

Commission Draft Annual Work Plan and Budget 2019/2020

Consultation Document

Consultation

Publication date: 27 May 2019

Closing date for responses: 24 June 2019

Reference Number: 1/2019

About this document

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

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

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

Our Annual Work Plan outlines some of the key work that we propose to undertake in order to realise our objectives in the coming year. We also highlight our on-going work, which supports these goals. This document is a draft of our Annual Work Plan and Budget for the Commission's 2019/2020 financial year.

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

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Instructions for submitting a Response

The Telecommunications Regulatory Commission of the British Virgin Islands (the *Commission*) invites comments on this consultation document from all interested parties. Comments should be submitted by 24 June 2019.

We strongly prefer responses to this document to be sent by email to consultations@trc.vg (indicating the subject: "Consultation on the Annual Work Plan and Budget 2019/2020". Alternatively, responses may be sent to the address (or the P.O Box number) set out below:

Consultation on the Annual Work Plan and Budget 2019/2020 – Telecommunications Regulatory Commission, P.O. Box 4401 or 27 Fish Lock Road, 3rd Floor Road Town, Tortola, British Virgin Islands VG 1110.

Responses from corporate bodies (legal persons) should include:

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

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

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

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

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

Once the Commission has received and considered responses to this consultative document, it will deliver its final Work Plan and Budget for the 2019/2020 financial year and calculations of the industry levy to the Minister of Finance for approval and it will be published on the Commission's website.

Cover sheet for response to a Commission consultation

BASIC DETAILS
Consultation title: To (Commission Contact):
Name of respondent:
Representing (self or organisation/s):
Address (if not received by email):

CONFIDENTIALITY

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

Nothing Name/contact details/job title

Whole response Organisation

Part of the response Details of Confidential Information

If you want part of your response, your name or your organisation not to be published, wecan still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that the Commission can publish. However, in supplying this response, I understand that the Commission may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, the Commission can disregard any standard email text about not disclosing email contents and attachments.

The Commission seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name Signed (if hard copy)

Part 1: 2019/2020 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. 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 2019/2020 Annual Plan, which will guide the Commission's work in 2019 in the telecommunications sector, for which it has responsibility. Also included in this document is the 2019 Budget, as required by section 63 of the Act.

Board of the Commission

1.5 The Minister, with the approval of the Council, made the following appointments to the Board of the Commission:

Chairman: Michael Thomas (Re-appointed: 13 February 2017 to serve for a term of two years and six months)

Board Members: Jerry Samuel (Appointed: 1 March 2017 to serve for a term of three years)

Chief Executive Officer and Board Member: Guy L. Malone: Re-appointed 1 March 2019 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 and (e) staffing requirements to facilitate the delivery of the Commission's Work Plan.

Our Principles of Regulation

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

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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.

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

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

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

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

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

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

Strategic Aims and Objectives 2019/2020

1.8 We have identified six strategic aims and objectives for the 2019/2020 financial year:

1.9 Improved Telecommunications Services

We believe that a resilient and first-class telecommunications services industry is a hallmark of competitive economies and we recognise that there are several other industries that are critically dependent upon having a competitive and robust telecommunications market and infrastructure. To ensure that the British Virgin Islands is equipped to compete regionally and internationally, we will promote the enhancement of telecommunications in the Territory, recognising its central nature in attracting and retaining targeted business activity and supporting overall economic growth.

1.10 Support Governmental Initiatives

The Government has identified several key plans which are geared towards the development of the Territory. Telecommunications has been specifically identified as having a direct impact upon the realisation of these plans. As such, we will be seeking closer relations with our Minister and the wider Government to bolster the view of telecommunications as a fundamental service and demonstrate our commitment to supporting local development plans. We will provide timely and high-quality advice to the Minister relating to telecommunications and consistent updates on our work and the development of the sector.

1.11 Heightened Consumer Awareness

The Commission recognises that as the regulator of telecommunications in the British Virgin Islands, we have a duty not only to protect the public's interest, but to ensure that the public is aware of our work and how it impacts their experience in this services industry. We will engage with local consumers and businesses to educate them on the telecommunications market and our work, and to hear any concerns or challenges that they may be experiencing in the industry. Through this initiative, we will be better able to prioritise work to ensure that we deliver the most benefit to consumers, business and visitors in the British Virgin Islands.

