

# **CABLE AND WIRELESS**

**Response to TRC Consultation on**

**Commission Draft Annual Work Plan and Budget**

**2020/2021**

August 27, 2020

## COVER SHEET FOR RESPONSE TO A COMMISSION CONSULTATION

### BASIC DETAILS

Consultation title: Commission Draft Annual Work Plan and Budget 2020/2021

Name of respondent: Mr. Ravindra Maywahlall

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Organisation: Cable and Wireless (BVI) Limited

### CONFIDENTIALITY

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

Nothing

Whole response

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If you want part of your response, your name or your organisation not to be published, we can still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the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: Ravindra Maywahlall

Signed (if hard copy)

## 1. INTRODUCTION

**1.1** Cable and Wireless (BVI) Limited dba Flow is pleased to provide comments and remarks on the 'Commission Draft Annual Work Plan and Budget 2020/2021' (the Consultation Document) published July 30, 2020.

**1.2** Flow expressly states that failure to address any issue raised in the Work Plan and Budget (the Consultation Document) does not necessarily signify its agreement in whole or in part with any position taken on the matter by the TRC or respondents. Flow reserves the right to comment on any issue raised in the Consultation Document at a later date. Where Flow has previously commented on issues raised in this Consultation Document in previous Consultation Documents, those comments remain applicable unless expressly amended by Flow.

**1.3** Please send all responses to this Consultation Document and any matters arising to Ravindra Maywahlall at [ravindra.maywahlall@cwc.com](mailto:ravindra.maywahlall@cwc.com) and Melesia Sutherland at [melesia.sutherland@cwc.com](mailto:melesia.sutherland@cwc.com).

## 2. 2020/2021 Strategic Overview and 2020/2021 Work Plan

**2.1** Consistent with our response to the Commission's 2017/2018 Work Plan, Flow continues to agitate for the Commission to attach dates to its Work Plan, where the issues are not day to day operational matters, so that the Commission and the industry can consider how achievable the plan for the new fiscal is. Too, when dates are attached to the Work Plan the Commission itself, the industry and the public will be empowered with another tool to assess the effectiveness of the Commission. Without dates attached to the activities in the Work Plan, the industry cannot plan and the Commission Workplan becomes merely a wish list of activities that may or may not happen. In this regard, Flow is requesting from the Commission its Annual Report so that it can see what the Commission achieved for Financial Year 2019/2020.

**2.2** While all the objectives in the Work Plan are laudable, it will be difficult to achieve them all in a single fiscal considering the extent of the Work Plan and the resources available to both the Commission and the operators. The Commission's Work Plan does not seem realistic. Without the discipline of accountability from setting timeframes for achieving objectives, there is no restraint to the Commission proposing to deliver more than it can realistically. This is not good management of the TRC or the industry.

**2.3** Finally, the Commission's Work Plan and Strategic Overview seems surreal in the context of Covid-19, a global pandemic which has upended how humanity interacts with itself and its environment; and has devastated economies. The Commission's Work Plan is business as usual. This is not to say that the Commission should abandon all that it has to do to fulfill its duty but that the Work Plan lacks the foresight required by the crisis. While it is commendable that the Commission has included in its Strategic Overview

*1.16 Support Industry Amidst Covid19 Pandemic*

*Our experience from the Covid19 pandemic this far has proven telecommunications to be an essential resource in the Territory. With increased usage of residential voice and broadband due to working from home arrangements and online schooling, the Commission recognises the importance of supporting the industry during this time as it continues to meet these new demands".*

With no specific actions to make this support to industry a reality, this strategic aim/objective seems an empty platitude. Flow therefore invites the TRC to, in consultation with the operators, develop plans to support the industry.

**2.4** For Financial Year 2021, Flow will be agitating for a Work Plan from the Commission that allows the industry to plan and to hold the Commission accountable. We will also be agitating for the Commission to provide Annual Reports, in accordance with the Act, to the industry.

