



Commission

Public Hearing Report on the Application for Renewal of CCT's Licence

13 October 2021

Telecommunications Regulatory Commission

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Introduction

The Telecommunications Regulatory Commission (**Commission**) is the regulatory body established under the Telecommunications Act 2006 (**Act**) with responsibility to license, regulate and develop the telecommunications services industry in the Virgin Islands and to provide for other matters connected therewith.

In accordance with section 6(e) of the Act, the Commission shall determine applications for licences for any of the purposes specified in the Act. The Commission is in the process of determining an application for renewal of a licence that was received from Caribbean Cellular Telephone Limited (**CCT**). As a part of the renewal procedure, the Commission shall call a public hearing during which the Licensee and third parties with a legitimate interest that have duly filed comments or objections which the Commission deems to be relevant, shall have a right to be heard. The Commission held the requisite public hearing on 13 October 2021.

The Telecommunications Code (Part 1) (Public Consultations and Public Hearings) Guidelines, 2010 requires the Commission to publish a report on a public hearing on its website which summarises the submissions received and, where appropriate, explains the position of the Commission in relation to each of those submissions. Additionally, the Commission may choose to include in such a report only those submissions that it considers to be significant. The Commission, accordingly, issues this report.

This Public Hearing Report summarises the notification methods used by the Commission and comments received at the public hearing.

Notification of the Public Hearing

Multiple methods of communications were used to notify the public of the public hearing including press releases, advertisements in the local newspaper and notifications published on the Commission's website. This section describes the meeting notification and outreach efforts in greater detail.

Notices and Press Releases

The Commission received CCT's application for renewal of its Licence for the Operation of a Telecommunications Network providing Telecommunications Services in the British Virgin Islands on 24th May 2021. Following receipt of the application for renewal from CCT, the Commission issued a notice on its website and in a local newspaper entitled 'Notice of Application for Renewal of CCT's Licence' on 3rd June 2021, for the purpose of notifying the public of CCT's application for renewal of its Licence and to outline various timelines in the renewal process such as the date of the public hearing, confirmed in accordance with Article 3.3(a) of CCT's Licence. The Notice of Application for Renewal of CCT's licence issued by the Commission on 3rd June 2021, is attached as Annex 1 and can also be found on the Commission's website at <https://www.trc.vg/wp-content/uploads/2021/06/Notice-of-Application-for-Renewal-of-CCTs-Licence.pdf>.

The Commission issued a press release on its website entitled "TRC Encourages the Public to Have Their Voices Heard" on 8th June 2021 for the purpose of encouraging any third party with a legitimate concern to duly file any comment on or objection with the Commission to the renewal applications received from CCT and another licensed telecommunications operator. Additionally, the press release was sent to various media houses and provided information in respect of the public hearing to be held on 13th October 2021 during which CCT and any third party with a legitimate interest who may have filed relevant comments or objections to the application, will have a right to be heard. The press release issued by the Commission on 8th June 2021 is attached as Annex 2 and can also be found on the Commission's website at <https://www.trc.vg/wp-content/uploads/2021/06/TRC-Encourages-the-Public-to-Have-Their-Voices-Heard.pdf>.

The Commission issued a notice on its website on 4th October 2021 entitled 'Notice of Application for Renewal of CCT's Licence' to call a public hearing during which CCT and any third party with a legitimate interest that filed any relevant comment, or objection will have a right to be heard. The notice issued by the Commission in respect of the public hearing is attached here as Annex 3 and can also be found on the Commission's website at <https://www.trc.vg/wp-content/uploads/2021/10/Notice-of-Public-Hearing-Application-for-Renewal-of-CCTs-Licence.pdf>.

The Commission issued a press release on its website on 4th October 2021 entitled 'TRC to Hold Public Hearing on CCT's Application for Licence Renewal' to provide the public with a confirmed location, date, and time for the Public Hearing. The press release issued by the Commission on 4th October 2021, which was also sent to various media houses, is attached here as Annex 4 and can also be found on the Commission's website at <https://www.trc.vg/wp-content/uploads/2021/11/Press-Release-08-2021-Public-Hearing-for-CCT.pdf>.

