



Commission Annual Work Plan and Budget 2021/2022

Promoting value, choice, innovation, quality and competitive prices for all consumers

Statement

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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 businesses in the British Virgin Islands with respect to price, choice, quality of service and innovation in telecommunications services, while encouraging a competitive marketplace.

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 our Annual Work Plan and Budget for the Commission's 2021/2022 financial year.

This Annual Work Plan takes into account stakeholder responses to our consultation on the proposed Plan.

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Part 1: 2021/2022 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 policy.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 2021/2022 Annual Plan, which will guide the Commission's work in 2022 in the telecommunications sector, for which it has responsibility. Also included in this document is the 2022 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: Vance Lewis (Appointed: 1 February 2020 to serve for a term of three years)
 - Deputy Chairman: Vincent Wattley (Appointed: 1 February 2020 to serve for a term of three years)
 - Board Member: Bevis Sylvester (Appointed: 20 February 2020 to serve for a term of two years)
 - Board Member: Joycelyn Murraine (Appointed: 20 February 2020 to serve for a term of two years)
 - Chief Executive Officer and Board Member: Guy L. Malone: Re-appointed 1 March 2021 for a term of two years)
- 1.6 The Board of the Commission, as constituted, is continuing its objective of 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; (e) staffing requirements to facilitate the delivery of the Commission's Work Plan and (f) a universal service mechanism that will improve services in the Virgin Islands inclusive of the sister islands and rural areas on Tortola.

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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 businesses 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 2021/2022

- 1.8 We have identified nine strategic aims and objectives for the 2021/2022 financial year:

1.9 Improved Telecommunications Services

The Commission has been resolute in its commitment to improve telecommunications services in the British Virgin Islands. We are pleased to have been awarded the 2021 BVI Finance Regulator of the Year Award, which we view as a recognition of our efforts. We will continue our work in promoting the enhancement of telecommunications in the Territory, recognising its central nature in attracting and retaining targeted business activity and supporting overall economic growth. Additionally, we have revamped our website to give an improved look and enhanced interface with users.

1.10 Optimum Operational Effectiveness

During the 2020/2021 work year, the Board of the Commission established three sub-committees within the Commission, in the areas of Finance, Governance and Human Resources. Through the Committees, the Board of the Commission, and by extension, the Commission, is committed to operating at optimum levels and ensuring that the Commission is well-positioned to regulate the telecommunications industry in the British Virgin Islands.

1.11 Strengthen Governmental Relations

We are mindful of our duty to advise the Minister on positions and policies relating to telecommunications, as contained in section 6 of the Act. Furthermore, we recognise our responsibility in section 82 of the Act to meet with members of the Cabinet, annually, to discuss, amongst other things, our operations, and the direction of the local telecommunications industry. In this regard, we will be seeking to improve relations with our Minister and the wider Government to bolster the view of telecommunications and prioritise the advancement of the industry.

1.12 Heightened Consumer Awareness

The Commission has commenced an initiative geared towards ensuring that the public is aware of its work and how it impacts their experience in the telecommunications industry. We remain cognisant that as the regulator of telecommunications in the British Virgin Islands, we have a duty to protect the public's interest. Our public awareness campaign will see the introduction of key roles at the Commission and priority projects, with an ultimate aim of ensuring that our primary stakeholders, consumers, understand that we are here to serve them.

1.13 Positive Stakeholder Engagement

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 licensees, through networking events and compliance meetings, to better understand the challenges they face and opportunities where we might better be able to support their work and assist their processes in relation to improvement of the local telecommunications infrastructure. We believe that a regulator who proactively engages with key participants in the industry is better equipped to realise advancement of the telecommunications experience.

