. This figured has increase by 28% over the prior budget year due to anticipated expenditure for cloud solutions, office supplies, software subscription and printing supplies for additional office floor.
- **Special Projects:** Operator Compliance Audit. This represents the Commission's focus on investigating each operator's business operations and practices, in an effort to gain a better understanding of the business and ensure the compliance of all operators. While the Commission will be involved in this initiative, this project includes obtaining external services from its auditors and technical experts for the Commission to effectively carry out this audit.
- **Contingency Amount:** This represents 10% of the estimated expenditure, as per section 59(2) of the Telecommunications Act 2006.