Public Hearing

This section summarises the venue for the public hearing and describes the meeting format and content of submissions.

Location and Attendance

The public hearing on CCT's application for licence renewal was conducted on the 13th of October 2021 at 9:00 a.m. and held at the Conference Room located at Maria's by the Sea, Road Town, Tortola, British Virgin Islands (**Public Hearing**). In addition to the physical attendances, the Public Hearing was also hosted online by way of a Zoom call to facilitate virtual attendance.

Meeting Format and Content

The Public Hearing commenced with a prayer delivered by a member of the Commission followed by the opening statement presented by Mr. Vance Lewis, the Chairman of the Commission.

The opening statement presented by the Chairman included the introduction of the members attending on behalf of the Commission and acknowledgment of CCT's representatives attending the Public Hearing. Additionally, the Chairman noted the responsibilities and powers conferred on the Commission under the Act to determine applications for a telecommunications related licences and the overall purpose for the Public Hearing. The Chairman of the Commission confirmed that no written comments or objections to CCT's application were received. Lastly, the Chairman of the Commission confirmed the date of submission of the Commission's Evaluation Report to the Licensee before inviting a representative from CCT to make submissions on behalf of CCT.

After the presentation of the opening statement by the Chairman of the Commission, the Public Hearing continued with submissions from the Chief Executive Officer of CCT, Mr. Averad Penn. Mr. Penn introduced the team members joining the Public Hearing on behalf of CCT. Mr. Penn submitted, during his presentation, information regarding a recently formed partnership with BVI Cable TV (another leading telecommunication provider in British Virgin Islands) to launch CCT Live a multimedia telecommunications service and fibre-to-the-home telecommunications services. Mr. Penn stated that CCT is disappointed by the tone of the Commission's Evaluation Report which refers to the Licensee as "barely" compliant. Mr. Penn advanced that CCT complied in material respects with any material provisions of the Telecommunications Act, Commission Regulations, the Telecommunications Code or the terms and conditions of its Licence Agreement and Frequency Authorisations. The Chief Executive Officer for CCT closed his opening submissions by confirming that there were no further submissions at that time.

The Chairman of the Commission, Mr. Vance Lewis, offered a closing statement in which he thanked everyone for attending the Public Hearing and noted that the Commission will be producing a report of the hearing to be published on the Commission's website. It was further stated that the report will summarise any submissions received, and where appropriate, the Commission will explain its position. The Chairman explained the next steps in the renewal process, which will be followed by the Commission's written decision on the renewal of the licence term; a decision that should be delivered within one hundred and twenty working days or up to one year from the date of receipt of CCT's application for renewal.

Recording of Proceedings

A recording of the proceedings was undertaken by the Commission to assist with the development of a transcript of the Public Hearing. A copy of the transcript for CCT's public hearing is attached here as Annex 5.

Annex 1

Notice of Application for Renewal of CCT's Licence



Telecommunications Regulatory Commission

Notice of Application for Renewal of CCT's Licence

(3rd June 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 in receipt of an Application Form for a Public Supplier Licence from Caribbean Cellular Telephone Limited (**CCT**). On 25 May 2007, CCT was granted a Licence for the Operation of a Telecommunications Network Providing Telecommunications Services in the British Virgin Islands (**Licence**). The Licence was issued for a period of 15 years, thus expiring on 24 May 2022. CCT now seeks renewal of this Licence, for an additional period of 15 years.

In accordance with Article 3.3(a) of the Licence, the Commission shall, within ten (10) working days from the date at which the application was received, give notice to the public by publication in the Gazette and at least one (1) domestic newspaper of general circulation. Furthermore, the Commission shall give any interested third party the opportunity to comment on or object to the application. Such interested third party must be given not less than thirty (30) nor more than forty-five (45) working days from the date of this Notice to provide their comments or objections. Accordingly, all comments on or objections to the application must be filed with the Commission on or before 30 July 2021.