1.14 International Best Practice

We have continued to improve our relationships with sectoral regulators including CANTO, OOCUR, CTU, OFCOM in the UK, and the FCC in the US. Our associations with other organisation's including the GSMA, PCH, IANA and ARIN have also been enhanced. We will continue to foster closer engagement with URCA in the Bahamas, OfReg in the Cayman Islands, SMA in Jamaica, and CICRA in the Channel Islands. This sharing of knowledge and best practice has allowed us to ensure consistency in our approach to economic regulation and ensure that we continue to follow international best practice in regulation and bring lasting benefits to the telecommunications services industry in the British Virgin Islands.

1.15 Enhanced Industry Oversight

During the 2020/2021 work year, the Commission hired a Director of Compliance to take forward the organisation's compliance responsibilities. We will strategically monitor all licensees to ensure compliance with the Act, their licences, the Telecommunications Codes and any Instructions issued by the Commission, and take enforcement action, as necessary. This is in line with our duties under the Act and our commitment to add value to the telecommunications industry in the Territory, while ensuring fair and proportionate regulation.

1.16 Increase Corporate Social Responsibility

The Commission is mindful of our obligation to ensure that we integrate social and environmental concerns into our operations and interactions with stakeholders. We will research appropriate ways to dispose of electronic waste while raising awareness of the harms associated with careless disposal and better practices that could be implemented. Through educating the general public on this and other issues related to the industry, we believe that we can positively influence much needed change.

1.17 Support Industry In Moving Beyond The Covid19 Pandemic

As we continue to navigate the changing reality caused by the Covid19 pandemic, including the resumption of some level of normalcy, we wish to work with operators to determine their

post Covid19 plan to ensure that telecommunications related demands from consumers and telecommunications users continue to be met. Our experience from the Covid19 pandemic thus far, especially the increased usage of residential voice and broadband due to working from home arrangements and home schooling, has proven telecommunications to be an essential resource in the Territory.

Part 2: The 2021/2022 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 2021 and 2022 are set out below.

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

2.1 The Commission aims to release spectrum for the advancement of wireless services, which will include spectrum that can facilitate Advance LTE and Fifth Generation (5G) services. The Commission will continue to work towards its spectrum release plan, as contained in its Spectrum Management Framework, and to release appropriate spectrum to the British Virgin Islands market. Our ongoing work in this regard is the assessment of bands to be released. We are currently coordinating with the FCC on spectrum assignment and band usage in the United States Virgin Islands, to ensure that any spectrum released is free and clear from the potential of radio interference. The Commission is aiming to commence the consultation aspect of this project during the second quarter of the financial year and will conclude the project, through the award of spectrum during the third quarter of the financial year.

Facilitate continued development of a first-class telecommunications infrastructure with enhanced quality of service while improving the internal ICT environment to allow for better service to consumers, enterprises and visitors to the British Virgin Islands.

2.2 Revise the Quality-of-Service reporting regime. This will entail developing a full set of metrics, based on regional and international trends, with an aim of ensuring that telecommunications services in the Territory perform at internationally acceptable standards. Once draft metrics are developed, we will consult, and negotiate adoption and implementation with all licenced operators. A reporting regime will be developed to facilitate comparison of all operators and evaluate overall performance when contrasted with international trends. The development of targets will take place by the end of September 2021; following which, we will consult on the adoption of the metrics by the first quarter with a view of adopting same by the second quarter of the 2021/2022 year.

2.3 Complete the rebuild of the BVI internet Exchange (BVIX), in accordance with the Telecommunications Code (Part 2) (Internet Traffic Exchange) Requirements, 2010, and ensure that all local operators are fulfilling their obligations to exchange local internet traffic through the BVIX, without sending such traffic abroad. The Commission is seeking to complete this activity by the of the first quarter of the financial year.

2.4 Implement a data gathering platform to capture real time broadband performance statistics and comparison between providers locally. This platform will facilitate evaluation of the customer experience from their premises to on-net and off-net test services, evaluate operators' performance against their advertised speeds and monitor real customer experiences to popular online applications. Overall, this initiative seeks to ensure that customers have a better understanding of their broadband service while allowing the Commission to better understand the state of broadband performance overtime, particularly identifying areas for improvement. This will be implemented by the end of the third quarter of the financial year.

