



Commission
Disaster Preparedness and
Management Requirements, 2022
Consultation Document

Consultation

Publication date: 29 September 2022

Closing date for responses: 10 November 2022

Reference Number: 3/2022

About this document

The Telecommunications Regulatory Commission (the “**Commission**”) is a statutory body with responsibility for development and regulation of the telecommunications services industry in the British Virgin Islands.

Under section 91(3) of the Telecommunications Act, 2006 (the “**Act**”) the Commission “*may from time to time issue, supplement or update such guidelines, standards and other requirements relating to telecommunications as the Commission thinks fit, which together shall constitute the Telecommunications Code*”. In accordance with this section, the Commission has developed a draft Telecommunications Code (Part x) (Disaster Preparedness and Management) Requirements, 2022 (the “**Requirements**”).

In this document, the Commission outlined:

- The legal framework, as applicable, to the development of the Requirements;
- The objectives of the Requirements;
- The consultation questions; and
- The draft Requirements, as an Annex to this consultation document.

The Requirements will provide, subject to consultation, appropriate measures for the management of telecommunications before, during and after a disaster, to be followed by all licensees in the telecommunications services industry.

We are publishing this consultation document to provide our stakeholders – operators, the public and other interested parties – with the opportunity to comment on our proposed Requirements for management of telecommunications during a disaster.

Contents

- About this document 2
- Instructions for submitting a Response 4
 - Cover sheet for response to a Commission consultation 5
- Introduction..... 6
- The Legal Framework 7
 - Legal Provisions 7
- Disaster Requirements Objectives..... 8
- Consultation Questions 10
- Annex: The Draft Requirements 11

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 10 November 2022.

We strongly prefer responses to this document to be sent by email to consultations@trc.vg (indicating the subject: "Consultation on the Disaster Preparedness and Management, Requirements, 2022"). Alternatively, responses may be sent to the address (or the P.O Box number) set out below:

Consultation on the Disaster Preparedness and Management, Requirements, 2022 – 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 the final Telecommunications Code (Part x) (Disaster Preparedness and Management), Requirements, 2022 to the Ministry with responsibility for telecommunications for approval and it will be published in the Gazette.

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)

Introduction

- 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 Furthermore, section 91(3) of the Act empowers the Commission to issue requirements in relation to telecommunications as the Commission thinks fit. In accordance with this statutory obligation, *inter alia*, this document includes a draft Telecommunications Code (Part x) (Disaster Preparedness and Management), Requirements, 2022.
- 1.3 The Commission has taken into account the changing weather patterns and, accordingly, is using this opportunity to implement measures to support the effectiveness of telecommunications networks and services, even in times of disaster. This is done with a view of protecting the interests of consumers and businesses by ensuring a well-functioning market. The development of the Requirements was steered by this mission.
- 1.4 The Requirements will establish appropriate measures for the management of telecommunications before, during and after a disaster, to be followed by licensees in the telecommunications services industry in the British Virgin Islands.
- 1.5 The Commission has adopted six essential principles of regulation consistent with international standards and best practice, namely, accountability, focus, predictability, adaptability, efficiency and balance. We are confident that that the introduction of the Requirements is complementary to these principles.

1

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

The Legal Framework

The Commission is guided by its statutory remit in developing the draft Requirements, notably the provisions that are outlined below.

Legal Provisions

- 2.1 In accordance with section 89(5) of the Act, “*Operators and service providers shall develop plans for operating networks and providing services during force majeure and where there is serious and substantial interruption in the provision of telecommunications services, and shall cooperate in the development and implementation of any such plans.*”
- 2.2 The Commission is empowered to implement these Requirements as a part of the Telecommunications Codes, pursuant to section 91(3) of the Act, which states “*the Commission may from time to time issue, supplement or update such guidelines, standards and other requirements relating to telecommunications as the Commission thinks fit, which together shall constitute the Telecommunications Code.*”
- 2.3 Additionally, it is judicious to consult on these Requirements considering section 4(1) of the Telecommunications Code (Part 1) (Public Consultations and Public Hearings) Guidelines, 2010, which states:

“(1) The Commission shall hold a public consultation on any matter prescribed by the Telecommunications Act, 2006 and may publicly consult on any other matter that could, in the opinion of the Commission, have a significant effect on the telecommunications sector of the Virgin Islands or a significant part thereof including any matter that could have a significant effect on the rights and obligations of users of telecommunications services.”