All responses to this Notice shall be captioned 'Application for Renewal of CCT's Licence' – 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 3.3(a) of the Licence, the Commission must send to CCT an Evaluation Report (**Report**) within ninety (90) working days from the date of receipt of the application, which will be a matter of public record at the Commission. Accordingly, the Commission will send the Report to CCT on 30 September 2021. 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 13 October 2021, a public hearing will be held at Maria's by the Sea during which Flow and any third party with a legitimate interest may make comments or objections on the application. This is in accordance with Article 3.3(a) of the Licence, which specifies that a public hearing must be held within ten (10) working days of the date of publication of the Report. Participation in this hearing will be limited to those persons who submitted a relevant comment or objection on the application in response to this Notice. A further notice with additional details on the public hearing will be published by the Commission at a later date.

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 3rd day of June 2021.

(Sgd.) Guy L. Malone.

Chief Executive Officer

Annex 2

TRC Encourages the Public to Have Their Voices Heard



PR 06/2021

PRESS RELEASE

Contact: Telecommunications Regulatory Commission

Telephone #: 468-4165

TRC Encourages the Public to Have Their Voices Heard

June 8, 2021 - The Telecommunications Regulatory Commission (**Commission**) has received two applications for licence renewal from CCT and Flow. The licence renewal process is governed by section 24 of the Telecommunications Act 2006 and Article 3 of the Licence. In deciding whether or not to renew a licence, the Commission must decide whether the Licensee in question has complied with its various obligations under the Act, the Telecommunications Code, the Licence, and any Commission instructions, and on whether the Licensee has been in persistent breach of any of those obligations.

The Commission is presently revising the terms and conditions of the Licence, focusing on the development of the industry and ensuring that the public's interest is protected.

Additionally, the Commission strongly encourages any interested third party with a legitimate concern to comment on or object to the application as they believe that everyone has the right to have their voice heard. All comments on or objections to the application must be filed with the Commission on or before 30 July 2021.

All responses should be captioned 'Application for Renewal of CCT/Flow's Licence' (specify applicable Licensee) – and sent to the Telecommunications Regulatory Commission, P.O. Box 4401 or 27 Fish Lock Road, 3rd Floor Road Town, Tortola, British Virgin Islands VG1110.

Under Article 3.3(a) of the Licence, the Commission must send to CCT and Flow an Evaluation Report (**Report**) within ninety (90) working days from the date of receipt of the application, which will be a matter of public record at the Commission. Accordingly, the Commission will send the Report to CCT and Flow on 30 September 2021.

On 12th and 13th October 2021, a public hearing will be held at Maria's by the Sea for Flow and CCT, respectively, during which the licensee and any third party with a legitimate interest may make comments or objections to the application.

Participation in this hearing will be limited to those persons who submitted a relevant comment or objection to the application by the specified deadline. The Commission will publish a notice with additional details on the public hearing at a later date.

Note to Editors:

1. The Commission is the statutory body responsible for regulating the telecommunications sector of the Virgin Islands, protecting the interests of users of telecommunications services, ensuring fair competition among operators of telecommunications networks and providers of telecommunications.

Annex 3

Notice of Application for Renewal of CCT's Licence



Telecommunications Regulatory Commission

Notice of Application for Renewal of CCT's Licence

(4th October 2021)

TAKE NOTICE THAT:

On 13 October 2021, a public hearing will be held by the Telecommunications Regulatory Commission of the Virgin Islands (**Commission**) in relation to Caribbean Cellular Telephone Limited's (**CCT**) application for renewal of its Licence for the Operation of a Telecommunications Network providing Telecommunications Services in the British Virgin Islands (**Licence**). CCT was granted a Licence by the Commission on 25 May 2007 for a period of 15 years, which expires on 24 May 2022, and CCT is seeking renewal of this Licence.