Enable renewal of licences and support the implementation of recommended changes to the Telecommunications Policy, Act, Codes and Regulations.

- 2.5 Complete renewal of operator licences. All operator licences are due to expire in 2022. The 2020/2021 work year saw the Commission taking the necessary steps to ensure that we are prepared to accept applications from operators who apply for renewal and to progress those application in accordance with section 24 of the Act and Article 3 of the operator licences. In this work year, we will assess applications, once received, conduct compliance evaluations and public hearings and finalise the Commission's determination on the renewal of each operator's licence. Due to the timelines related to this project, as specified in the operator licences, this project may span into the 2022/2023 financial year, as it relates to the renewal of one operator, and thus will be completed by December 2022.
- 2.6 Review and revise telecommunications legislative framework. During the 2020/2021 work year, the Commission prioritised the finalisation of new Telecommunications Codes. As we continue in our aim of revamping the legislation, the Commission will move towards making recommendations for revisions to the Telecommunications Act 1951 (Cap. 171), and Telecommunications Act 2006. These changes will take into account changes in technology, the lapse in time since their enactment and intended development of the local telecommunications market. This will support and further our duty of promoting the systemic development of telecommunications throughout the British Virgin Islands.

Enhance economic remedies and solutions to deliver choice and value to consumers and business in the British Virgin Islands.

- 2.7 The Government of the Virgin Islands introduced a Telecommunications Liberalisation in the British Virgin Islands policy on 10 January 2007. The objective was to create the circumstances for a fully effective and successful telecommunications sector, delivering excellent value for money to users and maximising the contribution of the sector to the economy. The Commission is looking to recommend a new telecommunications policy for the 21st century, taking into account how the industry has developed since liberalisation occurred in 2006.

Therefore, the Commission will carry out an investigation of the telecommunications industry for the purpose of advising the Minister on the sector's socio-economic contribution to the British Virgin Islands, and the state of competition, particularly any presence of barriers to sustainable competition and the possibility of new entrants. Additionally, we will assess the overall impact on the performance of the sector post liberalisation against key sector objectives and comparisons with other countries, review current challenges and recommend any policy considerations to promote sustainable future development. This will be completed by the end of the third quarter of the financial year.

- 2.8 Create and implement Merger and Acquisition Guidelines. Presently, the telecommunications industry in the British Virgin Islands does not have the benefit of a framework for assessing merger transactions. Additionally, market forces alone may not sufficiently protect consumers and businesses from the changes to the industry that result when a merger is completed. We will develop guidelines that will outline the steps the Commission would consider when assessing the impacts of a merger on the market. This will be completed during the fourth quarter of the financial year.
- 2.9 Develop a Key Performance Indicator (KPI) online database for data collection, validation, cleaning, analysis, visualisation and dissemination of regulatory and statistical data. The Commission collects data from various sources related to the state of telecommunications in the British Virgin

Islands, which consists of market data collected by licensees, and benchmarked information from various countries and other institutions. The Commission is also seeking to expand its data collection efforts to measure operators' performance for various key performance indicators related to quality of service as well as any other areas deemed necessary by the Commission. The database would support the Commission in reshaping its data management and process automation for handling data to produce efficient processing and analysis. Moreover, this data could be analysed to retrieve meaningful insights and formulation of regulations and other policies. This will be completed by the end of the second quarter of the financial year.

Provide oversight of the compliance and risk mitigation efforts of the Commission through the development of relevant and effective policies and procedures, and to enhance the regulatory duties of the Commission.

