



Telecommunications Regulatory Commission

Notice to Adopt A Directive on the Amendment of Unitary Licences

(30th December 2021)

TAKE NOTICE THAT:

In accordance with section 6(e) of the Telecommunications Act, 2006 (**Act**), the Telecommunications Regulatory Commission of the Virgin Islands (**Commission**) is responsible for determining applications for licences for any of the purposes specified in the Act. Additionally, in accordance with section 15(2) of the Act, a person who wishes to operate a telecommunications network or provide a telecommunications service shall apply to the Commission for a licence.

The Commission is presently in the process of considering applications for renewal of several Licences for the Operation of a Telecommunications Network Providing Telecommunications Services in the British Virgin Islands (**Licence or Unitary Licence**), which are due to expire in 2022.

In accordance with Article 3.3(d) of the Licence, the Commission may approve Licence renewal with conditions based upon the same terms and conditions of the Licence or based upon new terms and conditions which reasonably reflect changed circumstances in the telecommunications sector in the British Virgin Islands at the time of the renewal application.

The Commission considers it appropriate to amend the terms and conditions of the Licence and will do so pursuant to the procedures outlined in Article 18.5 of the Licence. Article 18.5(b) specifies that before adopting a directive, the Commission shall publish notice of such at least ninety (90) days from the date on which the directive shall take effect, by publication in the Gazette and at least one (1) newspaper of general circulation in the British Virgin Islands and send a copy of the notice to the Licensee.

The Commission proposes to adopt a directive to amend the Unitary Licence. The Commission considers it is appropriate to adopt such a directive because of changed circumstances in the telecommunications sector on the British Virgin Islands since the issuance of unitary licences in 2007.

When the current Unitary Licences were first issued in 2007, the telecommunications sector in the British Virgin Islands was transitioning from a monopoly environment to a liberalised and competitive market. Voice telephony services, both fixed and mobile, were the most critical services for consumers and much of the regulation in the Licences reflect that status. Notwithstanding this, the Licences were modified from time to time since 2007, yet the basic terms remained unchanged.

The telecommunications sector, however, has evolved tremendously since 2007 and the needs of consumers have shifted with it. The most critical services are now broadband internet access services, which is reflected in the Commission's Market and ITU data. Additionally, the incidences of extreme weather events has increased – a trend which is expected to continue and, as such, network resilience and the ability to recover from damage caused by those events is expected to be paramount. In an increasingly connected and inter-connected world, the need for protection of privacy, data protection and cyber security has also grown in importance.

In addition, the Commission is proposing the addition of provisions to ensure licensees administer their businesses from local premises, provide the licensed services, notify the Commission of proposed mergers, and to allow for a 5-year review of the Licence and compliance with respective obligations. Obsolete provisions like the requirement to install and maintain a public pay phone and the obligation to produce a printed directory are being removed from the

Licence. Overall, the proposed amendments to the Unitary Licences have been guided by the changes in the circumstances of the telecommunications services industry in the British Virgin Islands.

The Commission intends to amend the Licence of each Licensee as outlined in the draft directive, contained in the Schedule to this Notice. The Schedule to this Notice can be obtained from the Reception desk of the office of the Commission located at 3rd Floor, LM Business Centre, Fish Lock Road, Road Town, Tortola, British Virgin Islands. Alternatively, a copy of the Report will be available on our website (www.trc.vg).

Furthermore, the Commission shall give the Licensees and any third party with a legitimate interest, not less than thirty (30) days to comment on or object to the proposed directive. Accordingly, all comments on or objections to the proposed directive must be filed with the Commission on or before 14 February 2022.

All responses to this Notice shall be captioned 'Directive on the Amendment of Unitary Licences' – and sent to the 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).

TAKE FURTHER NOTICE THAT:

In accordance with Article 18.5(b)(v), the Commission shall submit to the Licensees a report and opinion on the proposed directive (**Report**), not less than sixty (60) days from the date of this Notice. Accordingly, the Commission will send the Report to the Licensees on 29 March 2022. The Report will be made available at the Reception desk of the office of the Commission located at 3rd Floor, LM Business Centre, Fish Lock Road, Road Town, Tortola, British Virgin Islands. Alternatively, a copy of the Report will be available on our website (www.trc.vg).

On 1 March 2022, a hearing will be held at Maria's by the Sea during which the Licensee and any third party with a legitimate interest may make comments or objections to the proposed Directive. This is in accordance with Article 18.5(b)(vi). Participation in this hearing will be limited to those persons who submitted a relevant comment or objection on the proposed directive in response to this Notice. A further notice with additional details on the hearing will be published by the Commission at a later date.

Pursuant to Article 18.5(b)(vii), the Commission must specify the date on which the Directive shall take effect, which, absent exigent circumstances, shall not be less than ninety (90) days from the date of publication of the notice. The Directive will take effect from the date of issuance of a renewal licence to each licensee who the Commission considers it appropriate to renew.

The person responsible for this matter is Mr. Guy L. Malone, Chief Executive Officer, and he can be contacted at gmalone@trc.vg concerning this Notice. All queries in relation to this matter should be copied to Chantal L. Flax-Ward, Chief Legal Advisor, at cflax-ward@trc.vg.

Issued by the Telecommunications Regulatory Commission on the 30th day of December 2021.

(Sgd.) Guy L. Malone.

Chief Executive Officer