As a part of the renewal procedure specified in Article 3.3(c) of CCT's Licence, the Commission shall call a public hearing during which the Licensee and third parties with a legitimate interest that have duly filed comments or objections which the Commission deems to be relevant, shall have a right to be heard. The date of this public hearing was included in a previous notice issued by the Commission, in accordance with Article 3.3(a) of CCT's Licence.

The public hearing will be held at Maria's by the Sea commencing at 9am. Participation at the public hearing will be limited to CCT and any interested third party who submitted a relevant comment or objection on CCT's application to the Commission by 30 July 2021, in response to the Commission's notice dated 3 June 2021.

As Covid-19 protocols will be in full effect, spaces at the public hearing will be limited accordingly. Participants are required to pre-register their attendance by contacting the Commission at 284-468-4165 or emailing contact@trc.vg. Please ensure to specify the following details:

- 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).
- Individual (natural) persons, should include name and contact details (including email).

TAKE FURTHER NOTICE THAT:

In accordance with section 13(3) of the Telecommunications Code (Part 1) (Public Consultations and Public Hearings) Guidelines, 2010, a notice of public hearing shall be published by the Commission at least seven days before such hearing.

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 4th day of October 2021.

(Sgd.) Guy L. Malone.

Chief Executive Officer

Annex 4

TRC to Hold Public Hearing on CCT's Application for Licence Renewal



PR 09/2021

PRESS RELEASE

Contact: Telecommunications Regulatory Commission

Telephone: 1-284-468-4165

TRC To Holding Public Hearing on CCT's Application for Licence Renewal

4 October 2021 - On 13 October 2021, a public hearing will be held by the Telecommunications Regulatory Commission of the Virgin Islands (**Commission**) in relation to Caribbean Cellular Telephone Limited's (**CCT**) application for renewal of its Licence for the Operation of a Telecommunications Network providing Telecommunications Services in the British Virgin Islands (**Licence**). CCT was granted a Licence by the Commission on 25 May 2007 for a period of 15 years, which expires on 24 May 2022, and CCT is seeking renewal of this Licence.

As a part of the renewal procedure specified in Article 3.3(c) of CCT's Licence, the Commission shall call a public hearing during which the Licensee and third parties with a legitimate interest that have duly filed comments or objections which the Commission deems to be relevant, shall have a right to be heard. The date of this public hearing was included in a previous notice issued by the Commission, in accordance with Article 3.3(a) of CCT's Licence.

The public hearing will be held at Maria's by the Sea commencing at 9am. Participation at the public hearing will be limited to CCT and any interested third party who submitted a relevant comment or objection on CCT's application to the Commission by 30 July 2021, in response to the Commission's notice dated 3 June 2021.

As Covid-19 protocols will be in full effect, spaces at the public hearing will be limited accordingly. Participants are required to pre-registered their attendance by contacting the Commission at 284-468-4165 or emailing info@trc.vg.

Note to Editors:

1. The Commission is the statutory body responsible for regulating the telecommunications sector of the Virgin Islands, protecting the interests of users of telecommunications services, ensuring fair competition among operators of telecommunications networks and providers of telecommunications services.

Annex 5

Transcript for CCT's Public Hearing

TRANSCRIPT OF PUBLIC HEARING

TRANSCRIPT OF PUBLIC HEARING
ON APPLICATION FOR RENEWAL OF CCT'S LICENCE

Tuesday, 13 October 2021

9:00 A.M.



Telecommunications Regulatory Commission

Maria's by the Sea
Road Town
Tortola
British Virgin Islands

**A prayer was offered by a member of the Commission.*

COMMISSION/VANCE LEWIS: Good morning everyone, welcome!