- 2.10 Create and implement a comprehensive compliance programme by developing relevant internal policies that support compliance and ethics. As the regulator for telecommunications in the British Virgin Islands, the Commission is mindful that the culture of the industry starts with its own behaviour. This programme is aimed at ensuring that we set the standard to serve as a guide for those we regulate. This will be completed by the end of the second quarter of the financial year.
- 2.11 Evaluate the overall compliance culture of regulated entities by measuring the extent to which they are following the Act and Telecommunications Codes. We will take a proactive approach to reviewing and monitoring risk areas and, where issues of non-compliance arise, we will liaise with licensees to ensure resolution of same.

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

- 2.12 During the 2020/2021, the Commission conducted a human resource review of the Commission's policies, procedures, documentation and systems, which was aimed at identifying needs for improvement and enhancement of the Commission's HR function. The process to implement recommended changes has started and will continue into the new work year, with a view towards strengthening the organisation's most important resource, its staff, for the overall benefit of the public we serve. This will be completed by the end of the first quarter of the financial year.
- 2.13 The Commission is pleased to have completed its financial audits for the years 2018 and 2019. Presently, we are undergoing our 2020 audit with a view of completion by September 2021. In the 2021/2022 financial year, we will complete the 2021 audited financial statements.
- 2.14 The Commission has been steadily working towards compliance with our reporting obligations in completing our annual report. Presently, we have completed a consolidated annual report, which includes our work for the years 2007 through 2017. In 2021/2022, we will continue our work of producing the other outstanding annual reports, to ensure that the industry and wider Territory are aware of our work.

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 Protecting 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 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, to create a firm and effective outcome where we see harm.

3.3 Market Research and Tracking Survey

In an effort to better understand the industry we regulate, we conduct surveys on concerns that arise in various markets. In addition, the Commission assesses customer's behaviours, attitudes and satisfaction in relation to telecommunications products, services, and devices to ensure optimum performance of the telecommunications industry.

3.4 Monitoring industry compliance

We assess compliance of all licensees with the regulatory framework, their licence and any relevant instruction or directives issued by the Commission. Where instances of non-compliance arise, we intervene, ensuring that our regulatory powers are exercised in a transparent, appropriate and non-discriminatory manner.

3.5 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.

3.6 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.

3.7 Radio Monitoring Measurements

We perform radio monitoring measurements, through the use of our mobile monitoring unit, to ensure users of the radio spectrum remain compliant with the Telecommunications Act, their frequency authorisation, and technical standards, including but not limited to the international standards of the ITU Radio Regulations, where applicable.

3.8 Eliminating harmful radio interference

We advise and assist spectrum users by monitoring marine traffic and handling reports of interference, while carrying out activities to protect the radio spectrum. The Commission has developed an awareness and enforcement programme, which includes notifications and coordination with Government to eliminate instances of harmful interference.

3.9 Frequency Coordination

Where applicable and as part of our spectrum planning efforts, we will engage the FCC to coordinate on frequency bands of interest in the British Virgin Islands, United States Virgin Islands and Puerto Rico. The Commission continues to strive for a more formal arrangement but recognises that coordination will continue with the FCC on a case-by-case basis.

3.10 Determining licence and frequency authorisation applications

We assess applications for commercial TV and radio services, 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.

3.11 ITU Data Collection

To assist in the global assessment of the Information and Communications Technology (ICT) market, the Commission solicits and collates relevant market data from local operators for submission to the International Telecommunications Union (ITU). This information is then used by the ITU to monitor the latest trends and developments in the ICT Sector.

3.12 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.

3.13 Implementing technical development

As telecommunications advances, the Commission determines the various implications of implementing technical initiatives. We will continue to encourage the proliferation of IPv6 across the Territory.

3.14 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.

3.15 Engaging with international stakeholders.

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

3.16 Organising Industry Events

The Commission celebrates telecommunications related occasions including but not limited to, World Telecommunications and Information Society Day. In December 2018, we hosted our first cocktail reception for industry stakeholders. We are hopeful of hosting similar get-togethers during the 2021/2022 year, thereby providing an opportunity for mutual engagement between the Commission, licensees, consumers and businesses.

3.17 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.

