



Telecommunications Regulatory Commission

Work Plan & Budget 2022/23

"Accelerating communications development in the British Virgin Islands."

Statement

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*Vision: A model regulator that champions accessible,
leading-edge, and resilient communications.*

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1. Foreword

On behalf of the Telecommunications Regulatory Commission (**Commission**), I am pleased to present the 2022/2023 Work Plan. Yearly, we aim to put forth a plan that outlines key factors of what we, at the Commission, aim to accomplish during that time. It also demonstrates and highlights how we will ensure that our organisation is fully equipped to give the people of the British Virgin Islands a leading-edge communications system from television to radio, telecommunications and marine safety that will keep our Territory on the cutting edge of technology with the rest of the world.

As such, to maintain our relationship with consumers and those which we regulate, the Commission has consistently promoted transparency in all that we do. A few goals this Work Plan sets out to accomplish are as follows:

We aim to achieve wholistic compliance with reporting obligations by completing outstanding audited financial statements and annual reports. The Commission also outlines its vision to increase its interest in the investment market by releasing valuable spectrum to allow 5G, which will in turn offer operators the needed support to provide the public with new and innovative services. We are reforming the regulatory environment; this is essential as it would allow a revamp to commence on the telecommunications legislative framework. Finally, we aim to assess the local telecommunications market and address areas where deficiencies and inefficiencies can easily be identified to increase competition thus ensuring a levelled playing field between market players.

A community is defined as

“a social group of any size whose members reside in a specific locality, share government, and often have a common cultural and historical heritage”.

The essence of every community, essentially, is the way in which it communicates. We also know that communication is the basis for how we live, learn and work. How members of a particular community achieve that will improve as technology advances, ultimately expanding one's community and whom we need to communicate with. Culturally, the BVI is comprised of a melting pot of virtually any part of the Caribbean and the world. The Commission's responsibility is to ensure staying connected with all members of your community is a priority of our telecommunications providers.

The last three years have taught us that life is fragile, and things can happen in a flash; we needed the power of communication more than ever when more and more people opted to continue working from home, relying on the power of the internet and ultimately the power of the Commission. We facilitate peace of mind for consumers to be given a fair opportunity to experience our communications providers' best there is to offer.

Therefore, as a telecommunications body, it is pertinent that we consistently provide a bold show of leadership and determination for change to the public by starting within. During our brainstorming process on ways in which we may accomplish this, our strategic team recognised the value of having an updated singular organisational goal and went on to create a new mission, vision, along with core values while including the opinions of each member of staff.

The telecommunications industry has advanced, and networks are becoming more reliable, efficient and speedy despite cyberattacks, extreme weather and pricing. The Commission accepts these challenges and



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any other challenges that may arise and lends the utmost support to our telecommunications providers so that they are empowered to equip themselves accordingly.

In 2014, the Submarine Cable Directive was issued by the Commission. This Directive levies a fee on all submarine cables landed in the BVI. These cables span from Aruba to Jacksonville, Florida. Income from this decision has since increased yearly, and this revenue source would not be possible had the Commission not issued the Directive.

For several years, radio operators failed to submit the annual broadcasting station radio licence fee. However, in 2021, we were able to follow up and issue demand letters to delinquent parties. As a result of this effort, revenue owed to the Commission has been collected and most broadcasting stations are up to date.

As we continue to advise the Minister on positions and policies relating to telecommunications issues locally, internationally, and regionally, we recognise that it is of the utmost importance to have our regulations met and obeyed so that we are equipped to give our best and greatest vote of confidence in our providers. Also, we will continue to establish and monitor the implementation of national telecommunications standards. We stand by our word to license, regulate, and develop our industry for the Territory of the British Virgin Islands.

(Sgd.) Guy L. Malone.

Chief Executive Officer



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2. 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.

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 to realise our objectives in the coming year. We also highlight our on-going work, which supports these goals. This document is our Work Plan and Budget for the Commission's 2022/2023 financial year.