My name is Vance Lewis and I am the Chairman of the Telecommunications Regulatory Commission of the Virgin Islands. Through these proceedings, we will call that the Commission. And joining me at the head table for today's hearing on behalf of the Commission are:

- Guy L. Malone, Chief Executive Officer,
- Chantal L. Flax-Ward, Chief Legal Advisor,
- Ayanna Baptiste-Dabreo, Director of Compliance, and

On the way we will have, Vincent Wattley, who is the Deputy Chairman of the Board.

Additionally, online, we are joined virtually by:

- Commissioner Bevis Sylvester; and

Then, in addition to those from the Commission, in audience, we have:

- George Lewis, Chief Operating Officer
- Frans Vandendries, Regulatory Consultant (joining virtually)
- Gregory Nelson, Chief Spectrum Officer
- Elford Parsons, Chief Technology Officer
- Kevin Richards, Chief Financial Officer, and
- Melissa Farara, Senior Economist.

We also note the presence of the representatives of CCT led by Mr. Averad Penn, who is the general manager.

Before proceeding any further, I wish to indicate that today's hearing is being recorded for the purposes of assisting the Commission in preparing a Report on the hearing, and all submissions made during the hearing are considered non-confidential.

The Commission is the independent regulator for telecommunications in the British Virgin Islands, established in 2007 in accordance with the Telecommunications Act of 2006; and for the purposes of the proceedings, we will just call that the Act, with a mandate to implement the Government's policy with respect to telecommunications as set out in the Telecommunications Liberalisation in the British Virgin Islands Policy 2007.

In accordance with section 6(e) of the Act, the 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.

On 25 May 2007, Caribbean Cellular Telephone Limited; for the purpose of this proceedings, we will call them CCT, was granted a Licence for the Operation of a Telecommunications Network providing Telecommunications Services in the British Virgin Islands.

The Licence was granted for a period of 15 years and expires next year, 2022 on 24 May. It includes a provision that CCT may apply for renewal by submitting an application for renewal to the Commission no later than 12 months prior to the expiration of its Licence term. On 24 May 2021, the Commission received an application for a Public Supplier Licence from CCT, seeking renewal of its current Licence.

The renewal process is governed by section 24 of the Act and Article 3 of CCT's Licence. Since receiving CCT's application, the Commission issued a notice on 3 June 2021 informing the public that:

- A. CCT had applied for renewal of its Licence term;
- B. Comments or objections to the proposed application should be made in writing to the Commission by 30 July 2021; and
- C. An Evaluation Report would be sent to the Licensee and become a matter of public record on 30 September 2021.

This notice was issued in accordance with Article 3.3(a) of CCT's Licence and, accordingly, published in the Gazette, as well as a local newspaper and on the Commission's website.

Further to this notice, the Commission can confirm that it received no written comments or objections to CCT's application within the specified timeline.

Additionally, the Commission's Evaluation Report was submitted to the Licensee on 30 September 2021. This Report states if and to what extent the Licensee has, during the preceding Licence period up to the date of the application, complied with its Licence obligations, regulations, and orders of the Commission, and generally provided the Licensed Services and conducted business in accordance with the Laws of the British Virgin Islands. It was also published on the Commission's website and is available at its office for public viewing.

Today, the Commission called a public hearing in accordance with Article 3.3(c) of CCT's Licence to allow CCT, as the Licensee, and any third parties with a legitimate interest who may have filed relevant comments or objections on CCT's application, to have a right to be heard. As stated previously, no written comments or objections were received to the notice. Therefore, the purpose of the Hearing is to allow the Licensee the opportunity to make additional submissions and to be heard, or to confirm that they wish not to make any further submissions as it relates to their application for Renewal.

Accordingly, we invite a representative from CCT to come forward at this time.

Please introduce yourself and other members of your team.