3.18 Collecting telecommunications fees

We assess and collect fees and other charges payable to the Commission, including without limitation, licence fees, royalties, the industry levy and spectrum fees.

Part 4: Budget for the 2021/2022 Financial Year

Estimated Income

FY 2022 Budget - Income	FY 2022 Budget	FY 2021 Budget
Domain Registration Fees	28,000.00	30,000.00
Radio License Fees	50,000.00	50,000.00
Royalty Fees	1,807,330.34	2,187,712.27
Spectrum Fees	516,650.00	516,650.00
Submarine Cable Fees	638,000.00	600,000.00
Finance Income	10,000.00	10,000.00
Total Estimated Income	3,049,980.34	3,394,362.27

Estimated Expenditure

FY 2022 Budget - Expenditure	FY 2022 Budget	FY 2021 Budget
Non-Executive Members Honoraria and Expenses	63,600.00	63,600.00
Employee Compensation	1,413,099.88	1,396,599.88
Government Fees and Staff Benefits	681,921.35	649,518.11
Professional Services	596,800.00	515,500.00
Conferences, Training and Travel	60,400.00	103,850.00
Rent and Utilities	447,391.24	412,866.88
Maintenance Expenses	90,433.45	97,240.00
Consumers Education and Public Relations	60,000.00	22,500.00
General and Administration	189,641.25	104,755.15
Special Project	-	100,000.00
Total Operating Expenditures	3,603,287.17	3,466,430.02
Total Capital Expenditures	196,700.00	298,875.00
Total Estimated Expenditures	3,799,987.17	3,765,305.02

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.
- **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 licenced operators annually. This amount is 3% of the gross income of the licenced operators. This income decreased by 12%, as a result of impact to the COVID-19.
- **Spectrum Fees:** This is a relatively new revenue stream for the Commission, since the LTE award process in 2016. This is a fixed annual fee, payable every August by the holders of the LTE spectrum.
- **Submarine Cable Fees:** A revenue stream for the Commission, because of CWC submarine cables that terminate or transit the BVI, pursuant to the Submarine Cable Directive dated 18th December 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.
- **Employee Compensation:** This represents remuneration for all employees, inclusive of 20 full time positions. However, there are currently 2 job vacancies – Legal Advisor and a Mobile Spectrum RF Technician. This figure has increased by 1.1% 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 increased by 5% 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 16% 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 42% 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 nature of 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. In addition, the Commission plans to lease a Disaster Recovery Site for 2021-2022. This figure has increased 8% over the prior budget year.
- **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 7% over the prior budget year.
- **Consumers Education and Public Relations:** This represents initiatives aimed at educating and informing consumers 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 increased over the prior budget.
- **General and Administration:** This represents subscriptions, customs duties, general office expenses, and messenger services. This figure has increase by 81% over the prior budget year due to reduction in cost for licenses and software subscription.

Annex: Responses to the Draft Annual Work Plan and Budget 2021/2022

We received two responses to the Consultation on our Draft Annual Work Plan & Budget 2021/2022 within the specified consultation period. These responses were submitted by Digicel (BVI) Limited (“Digicel”) and Cable & Wireless (BVI) Limited (“FLOW”). Accordingly, in finalising our Annual Plan, we have considered the views of both respondents and have published their submissions in full on our website. Below, we provide our response to key points raised during the Consultation.

Part I: 2021/2022 Strategic Overview

Digicel was the sole respondent that submitted a comment in relation to the Commission’s 2021/2022 Strategic Overview. In summary, Digicel requested that any universal service mechanism considered by the Board of the Commission and/or the Commission must be the subject of consultation with the industry. Additionally, in relation to the Commission’s intent to strengthen its relations with Government, Digicel took no issue with this in so far as it related to our statutory duties, but emphasised that the Commission maintain its independence and requested that a record of our interaction with Government be made publicly accessible. Finally, Digicel opined that the Commission appears to have no plans to assist operators in responding to the Covid19 pandemic, despite our indication of a strategic aim to support the industry in moving beyond same.