This Annual Plan takes into account stakeholder responses to our consultation on the proposed Plan.



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3. Part I: Strategic Overview

Background

- 3.1 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 policy. Our principal statutory functions are set out in section 6 of the Act.
- 3.2 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.
- 3.3 In accordance with its statutory obligations, this document is the Commission's 2022/2023 Annual Plan, which will guide the Commission's work in 2022 in the telecommunications sector, for which it has responsibility. Also included in this document is the 2023 budget as required by section 63 of the Act.

Vision, Mission, Values

- 3.4 During the 2021/2022 work year, the Commission undertook an exercise towards revamping its vision, mission and core values. Our new organisational statements are outlined below:

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Mission

Accelerate communications development in the BVI to empower consumers and foster a progressive environment

Core Values

- Integrity.
- Service-driven.
- Empowerment.
- Family culture.
- Diversity.
- Innovation.

Board of the Commission

- 3.5 In accordance with section 7 of the Act, the Board of the Commission shall comprise of members appointed by the Minister to whom responsibility for telecommunications is assigned, with the approval of Council. The current Board of the Commission includes:

Chairman: Vance Lewis (Appointed: 1 February 2020 to serve for a term of three years)



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Deputy Chairman: Vincent Wattley (Appointed: 1 February 2020 to serve for a term of three years)

Chief Executive Officer and Board Member: Guy L. Malone: Re-appointed 1 March 2021 for a term of two years

- 3.6 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) revamping of the legislation to bring the BVI up to international standards; (e) staffing requirements to facilitate the delivery of the Commission's Work Plan and (f) an initiative to improve services in the Virgin Islands inclusive of the sister islands and rural areas on Tortola.

A Plan Of Work To Deliver On Our Mission

- 3.7 This 2022-2023 Work Plan outlines the Commission's work programme and budget for the period. The development of this plan was informed by our statutory remit, our organisational statements and our strategic goals and objectives. The work we set out to accomplish is reflective of the ways that we will deliver on our mission of being a model regulator and our vision to accelerate communications development in the BVI.
- 3.8 Important elements of the 2022-2023 plan are designed to foster a better functioning telecommunications services industry, to improve customer experiences and the way that we regulate. Our work is done on the backdrop of dynamic businesses that continue to invest in our economy and the experiences and concerns of consumers and citizens across our Territory.
- 3.9 Accountability to our stakeholders remain at the forefront of our work and, in this vein, we took a step in a new direction in the development of the 2022-2023 work plan. A subset of our stakeholders was invited to share their ideas on the work that they would like to see undertaken by the Commission, along with ways that they wish us to engage them moving forward. We found those conversations to be engaging and we are hopeful that they represent a new wave of engagement in the sector.

Strategic Aims and Objectives for 2022/2023

- 3.10 The Commission believes that the 2022-2023 year represents the start of a new era in the telecommunications industry in the BVI. To support this, we have identified seven strategic aims and objectives for the 2022-2023 work year:

3.10.1 Safeguard Competition

The Commission is mindful of our obligation to safeguard competition and increase cooperation to promote a level playing field among telecommunications network operators and service providers to foster a healthy telecommunications economy. In the post-pandemic era, there is increasing importance for governments and regulators to take swift and strong actions to keep markets and the economy functioning.



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3.10.2 Encourage Investment

Our strategic priorities include promoting investments to support the economy's increased reliance on e-commerce and electronic transactions and the infrastructural changes needed to deliver services to support other key sectors such as, but not limited to, financial services, health, and education.

3.10.3 Enhance Corporate Image

We aim to enhance our corporate social responsibility to better impact the community, customers, the environment, and our stakeholders. We will continue to integrate social and environmental concerns into our operations and interactions with stakeholders, and educate the Virgin Islands community on developments and other key matters related to the industry and best interest of the community.

3.10.4 Reform Regulatory Framework

The Commission is undertaking a review of the telecommunication's legislative regime with a view to ensuring that the relevant laws are current, modern, reflect international best practices and promote the systematic development of telecommunications throughout the Virgin Islands.