CCT/AVERAD PENN: Good morning, my name is Averad Penn, and I am the Chief Executive Officer for Caribbean Cellular Telephone. I'm joined today by my colleagues:

- Rekeema Turnbull (Finance and Administrative Manager)
- Kyle Dasent (Networking and Engineering Manager)
- Jamalie Thomas (Sales and Business Development Manager), and
- Ricardo Richardson (Marketing and Media Manager).

We thank you for the opportunity to address this public hearing of the Telecommunications Regulatory Commission for the Virgin Islands in relation to Caribbean Cellular Telephone's application for renewal of our Licence for the Operation of a Telecommunications Network providing Telecommunications Services in the British Virgin Islands.

Caribbean Cellular Telephone was established in 1986 and is the leading telecommunications provider in the British Virgin Islands offering various services for businesses and residential clients. Caribbean Cellular Telephone revolutionised telecommunications service in the British Virgin Islands, giving mobile customers the freedom to call, text, and use data without limits and data

overages. Caribbean Cellular Telephone also offers GOFASTLTE, the most reliable and affordable unlimited residential wireless internet service in the British Virgin Islands.

Caribbean Cellular Telephone recently partnered with BVI Cable TV (another leading telecommunications provider in British Virgin Islands) to launch CCT Live a multimedia telecommunications service that gives customers access to all their favourite international television channels and a growing line-up of local programming. Caribbean Cellular Telephone has also partnered with BVI Cable TV to launch fibre-to-the-home telecommunications services.

Nevertheless, Caribbean Cellular Telephone is disappointed by the tone of the Evaluation Report which seems to endeavour to depict Caribbean Cellular Telephone in the most pejorative manner possible, and we note with interest that no instances of the Commission's non-compliance, non-responsiveness, or non-effectiveness, that had materially adverse effects upon Caribbean Cellular Telephone, were communicated or discussed.

However notwithstanding, the Evaluation Report concluded that Caribbean Cellular Telephone has to a large extent provided uninterrupted telecommunication services to the Territory of the British Virgin Islands during the term of its Licence in accordance with the terms of its Licence, and the relevant laws and Codes.

Furthermore, despite repeated subjective inferences to Caribbean Cellular Telephone being "barely" compliant, Caribbean Cellular Telephone meets the standards articulated in Article 24 of the Telecommunications Act, 2006 with regards to licence renewal. Caribbean Cellular Telephone has operated within the terms of our current Licence Agreement and Frequency Authorisations. Caribbean Cellular Telephone has complied in material respects with, and is not in persistent breach of, any material provisions of the Telecommunications Act, Commission Regulations, the Telecommunications Code or the terms and conditions of our Licence Agreement and Frequency Authorisations.

Caribbean Cellular Telephone has complied in material respects with, and is not in persistent breach of, any material instructions of the Commission. Nevertheless, Caribbean Cellular Telephone will as always continue to work with the Telecommunications Regulatory Commission of the Virgin Islands to address any areas of noncompliance identified.

Lastly, it is our understanding that no comments or objections to Caribbean Cellular Telephone's Licence renewal application were submitted by the public to the Telecommunications Regulatory Commission. Therefore, we have no further submissions at this time.

Thank you.

COMMISSION/VANCE LEWIS: Thank you, Mr. Penn. Are there any questions from the Commission's team?

COMMISSION/VANCE LEWIS: There are no questions or comments.

COMMISSION/VANCE LEWIS: As the Chairman of the Commission, I take this opportunity to thank you all for attending today's hearing in relation to CCT's application for renewal of its Licence. I also thank the Licensee for participating.

Please note that the Commission will be producing a Report of today's hearing, summarising the submissions received and, where appropriate, explaining the position of the Commission in relation to each of those submissions. This Report will be published on our website.

The next step in our renewal process is the continued assessment of CCT's application followed by our written decision on the renewal of the Licence Term, which should be delivered within one hundred and twenty working days or up to one year from the date of receipt of CCT's application for renewal.

In closing, I wish to confirm that the Commission is committed to determining all applications for a licence on an objective, transparent and non-discriminatory basis.