



Commission

Protection of Consumer Rights Requirements, 2021

Consultation Document

Consultation

Publication date: 10 June 2021

Closing date for responses: 8 July 2021

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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 6(p) of the Telecommunications Act, 2006 (the “**Act**”) the Commission is required to “*establish quality of service indicators, reporting requirements for operators and service providers and otherwise monitor and protect the interests of users of telecommunications services*”. In accordance with this section and other sections of the Act, the Commission has developed a draft Telecommunications Code (Part 4B) (Protection of Consumer Rights), Requirements, 2021 (the “**Requirements**”).

In this document, the Commission outlined:

- The legal framework, as applicable, to the development of these 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, rights for consumers of telecommunications services through the imposition of obligations on 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 the Requirements that we propose to implement to protect the interests of telecommunications users in the Territory.

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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 8 July 2021.

We strongly prefer responses to this document to be sent by email to consultations@trc.vg (indicating the subject: "Consultation on the Protection of Consumer Rights, Requirements, 2021". Alternatively, responses may be sent to the address (or the P.O Box number) set out below:

Consultation on the Protection of Consumer Rights, Requirements, 2021 – 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 4B) (Protection of Consumer Rights), Requirements, 2021 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 One of our principal functions include protecting the interests of users of telecommunications services (section 6(p) of the Act). In accordance with this statutory obligation, *inter alia*, this document includes a draft Telecommunications Code (Part 4B) (Protection of Consumer Rights), Requirements, 2021.
- 1.3 The Commission has considered the complaints received from consumers over the past years and experiences relayed from members of the public in relation to the telecommunications industry and, accordingly, takes this opportunity to implement measures to enhance the consumer experience and protect the interests of consumers and businesses by ensuring a well-functioning market.
- 1.4 In protecting consumer interests, our aim is to develop rules to maintain a fair market place, which would equally educate consumers about their rights and businesses about their responsibilities. This is done with a view to ensuring long-term benefit for the residents, businesses and visitors in the Territory. The development of the Requirements was steered by this mission.
- 1.5 The Requirements will establish appropriate measures to ensure that the delivery of services to consumers, in the telecommunications services industry, is done in such a way to safeguard their interests.
- 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 introduction of the Requirements is complementary to these principles.

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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 Requirements, notably the provisions that are outlined below.

Principal Functions

2.1 The principal functions of the Commission are stipulated at section 6 of the Act. Specifically, section 6(p) outlines that, in the telecommunications services industry, the Commission is to:

“establish quality of service indicators, reporting requirements for operators and service providers and otherwise monitor and protect the interests of users of telecommunications services.”

Legal Provisions

2.2 The Commission is empowered to implement the Requirements as a part of the Telecommunications Code, 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 the 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.”

Consumer Rights 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 manner in which licensees engage consumers and the relationship and expectations thereafter. This will ensure protection of consumers and a well-functioning telecommunications industry.

- 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 8 parts and consist of 50 sections, which address:
 - The legal framework and purpose of the Requirements;
 - The details of information that should be provided to consumers, and circumstances in which a licensee may refuse to provide same;
 - Provisions regarding contract terms and conditions, including initial commitment periods, duration and renewal, and termination;
 - The particulars of billing, such as a consumer's right to bills, timeliness of billed charges and billing accuracy;
 - Steps to be taken by a licensee in relation to debt collection and disconnection, and measures regarding bill payment;
 - The required actions of a licensee in relation to service provision and fault repair;
 - Special measures for vulnerable and disabled consumers; and
 - Required compliance with the Requirements.
- 3.4 Part I covers the preliminary provisions of the Requirements, citing its purpose as creating rights for consumers of telecommunications services and imposing obligations on licensees to protect the interests of users of telecommunications services in the Territory. 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 provide information to consumers, including information on services and products, pricing, upgrades or migration, and dispute resolution. The acceptable channels for providing the mentioned information are also outlined, as well as the circumstances in which a licensee may refuse to provide a consumer with information. It also cautions that a licensee may impose a reasonable charge on providing information to consumers, which is not covered by the Requirements, after obtaining a consumer's consent to such charge.
- 3.6 Part III outlines the terms and conditions applicable to the engagement of a consumer by a licensee, including specific information that must be included in service contracts. It prohibits the automatic renewal of a contract, while allowing consumers to terminate a contract that has reached the end of the minimum period without penalty. To ensure that licensees are complying with the requirements of this Part, it is mandated that their standard form contracts are submitted to the Commission annually and any amendments to the contract must be pre-approved by the Commission.
- 3.7 Part IV details a consumer's right to be provided with clear, accurate and complete bills and billing information, while specifying the particulars that must be included in a bill to allow a consumer to

verify the accuracy of the billed charges. Additional provisions cover the timeliness of billed charges, as well as the billing cycle and accuracy.

- 3.8 Part V comprises provisions relating to the payment of bills, debt collection and disconnection. In particular, a licensee shall have at least one payment method that is free of charge, while informing consumers of various options for bill payment that are available. Where a licensee proposes to change its billing mediums, a consumer should be informed in advance. Additionally, a licensee must establish procedures for effecting payment or disconnection, which should be proportionate and include a warning to consumers before such measures are performed.
- 3.9 Part VI specified the licensee's duty to provide services to a consumer within an agreed timeframe, unless certain circumstances exist, and ensure that consumers are able to report faults with and interruptions to services twenty-four hours a day, seven days a week, free of charge.
- 3.10 Part VII imposes an obligation on licensees to establish policies that take into account fair and appropriate treatment for vulnerable consumers, as well as taking appropriate measures to ensure that the needs of persons with disabilities are met. Specific measures are identified in the Requirements, which include a priority fault repair service, third party bill management and alternative contract and billing formats.
- 3.11 Part VIII specifies the relationship of the Requirements with licences and applicable compliance requirements.
- 3.12 It is proposed that the Requirements will be implemented as a part of the Telecommunications Code, in exercise of the Commission's powers under sections 6(p) and 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 provision of information 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. Do you agree with the terms of engaging a consumer, as related to contracts, proposed by the Commission in Part III 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.
3. What are your views on the establishment of procedures for measures in relation to effecting payment or disconnection, as contained in section 36?
4. What are your views on the proposed special measures for vulnerable and disabled consumers, outlined in Part VII of the Requirements? What, if any, alternative measures 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 4B) (Protection of Consumer Rights) Requirements, 2021’ for the draft Requirements.