



Commission

Licence Renewal Fee Methodology

Statement

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About this document

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

Under section 6(e) of the Telecommunications Act, 2006 (**Act**) the Commission is responsible for determining applications for licences for any of the purposes specified in the Act. Furthermore, section 6(j) empowers the Commission to collect all fees and any other charges payable to the Commission under the Act.

In this document, the Commission outlines the principles applicable to the determination of fees while referring to other jurisdictions that we considered in determining the fee methodology.

The fee methodology will be applied to renewal of licences for the operation of telecommunications networks providing telecommunications services in the British Virgin Islands, which are due for renewal in 2022.

This document takes into account stakeholder responses to our consultation on the proposed licence fee methodology.

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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 Under section 6(e) of the Act, the Commission is responsible for determining applications for licences for any of the purposes specified in the Act. Furthermore, section 6(j) enables the Commission to collect all fees and any other charges payable to the Commission under the Act. These include, among others, the fee to be paid for renewal of a unitary licence.
- 1.3 In accordance with these statutory obligations, inter alia, this document describes the methodology that the Commission will use to determine the Licence Renewal Fee (**Fee**).
- 1.4 The Licence Renewal Fee Methodology (**Methodology**) will assist the Commission in deciding the appropriate principles to be used for determining the Fee. Determination of the Methodology is a step in assessing the application fee as applicable to the renewal of unitary licences. The current unitary licence includes a provision at Article 5.5, which specifies "the fees payable for any renewal period shall be agreed upon between the Commission and the Licensee at the time the renewal is granted.
- 1.5 The Fee has not yet been agreed with any of the licensees seeking renewal of their unitary licence. Notwithstanding this, the Commission believes it appropriate to develop a consistent methodology that would lead to a Fee that is consistent across all unitary licence holders.
- 1.6 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 Licence Renewal Fee Methodology in this document is complementary to these principles.

The Legal Framework

The Commission is guided by its statutory remit in developing the Licence Renewal Fee Methodology, notably the provisions that are outlined below.

Legal Provisions

- 2.1 As a statutory body, the Commission is required to perform certain functions set out in section 6 of the Act.
- 2.2 Notably, section 6(d) of the Act specifies that:

"the Commission shall be responsible for the regulation of licensees and authorisation holders and for ensuring fair competition among licensees and all other operators of telecommunications networks or providers of telecommunications services."
- 2.3 Section 6(e) of the Act specifies that the Commission is responsible for determining applications for licences for any of the purposes specified in the Act. Additionally, section 6(j) of the Act enables the Commission to collect fees and other charges payable to the Commission and section 6(r) of the Act obliges the Commission to promote the systematic development of telecommunications throughout the Virgin Islands.

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

- 2.4 Article 5.5 of operators' licences for the provision of telecommunications networks providing telecommunications services in the BVI specifies that '*the fees payable for any renewal period shall be agreed upon between the Commission and the Licensee at the time the renewal is granted.*' In this regard, it is understood that a fee for licence renewal is to be charged and collected by the Commission.
- 2.5 As Statutes are to be read as a whole, the Commission must have due regard of its statutory duties in all of its activities, including when setting the fees and charges over which it has some discretion and when determining the methodologies for assigning its costs to its licensees and authorisation holders. A fair and equitable method for assigning the Commission's costs to licensees and authorisation holders could aid in achieving the objectives of the Act.
- 2.6 The Commission considered it judicious to consult on the Licence Renewal Fee Methodology pursuant to 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."*
- 2.7 Accordingly, the Commission published a Consultation Document, "Licence Fee Renewal Methodology," on 28 October 2021.
- 2.8 Responses were received from Digicel BVI Limited (Digicel) and Cable and Wireless (BVI) Limited dba Flow (Flow) on 25 November 2021.

Fee Methodology for the BVI

General Principles

- 3.1 Every jurisdiction adopts a licence fee structure tailored for its specific circumstances and to achieve its statutory objectives. These can vary considerably from country to country and this diversity is reflected in the fee structures applied across the world. However, operating licence and frequency authorisation fees tend to be determined using one or more of the following three principles:
- 3.1.1 Recovery of regulatory costs – this is based on a measure of the costs incurred in regulating licensees and the sector or managing spectrum. It can be either related to discrete activities or to the overall costs of the relevant authority.
- 3.1.2 Efficient allocation of public resources – this is to promote the efficient use of public resources such as spectrum and numbering.
- 3.1.3 Reflection of economic value – this is to reflect the fact that operating licences and spectrum number resources have economic value, and are used to generate profit, for commercial enterprises.
- 3.2 In the Consultation Document, the Commission identified a number of jurisdictions which have explicitly outlined the principles they apply in determining their operating licence and frequency authorization fees, namely, Bahrain, Bermuda, Guernsey, Jamaica and Trinidad & Tobago. Those jurisdictions apply one or more of the three basic principles set out in the preceding paragraph when setting fees for operating licences and frequency authorisations.