### **3. Budget for the 2020/2021 Financial Year**

#### **3.1 Impact of Covid-19 Pandemic**

- i. The Caribbean, like the rest of the world, has been bludgeoned by the Covid-19 pandemic. This pandemic poses several new challenges for the region, and to effectively beat this pandemic, an ‘all hands on deck’ approach is required. The TRCs 2020/ 2021 budget must reflect this reality.
- ii. With sharp reduction in tourism activities, the economic toll on the British Virgin Island’s economy is likely to be profound. Indeed, several reputable international agencies have predicted significant contraction in Caribbean economies, due largely to the high dependency of Caribbean economies on tourism and travel and its large informal sectors. There is expected to be a sharp reduction in economic activities and as restriction measures, such as intermittent lockdowns continue to be implemented to mitigate the spread of the virus, the impact on the telecommunication industry will be direct and material. Lockdowns tend to reduce recharge/ top-up of mobile service and slowdown in commercial activities, increases debt and churn and reduces spend from the business segment. The pandemic has the potential to significantly reduce revenues and cash flows of the Business. Given the current situation and the extent of the uncertainty, the financial viability of the operators in the industry is a real challenge.
- iii. Remittance inflows are expected to decline due to the impact of Covid- 19 in large diaspora markets such as USA and UK, thus further reducing disposable income. This will have a domino effect on the BVI economy with no industry or player being spared. The future remains very uncertain as there is currently no available vaccine for COVID-19 and there is no set date for any.
- iv. Flow would have advised the Commission that it has two (2) priorities during Covid-19. Those are (i) to keep our customers connected and (ii) to keep our employees in their jobs. We need the Commission’s help to do this. Flow therefore implores the TRC to play its part to reduce the regulatory cost burden to the industry. Indeed, Flow separately, and jointly with other industry members, had approached the Commission for relief on Royalty Fee payments, including structuring of the payments, which the Commission refused to do. Given the projected worsening economic circumstances and

continued uncertainty we may yet have to return to the Commission to plead for relief from regulatory fees.

**3.2** Flow has reviewed the TRC's proposed budget for 2020/2021 and our comments are as follows:

**i.** *Operating Expenditure:* there is a reduction in budgeted operating expenditure of 9% when compared to the previous year, 2019/2020 budget. This is a welcome reduction in light of the sharp downturn in general economic activities in the British Virgin Islands caused by Covid-19. Flow welcomes this act of solidarity from the TRC which demonstrates an appreciation, though nascent, for the financial challenges that COVID-19 presents for the industry. We however do not believe that the TRC can sit on its laurels. Flow implores the TRC to show further restraint in the cost of carrying out its duties. All efforts should be made to facilitate an even more cost efficient operation at the TRC.

**ii.** *Non-Executive Members Honoraria / Expense and Maintenance Expenses:* Whilst the TRC's budget shows a reduction in overall expenditure, there is a proposed increase in expenditure of 56% and 47% respectively for Non-Executive Members Honoraria and Expense and Maintenance Expenses for Financial Year 2021 over Financial Year 2020. See Table 1 below. These are significant movements and Flow request a justification from the Commission for this increase.

**iii.** *Maintenance Expenses:* Flow would appreciate a clearer understanding of how equipment maintenance and cleaning would have risen so sharply over a one (1) year period. See Table 1 below. The TRC could start by identifying the equipment, the purpose for such equipment and demonstrate as well how the cleaning and maintenance of this equipment would lead to such increased cost.

**iv.** *Conference, Training and Travels Expenses:* Flow welcomes the reduction in Conference, Training and Travels Expenses, although in light of COVID 19 pandemic we did expect this expense to be a fraction of what it usually is.

**Table 1**

**YEAR-ON-YEAR CHANGE IN BUDGET EXPENDITURE FINANCIAL YEAR 2020/2021**

BUDGET EXPENSE	FY 2020 Budget	FY 2021 Budget	% Change
<b>Non-Executive Members Honoraria and Expense</b>	\$40,800.00	\$63,600.00	<b>56%</b>
<b>Employee Compensation</b>	\$1,342,822.48	\$1,396,599.88	4%
<b>Government Fees and Staff Benefits</b>	\$634,283.44	\$649,518.11	2%
<b>Professional Services</b>	\$689,745.00	\$515,500.00	-25%
<b>Conference, Training and Travel</b>	\$261,834.58	\$103,850.00	-60%
<b>Rent and Utilities</b>	\$433,720.88	\$412,866.88	-5%
<b>Maintenance Expenses</b>	\$66,003.45	\$97,240.00	<b>47%</b>
<b>Consumer Education and Public Relations</b>	\$55,000.00	\$22,500.00	-59%
<b>General and Administration</b>	\$205,007.94	\$104,755.15	-49%
<b>Special Project</b>	\$100,000.00	\$100,000.00	0%
<b>Estimated Operating Expenditures</b>	<b>\$3,829,217.77</b>	<b>\$3,466,430.03</b>	<b>-9%</b>