Disaster Requirements Objectives

The Commission considers that it is in the interest of the public and in keeping with the Commission's mandate under the Act to regulate the preparedness and management of telecommunications in the event of a disaster, natural hazard or force majeure. This will ensure protection of the public interest in such circumstances.

- 3.1 The draft Requirements are attached to this consultation document and are summarised below.
- 3.2 The Commission strongly encourages respondents to read the Requirements prior to submitting comments or answering the consultation questions in the next section, as this summary is not exhaustive.
- 3.3 The attached Requirements are divided into 6 parts and consist of 31 sections, which address:
 - The legal framework, purpose and scope of the Requirements;
 - The details of emergency call services and a licensee's obligation to ensure their fullest possible availability in the event of a disaster;
 - The required actions of a licensee to enable preparedness, mitigation and relief in disastrous circumstances;
 - Steps to be taken by a licensee post-disaster, including reporting to the Commission and conducting an impact assessment of its network and services;
 - General provisions including confidentiality stipulations, orders from the Governor and relaxation of regulatory barriers; and
 - Required compliance with the Requirements.
- 3.4 Part I covers the preliminary provisions of the Requirements, citing its purpose, *inter alia*, as enhancing coordination among licensees before, during and after a disaster, standardising disaster preparedness and response activities in the telecommunications industry to enable a more predictable response and to ensure network resilience and encourage rapid restoration of telecommunications networks and services in the event of a disaster or emergency. It notes that the Requirements are applicable to all licensees in the telecommunications services industry.
- 3.5 Part II highlights the licensee's duty to ensure the availability of emergency telecommunications services in the event of a disaster or cases of force majeure, including, enabling consumers to access emergency calls free of charge, provision of caller location information to emergency organisations and mobile sms access for consumers with hearing/speech impairments.
- 3.6 Part III outlines steps to be taken by a licensee to be prepared and mitigate against the impact of a disaster. It requires licensees to cooperate to facilitate the use of telecommunications resources for disaster preparedness, mitigation and relief, have in place a previously agreed roaming agreement to enable the provision of reduced roaming tariffs for international response agencies and to share information on coverage outages and restoration activities in the event of a disaster. The requirement of a single point of contact, to be in contact with the Commission is noted, as well as the annual submission of business continuity plans, irrespective of whether there is a disaster.
- 3.7 Part IV details disaster management and recovery actions to be undertaken by the licensees, including reporting to the Commission, completion of an impact assessment in certain circumstances, provision of special communications services for emergency organisations and Government departments, removal and rebuild of telecommunications infrastructure, and

development of a communications strategy to keep consumers informed of their recovery activities and service availability.

- 3.8 Part V comprises general provisions such as the establishment of a duty on the Commission to ensure that information submitted by licensees in accordance with the Requirements is kept confidential, the Commission's intermediary role between the licensees and the Governor where an order is made pursuant to section 89 of the Act and relaxation of regulatory barriers to ensure that telecommunications resources can be used effectively for disaster mitigation, relief, management and recovery.
- 3.9 Part VI specifies the relationship of the Requirements with licences and applicable compliance requirements.
- 3.10 It is proposed that the Requirements will be implemented as a part of the Telecommunications Code, in exercise of the Commission's powers under 91(3) of the Act.

Consultation Questions

Based on the above, the Commission invites all interested parties to submit their comments, with supporting evidence, on the following questions.

1. Do you agree with the availability of emergency call services as proposed by the Commission in Part II of the Requirements? If not, please explain your reasoning in detail, along with providing supporting evidence, as may be applicable. Please include the specific section(s) that you take issue with in your explanation.
2. What are your views on the mandating of a pre-agreed roaming agreement between licensees, as contained in section 10 of the Requirements? What, if any, alternative measure(s) you do you propose and why?
3. Do you agree with the steps to be taken by a licensee post-disaster, as contained in Part IV of the Requirements? If not, please explain your reasoning in detail, along with providing supporting evidence, as may be applicable. Please include the specific section(s) that you take issue with in your explanation.
4. What are you views on the proposed process for the relaxation of regulatory barriers, as contained in section 29 of the Requirements? What, if any, alternative measure(s) do you propose and why?
5. Are there any other concerns, interests or obligations that the Commission should consider including in these Requirements? If so, please explain your reasoning in detail, along with providing supporting evidence, as may be applicable. Please specify the Part and/or section under which you propose to include an additional provision.
6. Please provide your views on any other matters you consider relevant to this consultation.

Annex: The Draft Requirements

Please refer to the next document in this consultation titled ‘Telecommunications Code (Part x) (Disaster Preparedness and Management) Requirements, 2022’ for the draft Requirements.