1.12 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 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 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.

1.13 International Best Practice

We have improved our relationships with sectoral regulators including CANTO, OOCUR, CTU, OFCOM in the UK, and the FCC in the US. Our associations with other organisations including the GSMA, PCH, IANA and ARIN have also been enhanced. In this financial year, we will be seeking 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.

1.14 Enhanced Industry Oversight

The Commission is committed to fair and proportionate regulation of the telecommunications industry. We will strategically monitor all licensees' 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. By encouraging increased investment by operators, fostering competition in the market and protecting the welfare of users, we believe that the telecommunications experience can be first-rate.

Part 2: The 2019/2020 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 2019 and 2020 are set out below.

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

- 2.1 On 3 August 2018, the Commission commenced a consultation on the release of LTE TDD spectrum in the 2.3 GHz, 2.5 GHz and 3.4-3.6 GHz bands. This was done in keeping with our 2018 Spectrum Management Framework and the need to support the improvement of local fixed communications services. Following the close of the consultation, the Commission postponed the next stage of the release, considering responses received from the industry. As we continue to engage with industry to assess their demand for the spectrum and resultant benefit to the Territory, if it were released, the Commission will determine the appropriate time and format for the release of additional spectrum into the market. Thereafter, other activities identified in the Implementation Plan will be prioritised by the Commission.
- 2.2 Develop an Equipment Type Approval framework, which will include the establishment of preferred technical standards, to regularise the system of type approval and certification currently undertaken by the Commission and to allow for the collection of fees for this work.
- 2.3 We will upgrade the Commission's Radio Licensing programme to facilitate the processing of frequency authorisations within various radiocommunication services including, amongst other, maritime, aeronautical, broadcasting and land mobile services.
- 2.4 As the Commission puts to use the spectrum management software tool acquired during our 2018/2019 financial year, the Commission will now move to develop a frequency list showing spectrum allocated in the British Virgin Islands in various frequency bands.
- 2.5 Our work towards conducting a comprehensive network audit of the usage of spectrum frequencies by licenced operators has commenced and will continue into this financial year. This initiative will assess the efficiency and effectiveness of spectrum usage and the quality of services that currently exist in the Territory.

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.

- 2.6 Develop an internal Information and Communications Technology policy to determine how and for what purposes ICTs will be used. The Commission recognises the need for strong capacity building within the regulator, and as such will use this initiative to provide the opportunity for employees to be further educated about ICTs and associated risks and rewards. This will seek to ensure better communication with licenced operators and other valued stakeholders. Additionally, we will continue to work closely with the CTU in contributing to the development of a national ICT Policy.
- 2.7 Improve telecommunications systems and services within the Commission to allow employees to better serve the public interest in regulation of the industry. By doing this, we hope to see positive performance transformation internally and equally constructive change in the market.

2.8 The Commission remains committed to improving the speed and reliability of internet services accessed in the Territory. We will examine broadband speeds in other jurisdictions to assist in determining appropriate quality of service targets. Following this, we will develop a Broadband policy for the benefit of telecommunications consumers in the British Virgin Islands.

Review the licencing framework and support the implementation of recommended changes to the Telecommunications Policy, Act, Codes and Regulations.

- 2.9 The Commission is cognisant that operator licences are due for renewal by 2022. Considering this, we will commence the review of operator licences during this financial year with a view to determining appropriate areas for amendment.
- 2.10 Introduce additional telecommunications Codes and Regulations to complement the recommendations for revisions to the Act and new areas identified in the revised telecommunications policy.
- 2.11 Continue with already commenced processes for the implementation of recommendations for a revised telecommunications policy, revision to the Act, and introduction of new Codes and Regulations.

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

- 2.12 Fully develop an online database containing information on the state of telecommunications in the British Virgin Islands, to be updated periodically.
- 2.13 Develop an in-house Long Run Incremental Cost model for use in termination of interconnection tariffs and for market analysis purposes, with a view to improving market conditions if and where necessary.
- 2.14 The Commission recognises that consumer choice and satisfaction are crucial in any services industry. To assist consumers in the telecommunications sector, we will develop a user-friendly consumer choice tool using data to help consumers make informed decisions about telecommunications services plans in the Territory.