- 3.3 The Commission considers that it is also international best practice to set fees and charges in light of the regulator's statutory mandate. Accordingly, the Commission's actions and decisions, including in relation to telecommunications networks and services licence fees, should be aimed at achieving those objectives.
- 3.4 The Commission particularly considers that the licence fees in this regard should promote the objectives of ensuring fair competition and promoting the systematic development of telecommunications throughout the jurisdiction.

Relevant Principles for the Fee

- 3.5 The cost recovery principle is believed to be the most relevant to determining the appropriate licence renewal fee as the process of reviewing the licence renewal applications and the renewal procedure outlined in the current unitary licences will require a considerable amount of the Commission's time and resources. While the licensed entities are known by the Commission, the renewal procedure requires the Commission to review the record from the prior 14-year period and to assess the licensee's past performance and compliance with statutory and licence obligations. The Commission will therefore apply the principle of costs recovery to the determination of the licence renewal fee, so as to ensure transparency and fairness of the regulatory fee regime, by ensuring that entities who cause the Commission to undertake specific activities bear the cost of those activities.
- 3.6 The principle of efficient allocation of resources appears to be less applicable to determining the fee for operating licences. These are not typically considered to be a scarce resource, unlike spectrum and numbers which are assigned to one person to the exclusion of all other persons. Insofar as the Commission could, in principle, issue additional operating licences, there is not the same need to ensure operating licences are used as efficiently and effectively as possible through the licence fee structure. Specifically, while the Commission will want to ensure that operating licences are used to the fullest extent possible, in order to bring the benefits of competition, new services and better prices to consumer in the BVI, the design and assessment of a licence renewal fee does not seem to be an effective way for this to be accomplished.
- 3.7 'Economic value' could be a relevant principle to apply in setting a licence renewal fee, particularly considering that the telecommunications sector generated \$61million in revenues in 2013, which supports the assertion that a unitary licence is valuable. However, it is the Commission's view that the economic value of the unitary licence is largely reflected through the imposition of the annual royalty fee, which is calculated as a percentage of gross revenue. It is, therefore, unlikely that economic value needs to be a primary consideration when setting the renewal fee to ensure the fees and charges paid by licensees and authorisation holders reflect the value of those licences and authorisations.
- 3.8 Based on the Commission's decision to apply the principle of cost recovery to determine the licence renewal fee, this will involve the Commission assessing the cost of the resources necessary to review an application, including the cost associated with the staff involved in the review, the cost of publishing documents and venue costs associated with the public hearings, as required by the renewal procedures, and any other relevant costs. Once these costs have been determined, a proposed renewal fee can be set for agreement with the licensees. While each licensee's application and circumstances will differ, the Commission is of the view that a similar level of effort will be required for all applications for renewal of a unitary licence and, therefore, anticipates that the same Fee will apply to all operators seeking renewal of their unitary licences in 2022.
- 3.9 Having identified the level of the costs required to be covered by the Fee, the Commission will then determine whether a Fee set at that level would assist it in achieving its objectives under the Act. While the Commission must consider its costs, it also has a strong interest in ensuring that the Fee promotes fair and effective competition and the development of telecommunications across the

country, or at the very least do not hinder achieving those objectives. The Commission anticipates assessing whether such an adjustment is necessary only after it has determined, at the conclusion of the current consultative process on the Methodology, the relevant renewal procedure actions that will be taken into account in setting the Fee.

Renewal Activities

- 3.10 The Commission has commenced the process of determining the activities necessary for the renewal of a unitary licence and the costs associated therewith, and included a list of such activities in the Annex 'Table of Renewal Procedure Actions' to the October 2021 Consultation Document. These activities were grouped into the following four categories: (1) decide on renewal application form, (2) new terms and conditions for renewal licences, (3) determine licence renewal fee, and (4) renewal procedure.
- 3.11 As discussed in further detail below in the Annex 'Response to the Licence Renewal Fee Methodology' to this Statement, the Commission has decided to modify the list of activities relevant to the determination of the Fee (although, for clarity, all the activities remain necessary for the renewal of a unitary licence). Please see the attached Annex 'Table of Renewal Procedure Actions (Final)' for the final table of key actions and related key performance indicators in this regard.