The Commission must indicate that at no point when it reached to considering the matter of universal service did it intend to do so without consulting the industry. In fact, we are cognisant of our obligation to consult on any matter that could, in our opinion, have a significant effect on the sector, as contained in section 4(1) of the Telecommunications Code (Part 1) (Public Consultations and Public Hearings) Guidelines, 2010. We share the view that universal service is one such matter that will have a considerable impact and accordingly must be consulted upon. We look forward to comments from the industry when we embark upon the consultation stage of this activity.

While we note Digicel’s contention relative to transparency in our relations with Government, we must state that our statutory duties in this regard do not require the Commission to record such interactions nor to make same publicly accessible. The Commission will, nevertheless, do all such things as are necessary to ensure that our independence is seen in the performance of our functions. Digicel can expect updates on our substantive interactions with Government in our Annual Reports, where we will highlight our main activities, or in such other mechanism(s) used by the Commission to inform stakeholders of our work.

The Commission is disappointed by Digicel’s assertion that we have no plans to assist operators in responding to the Covid19 pandemic and the use of collection of the Industry Levy to support this view. Given that this fee is presently the subject of judicial review proceedings, we will refrain from commenting on this save and except to say that our collection as this point is in no way indicative of a lack of efforts by the Commission to assist operators in pivoting. Through the collection of the levy, and our compliance with our duty to collect fees payable to the Commission under the Act, as contained in section 6(j) of the Act, we aim to set the standard of a culture of compliance for the industry in moving forward. The Commission welcomes the industry to address any concerns that it may have about, or assistance it may require as a result of, the pandemic.

We also note Digicel’s comment as it relates to the development of a Strategic Plan by the Commission. It would appear that Digicel is of the view that the absence of the Strategic Plan in the 2021/2022 Work Plan was an indication that the Commission no longer held the view that such a document was necessary or important. On the contrary, the removal of this item from the Work Plan was due to the fact that it is a project which the Commission will be commencing and is aiming to complete during the present work year, 2020/2021. We share the view, as expressed by Digicel, that the adoption of a Strategic Plan would facilitate

the formulation of work plans that move incrementally towards the achievement of clearly specified goals. Accordingly, we are hopeful of establishing this plan shortly.

This Part of the Annual Plan remains unchanged.

Part 2: The 2021/2022 Work Plan

The Commission received several comments in relation to this Part of the Annual Plan.

Flow recommended that the Commission attach dates to its Work Plan for activities that were not day-to-day operational matters. In their view, this would allow for the achievability of each matter, as well as the Commission's effectiveness, to be better assessed. The Commission accepts this recommendation and has, accordingly, amended this Part of the Work Plan to include commencement and/or conclusion dates for various projects, as appropriate.

Facilitate continued development of a first-class telecommunications infrastructure with enhanced quality of service while improving the internal ICT environment to allow for better service to consumers, enterprises and visitors to the British Virgin Islands.

Digicel expressed a lack of clarity in the interrelation of the Quality-of-Service regime at 2.2 of the Work Plan and the implementation of the data gathering platform at 2.9 of the Work Plan.

In 2.2 (Quality-of-Service Reporting Regime), the data gathering platform for the Quality-of-Service reporting regime collects and publishes quality of service metrics from public suppliers, in accordance with the Telecommunications Code (Part 3) Quality of Service Requirements, 2010. The Commission will continue to collect data submissions from the operators in line with this Code. Furthermore, the KPI Online Database at 2.9 of the Work Plan will collect various information including quality of service data from the platform in 2.2 and independently collect quality of service data on the performance of the network in the Virgin Islands. By doing so, the Commission will make comparisons of the Quality-of-Service data received from public suppliers and the data received independently to produce meaningful insights for either internal or external reports.

Enable renewal of licences and support the implementation of recommended changes to the Telecommunications Policy, Act, Codes and Regulations.