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

- 2.15 Hire a Compliance Officer to take forward the programme of work relating to regulatory compliance and the implementation of procedures to enhance oversight of and acquiescence in the industry.
- 2.16 Commence a public awareness campaign to create awareness in the Territory of projects being undertaken by the Commission and to educate citizens and consumers on key developments in and challenges affecting the telecommunications sector.
- 2.17 The Commission will go on a staff retreat aimed at improving focus within the organisation. Telecommunications, and equally its regulation, is vital in the British Virgin Islands. Therefore, to ensure that the Commission continues to serve the public interest, the time will be used to revise our mission and vision and to gain guidance on the best ways of performing our duties.
- 2.18 The Commission remains committed to becoming current in our financial reporting. Work is currently underway, and on schedule, for completion of audited financial statements for 2016, 2017,

and 2018 during the 2018/2019 financial year. Audited financial statements for 2019 are projected for completion during the second quarter of the financial year.

Contribute positively to the environment and safeguard the Commission against disastrous impact to ensure the continued regulation of the telecommunications services industry.

- 2.19 Develop a paperless strategy to create a green environment within the Commission. Through this initiative, the Commission hopes to accomplish more efficient operations, increased security, reduced costs and lessened environmental impact.
- 2.20 Finalise a disaster preparedness plan for the Commission to ensure life safety, stabilisation of the incident and property conservation in the event of incidents or severe weather patterns.

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 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.

3.4 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.

3.5 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.

3.6 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.

3.7 Frequency Coordination discussions

Recognising the technical and regulatory process needed to remove or mitigate radiofrequency interference, the Commission remains engaged in formal discussions with the FCC towards establishing clear guidelines for frequency coordination between the British Virgin Islands and the US Virgin Islands.

3.8 Determining licence and frequency authorisation applications

We assess applications for commercial TV and radio service, and other licences and frequency authorisations based on application policies and regulations. Where licence or frequency authorisations are granted, we monitor and enforce effective compliance.

3.9 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.

3.10 Implementing technical development

As telecommunications advances, the Commission determines the various implications of implementing technical initiatives. Work continues in this respect for number potability, as our consumer demand assessment will be completed during the 2018-2019 financial year. Additionally, we will continue to encourage the proliferation of IPv6 across the Territory.

3.11 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.

3.12 Engaging with international stakeholders.

We believe that discussing best practice is of utmost important 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.

3.13 Organising Industry Events

The Commission celebrates telecommunications related occasions including, World Telecommunications and Information Society Day. In December 2018, we hosted our first cocktail reception for industry stakeholders. These events provide an opportunity for mutual engagement between the Commission, licensees, consumers and businesses.

3.14 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.

3.15 Collecting telecommunications fees

We assess and collect fees and other charges payable to the Commission, including without limitation, licence fees, royalties, and spectrum fees. We anticipate discussions with stakeholders on the Industry Levy during the 2019/2020 financial year, with a view to determining a mutually agreeable plan concerning the timing and approach for collection.

Part 4: Budget for the 2019/2020 Financial Year

Estimated Income

FY 2020 Budget - Income	FY 2019 Budget	FY 2020 Budget
Domain Registration Fees	32,000.00	30,000.00
Industry Levy Fees	4,265,066.60	4,249,009.13
Radio License Fees	45,000.00	50,000.00
Royalty Fees	2,220,629.73	2,050,104.74
Spectrum Fees	516,650.00	516,650.00
Submarine Cable Fees	500,000.00	500,000.00
Finance Income	10,000.00	10,000.00
Estimated Income	7,589,346.33	7,405,763.87