v. *Staff Cost:* Staff costs account for more than one third of the total operating expenses of the TRC. See Table 2 below. The table shows that the average annual compensation and benefits per staff member at the TRC will be approximately US\$122,000 for the eighteen (18) member permanent staff. These are large figures when compared against the average GDP per capita in the British Virgin Islands which is approximately US\$38,000. The TRC's staff compensation and benefits continue to be well above the norm of average compensation levels in the British Virgin Islands. Accordingly, an increase in staff costs of 4% in 2021 over the 2020 period is material and, in these times, at odds with the sharp reduction in economic activity due to the Covid-19 pandemic. The TRC is yet to demonstrate any restraint of its huge staff costs.

(a) The TRC proposes hiring a Chief Economist. Flow questions the need for new employment by the TRC, especially at this moment.

(b) Any increase in staff compensation must, at best, be in line with expected inflation which would be more congruous with prevailing circumstances. In Flow's view all salaries should be frozen during the

pandemic. Of note is that Flow has frozen all salaries; there will be no salary increases in the Company at this time.

**Table 2**

**STAFF COST**

EXPENSE ITEM	FY 2018/19	FY 2019/20	FY 2020/21
<b>Honoraria</b>	\$40,800.00	\$40,800.00	\$63,600.00
<b>Compensation</b>	\$1,259,884.88	\$1,342,822.48	\$1,396,599.88
<b>Staff benefits</b>	\$591,036.99	\$634,283.44	\$649,518.11
<b>Training</b>	\$244,822.86	\$261,834.58	\$103,850.00
<b>Total staff compensation and benefits</b>	\$2,136,544.73	\$2,279,740.50	\$2,213,567.99
<b>COMMISSION STAFF</b>			
<b>Total # of staff</b>	18	18	18
<b>Average compensation and benefits per employee</b>	<b>\$118,696.93</b>	<b>\$126,652.25</b>	<b>\$122,976.00</b>
<b>Annual % increase</b>	-5%	7%	-3%

**4. Levy**

**4.1** The Commission has not addressed the Levy in this Work Plan and Budget, except to include it as one of the Commission’s source of revenue, in accordance with the Act.

**4.2** Currently, three (3) industry members have filed applications to the courts for leave to apply for Judicial Review of the Commission’s decision of June 19, 2020 requiring operators, including Flow, to pay the Levy. This was further to the Commission’s letter to the industry dated April 6, 2020; the industry’s response dated April 9, 2020; a further letter from the Commission, dated April 20, 2020, to the industry, staying the Levy; further letter from the Commission dated June 19, 2020 lifting the stay and demanding payment of the Levy. Flow received a further letter from the Commission dated July 14, 2020, in response to its letter of July 7, 2020, in which the Commission asserts that it is compliant with all the requirements of the Act in imposing the Levy.



**4.3** In Flow's case the Levy is approximately US\$1,696,244.32 which is equivalent to 7% of Flow's gross revenues for 2019; together with Flow's Royalty payment of 3% of gross revenues, Flow would be paying the Commission 10% of its gross revenue in fees .

**4.4** The industry is unified in opposing the Levy because:

- o The Levy has not been implemented in accordance with the Telecommunications Act;
- o The Commission has not produced audited accounts as required by the Act;
- o Increased cost will be passed on to customers;
- o The Levy is exorbitant, unnecessary and unreasonable.

## **5. Conclusion**

**5.1** In closing Flow reiterates that despite the reduction in the budget by 9% for Financial Year 2021, the budget remains substantially elevated and on par with the TRC's bloated budgets from the past five (5) years which Flow has highlighted in its comments on the previous budgets.

**5.2** The current economic environment remains one of great uncertainty, and therefore the TRC must seek to play its part by reducing its regulatory cost to the industry. This is important to ensure a viable telecommunications sector, which, as we have seen, has become even more important to improving and sustaining businesses, education, health and private life in the wake of the restrictions imposed by the COVID-19 pandemic.

**5.3** Finally, Flow will be agitating for greater accountability from the TRC in establishing timeframes for the delivery of its Work Plans and publication of Annual Reports.

**END**