Next Steps

- 4.1 Following the determination of the methodology for setting the Fee, including the relevant costs, the apportionment of those costs, and any required adjustments, as described in the preceding section, the Commission will communicate in writing to each applicant the proposed Fee for renewal of their unitary licence.

Annex: Responses to the Licence Renewal Fee Methodology

We received two responses to the Consultation on the Licence Renewal Fee Methodology within the specified consultation period. These responses were submitted by Digicel (BVI) Limited (“Digicel”) and Cable & Wireless (BVI) Limited (“Flow”). Accordingly, in finalising our Methodology, we have considered the views of both respondents and have published their submissions in full on our website. Below, we provide our responses to the key points raised during the Consultation.

Preliminary Comments

1. Intention of the Consultation Document & Proposed Fee Methodology

Digicel was the sole respondent that sought additional information in relation to understanding the Commission’s intention and further clarification to the purpose of the Consultation Document and whether the intent was to propose a fee methodology for the renewal of unitary licences only.

Commission’s response:

The current telecommunications operating licensees CCT, Flow, Digicel and BVI Cable TV were issued separate licences by the Commission in 2007 to operate a telecommunications network and/or provide telecommunications services in the Virgin Islands. Those licences expire in 2022 and the Commission must assess whether the licences will be renewed. Article 5.5 of the unitary licence states that a renewal fee shall be agreed upon between the Commission and the operators at the time of renewal; however, it does not explain how the fee should be determined. Therefore, in an effort to keep the process transparent and acknowledging this may have a significant impact on the industry, the Commission consulted on the licence renewal fee methodology. This gave all existing licensees as well as other interested parties, the opportunity to provide their feedback on how the licence renewal fee would be calculated.

The Commission confirms that the purpose of the Consultation Document was to establish the methodology for assessing the fee for renewal of unitary licences only. The Commission considers it appropriate to determine a fee methodology which can assist in determining the fee applicable to the renewal of unitary operator licences. The Commission notes that the renewal fee methodology being decided here would also apply to BVI Cable TV’s renewal application.

2. Legal Basis for the Unitary Licence Renewal Fee

Digicel submitted that section 6(j) of the Act only authorises the Commission to collect fees and charges, not “to determine any particular licence fee,” while Article 5.5 “specifically provides that any fees payable are a matter for agreement between the Commission and the relevant licensee.” As a result, Digicel was of the view that it is not clear that “the Commission has any legal mandate to impose a Unitary Licence renewal fee at this time.”

Commission’s Response

The Commission agrees with Digicel that section 6(j) of the Act authorises the Commission to collect fees, and that Article 5.5 provides for agreement on the renewal fee.

The Commission notes, however, that Article 3.3(d) specifies that “the Commission shall have the right to assess a fee for any renewal granted as set forth in Article 5.5.” The Commission considers, therefore, that it has the authority to assess a fee for renewal of a unitary licence.

For clarity, the Commission notes that the purpose of this consultative process is not to impose a licence renewal fee. Rather, its purpose is to determine the methodology to be applied in assessing an appropriate

licence renewal fee. The question of whether the Commission has the “legal mandate” to impose a fee is, therefore, not applicable.

3. Fee Methodologies

a. General Principles

Flow mentioned “*the economic value principle and the principle of cost recovery are common and acceptable principles to be applied to the determination of the cost to provide certain services in the telecommunications industry.*” Flow did argue that fees should “*promote the efficient allocation of public resources*” which in turn will “*not be distortionary to the market and should be designed to promote the efficient functioning of the telecommunications market.*”

Digicel did not comment on the list of general principles besides mentioning that they generally support the principle of cost recovery.

Commission’s response:

The Commission notes the submissions of the parties. The three principles mentioned in the Commission’s consultation document are generally best practice approaches which are reflected in various fee structures around the world. The Commission can apply one or more of the principles to the Commission’s gamut of fees including but not limited to operating licence fees and frequency authorisation fees. These fee setting principles also consider the impact of fees on competition and stakeholders in the telecommunications sector.

The international best practice, however, is to set fees and charges in light of the regulator’s statutory mandate. The Commission’s actions and decisions should be aimed at achieving those objectives for all types of licence fees, and renewal fees are no exception.

b. Applicability of the Cost Recovery Principle to Renewal Fees

Digicel generally supported the principle of cost recovery but questioned whether it is relevant to the context of unitary licence renewal fees in the BVI.