We are pleased to note that Digicel acknowledges its obligation to submit an application for renewal to the Commission no later than December 2021. Notwithstanding this, we note Digicel's comments in relation to a consultation that the Commission conducted earlier this year on the revised application form for a public supplier licence. That consultation closed on 2 March 2021 and, as such, the Commission will not entertain any further comments on it, save and except to say that our position, which was articulated to Digicel in response to its then submission, remains unchanged. Furthermore, the compliance audit, which Digicel comments on, is not the subject of this consultation. As such, we make no comments in that regard and encourage Digicel to address its concern on that matter through more appropriate channels.

As it relates to our proposal for law reform at 2.6 of the Work Plan, Digicel recommends that Commission hold consultations before making recommendation for legislative changes. We are pleased to accept this recommendation. In fact, Digicel would note that the Commission has commenced consultations in our 2020/2021 work year in respect of telecommunications codes, which are related to our legislative reform project. We have full intentions of keeping this posture as we progress the entire project.

Enhance economic remedies and solutions to deliver choice and value to consumers and business in the British Virgin Islands.

Digicel has commented that the investigation of the sector at 1.7 of the Work Plan is a critical input for a Strategic Plan by the Commission and any legislative changes and recommends that the Commission consult on the parameters, reasons and objectives for such an exercise.

The Commission will conduct an objective and independent assessment to assist in the development of the telecommunications sector and achievement of the government's vision for the sector. This will ultimately guide the Commission in the performance of its duties and responsibilities under the Act to ensure that its regulation is consistent with the Government's policy objectives. The Commission does not intend to provide an exhaustive analysis of all telecommunications markets but gives an accurate overview of the sector using benchmark methodology to review the market development so far.

The Commission intends to keep all licensees informed of the objectives of the project before commencement and will consult with the industry, to the extent that is necessary. The information compiled in a report will be based on information supplied by the operators and other sources within the industry. We expect that any information or clarification needed by licensees would be met with full cooperation as per the Act.

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

Digicel requested greater detail on the human resource review that the Commission conducted during the 2020/2021 work year, as contained in 2.12 of the Work Plan.

The mentioned review was conducted between November 2019 and January 2020 by an independent HR consultant. Following the exercise, the Consultant made recommendations in relation to changes to be made at the Commission, several of which are being implemented in stages over the financial year. Notably, the organisation was restructured to ease the burden of operational details from the Chief Executive Officer and allow him to focus on more strategic activities, including better relationships with the operators. Additionally, several policies aimed at, among other things, ensuring stricter confidentiality, improving staff morale, and performance management, were developed and are being implemented. Other changes are forthcoming.

Flow renewed its request for the Commission's Annual Reports, specifically as it relates to 2019/2020 and 2020/2021. As noted in 2.14 of the Work Plan, a consolidated Annual Report is complete, and the Commission will now work to produce other outstanding reports. Once completed, these will be sent to the industry once the requisite processes have been finalised.

Part 4: Budget for the 2019/2020 Financial Year

The Commission received comments from Digicel and Flow in relation to the Budget for the 2021/2022 Financial Year.

Digicel provided comments in relation to the Industry Levy, specifically highlighting the Commission's statutory obligation to consult on same. Without prejudice to our position in BVIHCV 2020/136, BVIHCV 2020/153 and BVIHCV 2020/160, the Commission will be consulting on the 2021/2022 Industry Levy separately and that consultation will follow in due course.

Additionally, Digicel is concerned in relation to the lack of granularity on the line items provided in the budget. Whereas, Flow has requested additional information as to specific inflation percentages acknowledged for each line item.

It is important to note that the Commission's Budget is a representation of its estimated financing for the financial period in question, which is in support of the level of expenditure required for that period to carry-out our work efficiently.