Estimated Expenditure

FY 2020 Budget - Expenditure	FY 2019 Budget	FY 2020 Budget
N =		
Non-Executive Members Honoraria and Expenses	40,800.00	40,800.00
Employee Compensation Government Fees and Staff	1,242,445.01	1,342,822.48
Benefits	591,036.99	634,283.44
Professional Services	801,950.00	689,745.00
Conferences, Training and Travel	244,822.86	261,834.58
Rent and Utilities	415,222.88	433,720.88
Maintenance Expenses	47,113.44	66,003.45
Consumers Education and Public Relations	48,000.00	55,000.00
General and Administration	217,622.20	205,007.94
Special Project	100,000.00	100,000.00
Estimated Operating Expenditures	3,749,013.38	3,829,217.77
Contingency Amount	516,053.22	419,791.36
Total Estimated Expenditures with Contingency	4,265,066.60	4,249,009.13
Net Income before Regulatory Contribution	3,324,279.73	3,156,754.74
Less: Regulatory Contribution	(2,220,629.73)	(2,050,104.74)
Estimated Net Income (Loss) after Regulatory Contribution	1,103,650.00	1,106,650.00
Capital Expenditure	1,411,518.83	368,695.85

Overview of Budgetary Items

Income

- Domain Registration Fees: This income comprises of new and renewal dot.vg subscribers. This
 is an emerging market that the Commission wishes to grow. The Commission hopes, in the future,
 that all local registered companies will have a DOT.Vg account.
- Industry Levy Fees: As per section 59 of the Telecommunications Act 2006, the Industry Levy represents the Commission's operating cost assessed by the Commission on all Licensees.
- Radio Licence Fees: This income represents fees from individual radio operators, boat captains, and registered boats that renew or apply for a radio licence to operate in the BVI.
- Royalty Fees: This income represents royalties received from the licensed operators annually. This amount is 3% of the gross income of the licensed operators. This income decreased by 8%, as a result of impact to the Territory during the 2017 Atlantic Hurricane Season.
- Spectrum Fees: This is a relatively new revenue stream for the Commission, since the LTE award process in 2016. This is a fixed annual fee, payable every August by the holders of the LTE spectrum.
- Submarine Cable Fees: A fairly new revenue stream for the Commission, because of CWC submarine cables that terminate or transit the BVI, pursuant to the Submarine Cable Directive dated 18th Dec 2014. This revenue is capped at \$500,000.00 per annum.
- Finance Income: Interest Income on bank deposits.

Expenditures

- Non-executive Members Honoraria and Expenses: This represents the budgeted cost for all members of the Board of the Commission. This expenditure has remained the same over the financial periods reported (2019 and 2020).
- Employee Compensation: This represents remuneration for all employees, inclusive of 18 full time positions. However, there are currently 3 job vacancies Legal Advisor, Tech Project, Graphic Officer and a Compliance Officer. This figure has increased by 8% 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 7% 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 decreased by 14% 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 increased by 7% compared
 to the prior year's budget. The priority of the Commission is to ensure that each member of staff is

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

- Rent and Utilities: This represent occupancy of the 2nd and 3rd floor of the LM Business Centre; the latter floor was leased by the Commission from December 2016 to accommodate increased staffing. This figure has increased 4% over the prior budget year due to increase insurance cost.
- Maintenance Expenses: This represents automobile maintenance, building maintenance, cleaning and cleaning materials, computers, equipment and site, fuel, and office equipment. This figure has increased by 40% over the prior budget year, due to new equipment maintenance cost.
- Consumers Education and Public Relations: This represents initiatives aimed at educating and
 informing consumer on various aspects of the telecommunications sector, including community
 outreach; utilisation of other media avenues; and acknowledgement of various telecommunications
 days/events. This expenditure has increased by 15% over the prior budget.
- General and Administration: This represents subscriptions, customs duties, general office
 expenses, and messenger services. This figure has decrease by 6% over the prior budget year
 due to reduction in cost for licenses and software subscription.
- Special Projects: Operator Compliance Audit. This represents the Commission's focus on investigating each operator's business operations and practices, in an effort to gain a better understanding of the business and ensure the compliance of all operators. While the Commission will be involved in this initiative, this project includes obtaining external services from its auditors and technical experts for the Commission to effectively carry out this audit.
- Contingency Amount: This represents 10% of the estimated expenditure, as per section 59(2) of the Telecommunications Act 2006.