Flow had no contention or objection to the adoption of the cost recovery principle for renewal of unitary licences, given the objective nature of the approach since there is less reliance on assumptions and subjective views.

Commission’s response:

The Commission considers that the Fee should be assessed using the cost recovery principle which, in this case, is appropriate. Where the renewal activities are benefited by a sub-group of all the types of licence holders in the telecommunications market, it is important that the costs of those activities be allocated to those licence holders.

There is a strong link between the fee level and the consumption of resources necessary for the relevant renewal activities. The licence renewal process occurs on the 15th anniversary of the licence. This one-time process benefits the licence holder who require a licence to operate in the BVI. Cost recovery is in line with the “user-pays” principle, which dictates that those who benefit most from a service should bear the brunt of its cost.

4. Selection of Comparable Jurisdictions

Flow stated that they had no objection to the countries chosen by the Commission to demonstrate the principles adopted to determine renewal fees for telecommunications operating licences. Further on, Flow

mentioned that the selected countries were less relevant than the basis of the principles applied to determining the fees.

Digicel mentioned the benchmarked countries identified by the Commission generally support the cost recovery principle.

Commission's Response

The positions of the parties are noted.

5. Providing Benchmarks of Renewal Fee Amounts

Digicel indicated that the Commission failed to provide the actual figures charged by various countries and that the principles applied by those countries apply generally to annual fees rather than renewal fees specifically. Digicel provided a list of countries in which they operate where the operating licence renewal fee is either zero or de minimis, and submitted that, in its view, "*international practice does not support the imposition of any Unitary Licence renewal fee in BVI.*"

Commission's Response

The purpose of the Consultation Document was to determine the appropriate fee methodology only and not the actual fee level. The actual amount to be charged in the Virgin Islands is independent of the actual amounts charged by other regulators. Discussions on the fee level will be held at a later date.

The Commission considers that the three principles of recovery of regulatory costs, efficient allocation of public resources, and reflection of economic value can apply to more than just annual operating licence fees. As noted above, though, the Commission considers that principle of recovery of economic costs is most relevant to determining the appropriate level of the unitary licence renewal fee.

With reference to Digicel's table, the Commission notes that Digicel did not provide details on the methodologies used in these countries. In light of the wide variety of fee structures which have been implemented around the world, the presentation of specific dollar amounts without a detailed explanation and comparison of the methodologies and principles applied is of limited value to assessing the appropriate methodology to be applied in the Virgin Islands to determine licence renewal fees.

The Commission notes that international practice, including in most of the countries listed by Digicel, supports the application of a fee for renewal of a licence.

6. Renewal Fees covered in Current Regulatory Obligations

Digicel mentioned the "principles" from other jurisdictions apply generally to annual charges for operating licence fees rather than licence renewal fees specifically.

Flow mentioned that "fees" from other countries cited by the Commission reflect one-off annual fees and regulatory fees as opposed to licence renewal fees. Flow went on to mention that although the countries may not bear on the principle of cost recovery itself, there could be an argument that annual regulatory fees and other license one-off fees would and could cover license renewal fees.

Flow submitted that the licence renewal fee should not include operational costs that fall within the general day to day function of the Commission or any licence renewal activities which are already included in the Commission's annual budget and already funded by royalty fees from telecoms providers.

Commission's Response

The purpose of the Consultation Document was to determine the appropriate methodology for assessing the unitary licence renewal fee. International practice suggests the three principles of recovery of regulatory costs, efficient allocation of public resources, and reflection of economic value can be applied in determining licence fees generally, and the Commission has determined that the principle of cost recovery is the most relevant to determining the appropriate level of the unitary licence renewal fee.

The Commission identified the list of renewal activities pertinent to the licence renewal process. The Commission does not accept the argument that the renewal fee may be covered by the royalty fee, because the royalty is not related to a specific activity or the cost of that activity. The revenue generated from the royalty fee is based on the total revenues generated in the market, therefore, it is generally based on how well the market is performing.

The licence renewal project was a part of the 2021/2022 Work Plan. However, this project was not included in its entirety in the 2021/2022 Budget, as explained in Section 8 below. At the time of executing the Work Plan, the Commission considered that the other costs would be covered by a renewal fee. Further, the Commission considers that certain costs associated with the licence renewal procedure should be borne by the licensees who specifically benefit from that procedure. There is, therefore, justification for a separate Fee.