One of the main goals of the Commission is always to reduce cost and increase efficiency. Notwithstanding this, recognising the state of the Territory following the passage of Hurricane Irma and in light of the impacts brought about by the Covid19 pandemic and the need for increased cyber security, it is in the Commission's best interest to protect its staff, premises and equipment, as well as to secure its data from Ransomware and other such maladies.

The Commission has taken the opportunity to look at work plans from regulators in the region, in an effort to see if there was any legitimacy in the concerns raised. Our research suggests that the level of detail provided by the Commission is comparable to that provided by other regulators. As such, we do not believe that there is a need to furnish additional financial information in any volume, above and beyond that which has already been provided in the overview of budgetary items. In order to address specific questions raised by the respondents, the Commission provides additional information in relation to some line items:

Non-executive Members Honoria and Expenses.

Non-executive Members remuneration is approved by the Ministry of Finance. Instructions and Terms are received from the Ministry and the Commission executes accordingly. During the 2020/2021 financial year, the Commission received instruction to increase the stipends allotted to the Board of the Commission. Accordingly, the inflation seen in this line item for the 2021/2022 financial year, above the amount specified in the 2018 budget as referred to by Flow, is reflective of this increment.

Employee Compensation.

Employee Compensation for the 2021/2022 financial year represents a 1% increase in cost over the prior period. Since 2018, the Commission has added new staff members, which accounts for the increase in this line item for the 2021/2022 financial year. On average, staff cost for the Commission increases about 5% annually.

Professional Services

The details outlined below represents activities that the Commission will be undertaking during the 2021/2022 financial year, which are above and beyond the usual professional services requirements:

1. The Commission is currently defending its statutory position as it relates to the imposition of Industry Levy. This consists of four Judicial Review proceedings, all of which attract external legal costs.
2. The Commission is in the process of reviewing operator licences which expire in 2022 and is, accordingly, retaining support for this matter to ensure that the public's interest is protected and that the Commission can regulate the industry effectively in the new licence term.
3. The Commission is implementing recommendations from its human resource review, which was conducted during the 2020/2021 financial year. This project is being managed by an independent HR consultant.

Government Fees and Staff Costs

The Commission accepts that this line item increased by 5%. This is as a result of health benefits, pension costs and benefit packages associated with new hires. During the 2020/2021 financial year, the Commission added two members to its staff composition, in the posts of Chief Operating Officer and Director of Compliance, both of which attracted the staff costs.

Rent and Utilities

The staff of the Commission worked from home for a very short period and, even so, key staff were still present at the Commission's office. Telecommunications is recognised as a critical service, which allowed for members of the staff to be allowed to work from the office, even when many persons were unable to leave their home due to lockdowns and other imposed conditions in the Territory. Accordingly, the Commission did not have the benefit of lowered utilities, unlike other institutions.

Maintenance Expenses

As indicated, this line item has decreased by 8%. We note Flow's indication that, notwithstanding this, the item has increased by 52% above the budget for 2018. The Commission is transparent in its process and

would have explained any previous increases in our prior budgets and/or final statements in response to operators' comments. We, therefore, refer Flow back to those documents for further information.

Consumer Education and Public Relations

The Commission was mindful of the need for social distancing during the 2020/2021 financial year and accordingly reduced this line item significantly, which ensured that there was less interaction between the Commission and the public, allowing us to do our part to keep the BVI safe. During this financial year, the Commission is aiming to re-engage the public by hosting industry events, inclusive of our annual World Telecommunications and Information Society Day celebration as well as the observance of other events related to the sector. The Commission is also compelled, as part of its remit, to work to dispel myths in the public arena about 5G and other technological advancements.

General and Administration

The main increase for this line item was related to a new software subscription that the Commission is engaging. We are cognisant of cyber security threats and attacks worldwide and are, therefore, taking a pro-active step through a market-leading cyber security technology platform, which uses artificial intelligence to detect sophisticated cyber-threats, and specialises in cyber defense. Other costs associated with the increase of the line item are related to other software licensing and subscriptions.