7. Cost of Renewals in Annual Budget

Digicel submitted that “*the Commission's forecast costs associated with the Unitary Licence renewal process have already been budgeted*” and that “*any further fees, levies or charges ... would, in effect, amount to 'double counting'*”.

Commission's Response

The Commission's Work Plan listed a set of critical projects for 2021 and 2022. This included a list of activities which were associated with the licence renewal process, to ensure that the industry was aware that this would form part of our activities during the work year.² However, the 2022 Budget did not include a specific amount per se towards those activities.

The Budget included reviewing and updating the terms of the operator licences,³ rather than the licence renewal. The Commission considered that reviewing operator licences was an important step to the advancement of the licensing framework and the industry as a whole. In addition, it would be a valuable element of the entire renewal process. As discussed in greater detail in section 8.a. below, we have amended our position to include only the activities in the renewal procedure which cannot also be seen to form a part of our day-to-day activities.

8. Applying the Cost Recovery Principle

a. List of Renewal Activities (Annex)

Digicel expressed concern over the elaborate table of renewal procedure actions that is included in the Annex to the consultation document. They expressed that it is complex and involved for what should be a relatively simple administrative renewal procedure. They suggest reviewing and simplifying the process to closely align with the requirements of the Act and avoid any unnecessary costs for both the Commission and the industry members.

² See paragraph 2.5 of the Statement on Commission Annual Work Plan and Budget 2021/2022 published on 29 June 2021.

³ See page 21 of the Statement on Commission Annual Work Plan and Budget 2021/2022 published on 29 June 2021.

Flow submitted that the renewal procedure for its unitary licence is set out in Article 3.3 of their Licence.

Commission's Response

In the Consultation Document, the Commission identified the list of renewal activities that could form the basis of the renewal fee. Digicel did not expand upon which areas should be simplified, omitted or added. Upon review of the submissions of the parties, as described in detail below, the Commission has amended the Annex to reflect a simpler, less expensive but more precise costing model.

The Commission must emphasize, notwithstanding these revisions, that conducting administrative procedures must reflect the costs incurred by the Commission which is why the Commission is recommending the principle of cost recovery.

When providing the list of renewal activities in the Annex to the Consultation Document, the Commission presented the full list of such activities. The Commission will address below each broad category in that Annex.

1. With reference to **deciding on the renewal application form**, the Commission notes that Article 3 of the unitary licence contemplates that licensees will apply for renewal. To facilitate this, the Commission combined the applications for new licences and for licence renewal into a single new form. This is the first step in engaging the licence renewal process by collecting the required information from existing licence holders desirous of being renewed. The development of the form strengthened the licensing renewal process by enabling the availability of telecommunications in the Virgin Islands and ensuring long-term benefit customers in the Territory.
2. **Determining the terms and conditions for renewal licences** is necessary for the operators to be granted a new licence and is contemplated by Article 3.3(d) of the unitary licence. Notwithstanding this, the Commission could have made, and did in fact make, amendments to the licence outside of the renewal period. However, it was viewed as appropriate to modernise the licence further to include the regulatory advancements in a rapidly changing industry.
3. **Determining the renewal fee** is an activity that needs to be performed at the time of renewal, which happens only once on the 15th anniversary of the licence. This is contemplated by Article 3.3(d) and Article 5 of each operator's licence. Consulting on a renewal fee and determining its methodology helps the Commission to perform its functions of regulating the industry and charging for specific activities.
4. The **renewal procedure** consists of a list of activities as outlined in Article 3 of the licence. Some of the activities which form a part of the renewal process could appear to be the same kinds of activities that make up our regulatory functions. However, the licence mandates the Commission to perform these functions specifically at the time of renewal. As such, even though the activities (monitoring, compliance, etc.) may appear to be of the same kind, they are very much different and above and beyond our everyday regulatory duties. Therefore, the Commission considers it appropriate to charge a separate Fee to cover the associated costs because the Fee relates to the separate actions during a one-off occurrence.

The Commission notes that the renewal actions discussed in the preceding paragraphs and included in the Annex 'Table of Renewal Procedure Action' in the Consultation Document are consistent with the renewal procedure set out in Article 3 of the unitary licence. Notwithstanding this, the Commission will adjust its current position and remove 'renewal application form', 'terms and conditions' and 'determining the renewal fee' from the list of renewal actions to be considered in assessing the renewal fee because those activities could also be considered to fall within the scope of the Commission's regular day to day activities.

The licence renewal fee will be based on the activities in the renewal procedure which are included in the Annex.

b. Incremental costs of assessing applications

Digicel submitted that the incremental costs of assessing any applications for renewal of a unitary licence should be minimal.

Commission's Response

The Commission believes that the cost to conduct the renewal process inclusive of assessing any application for renewal of a unitary licence is an incremental cost to the Commission's general regulatory activities, as it is an incremental activity that occurs only on the 15th anniversary of the issuance of a licence. We do agree that the cost incurred should be kept to a minimum where possible and within the context of renewing unitary licences. Therefore, the Commission is amending the Annex to include only the renewal activities within the renewal procedure section.

In relation to specifically addressing the incremental costs of assessing applications for renewal of a unitary licence, although the Commission has regulated operators over the duration of their licence, the applicant seeking renewal is required to initiate the process by applying to the Commission. There are costs associated with reviewing their application whether the information has remained the same or has changed.

9. Similar effort required

No comments were submitted by Digicel in relation to this topic.

Flow indicated that they reserve the right to address the matter if they wish to at a later date. Flow went on to state that where costs are legitimately incurred, the cost recovery principle is an objective method to determine the fee independent of "similar level of effort."

Commission's Response

The appropriateness of recovering all or some of these costs is discussed above. If the same activity is provided to all licence holders, the same resources would be used in the provision of that activity, and therefore the costs would be the same. The Commission considers there is minimal differentiation between licence holders in this respect, and licence renewal fees should be set on the same basis.

10. Level of the Renewal Fee

Flow indicated that when the Commission applies the cost recovery principle, the Commission and Flow should be able to verify costs and the point of causation of cost can be ascertained and identified objectively. Flow opined that the challenge with this approach is the temptation to inflate costs unnecessarily, typically through inefficiencies and exaggeration of costs such as the attribution of full cost rather than the marginal cost of the activity.

Thereafter, Flow referred to their previous letters to the Commission in relation to the Commission seeking additional information on Flow's application for renewal of its operating licence to underscore that Flow should not incur costs that fall outside of the licence renewal process established by Flow's unitary licence and reasonable, proper, and proportionate parameters of the licence renewal process.

Commission's Response

Once the detailed costs of the renewal activities have been determined, the Commission would confirm the appropriate amount for each activity and calculate a final fee level consistent with the design of the cost recovery model.

The Commission agrees that only relevant costs caused by the renewal procedure should be included. The Commission further agrees with Flow's comments on mitigating the challenge when implementing the cost recovery principle. The Commission has commenced identifying the costs associated with the renewal

activities in the Annex. Consistent with the principle of transparency, the Commission will provide information on how those costs were determined and the final fee level in writing to all operators.

The Commission agrees with Flow that the renewal fee should reflect only the incremental cost to the Commission of the licence renewal process. As discussed above, this is the costs of only the renewal procedure.

11. Any Other Considerations

Digicel provided no comments in this section and Flow reserved the right to make further comments at a later date. to comments made in other sections.

Commission's Response

The positions of the parties are noted.

Annex: Table of Renewal Procedure Actions (Final)

| Key Action | Key Performance Indicators |
|--------------------------|---|
| Renewal Procedure | Receive application form from operators for renewal - Application Receipt, signing in and out of forms |
| | Review application forms for renewal for each operator - operator submits everything & Managers' discussion of the form & the development of the RFIs |
| | Draft and issue RFIs to operator |
| | Receive and consider responses to RFIs Draft and issue follow-up RFIs as necessary |
| | Draft Notice of Licence Renewal Publish Notice of Licence Renewal |
| | Provide list of non-compliance areas per operator |
| | Review files for operator Prepare template for Evaluation Report Draft Evaluation Report |
| | Submit Draft Evaluation Report to Licensee within 90 Working Days of receipt of Application |
| | Review operator's comments on Evaluation Report Amend Evaluation Report in light of operator's comments |
| | Submit Final Evaluation Report to Licensee within 90 working days of receipt of application Publish Final Evaluation Report |
| | Arrangements for Public Hearing - contacting the location to ensure availability, choosing the type of room, completing the booking form and sending it via email |
| | Draft Notice of Public Hearing Publish Notice of Public Hearing |
| | Public Hearing (Commission and Operator) |
| | Transcribing of Public Hearing Report of the Public Hearing |

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| | <p>Written Decision of Licence Renewal within 120 Working Days of receipt of Application. If Commission's Decision isn't made within 120 Working Days of receipt of Application then the Commission's Decision be rendered later than one year from the receipt of the renewal application by the Commission</p> |
| | <p>Notify Licensee in writing of the Commission's Decision</p> |