3.10.5 Enhance Stakeholder Relationships

The Commission is committed to maintaining positive and proactive engagement with its stakeholders and other third-party groups that hold common interests to forge mutually beneficial connections and to better appreciate the interest, challenges, and opportunities of the telecommunications stakeholders for the overall improvement of the Territory's telecommunications infrastructure.

3.10.6 Empower & Protect Consumers

We will continue to inform and educate the general public, through our public awareness campaign, of relevant topics and matters of public interest to assist customers with making informed decisions. Similarly, we will continue to protect consumers through the enforcement of our policies and ensuring that telecommunications network operators and service providers are compliant with their obligations.

3.10.7 Modernise Internal Processes

We will carry out an in-depth assessment of challenges, processes, risks, and controls to develop a plan fit for purpose to modernise the Commission's internal processes for stakeholder satisfaction and efficiency. In this digital era, we appreciate the importance of technologies and processes that include digitisation and automation.



4. Overview of Activities for 2021/2022

- 4.1 The Commission is currently working towards performing the activities outlined in its 2021-2022 work programme. There was some delay to the pursuit of a few tasks due to work on the licence renewal project. The organisation approached this process through a collaborative approach, which saw much of its resources being utilised towards completion of relative tasks.
- 4.2 Notwithstanding the foregoing, several other projects, some of which are detailed below, continue to progress as planned and the Commission is optimistic that the results of this year's work will yield benefits to the regulatory environment that we operate in.
- 4.3 The Commission conducted a consultation on the Licence Renewal Fee Methodology, to seek stakeholder input on the principles and process to be applied in assessing the fee for unitary licences, due for renewal in 2022. This consultation commenced on 18 October 2022 and closed on 25 November 2022. A final statement was issued by the Commission on 3 May 2022. Our work towards finalising the fee, through the use of the identified methodology, is underway and will be completed shortly.
- 4.4 In addition to the Licence Fee Methodology, work is on-going within our Economics Department to determine new fees for telecommunications networks and services, and radiocommunications services, which should be completed in June 2022. Following this, these fees along with the respective Telecommunications Codes, will be shared with our stakeholders through a consultative process.
- 4.5 As we strive to become compliant with our reporting obligations, the Commission commenced its financial audit for 2019/2020 in the first quarter of the financial year. This is projected to be completed by 31 July 2022. Thereafter the audit for 2020/2021 will be commenced, with a view to completing same by the end of the 2021/2022 financial year.
- 4.6 In tandem with the emphasis we have placed on compliance, the Commission has prioritised the importance of its staff through the implementation of several recommendations from our previously conducted human resources review of the organisation. This included the establishment of various policies and programmes within the Commission to ensure a better functioning and cohesive staff compliment. This work will be completed before 30 September 2022.
- 4.7 A major undertaking for the Commission during the 2021-2022 work year was to consider the renewal of operator licences that are due to expire in 2022. To date, we have received and assessed four applications for renewal, conducted compliance evaluations and public hearings, and are now progressing the respective decisions. Related to this project was the review of the terms and conditions as applicable to licences being renewed in 2022, and determining the updated terms and conditions that reasonably reflect changed circumstances in the industry since the issuance of the 2007 licences. We completed the latter project on 1 May 2022 through the publication of a Directive and Report & Opinion on the Terms of Renewed Unitary Licences.
- 4.8 Our Spectrum Department has commenced work on the development of an Equipment Type Approval Regulatory Framework (**TARF**), which will be a Telecommunications Code that will regulate radio products and peripherals entering the BVI. Some of the main objectives of the Code



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are to ensure such devices adhere to acceptable technical standards, safety for public users, interoperability with public networks, compliance with the National Spectrum Plan, and satisfy the requirements of section 42 of the Telecommunications Act 2006. In this regard, the Commission has concluded its first consultation on the principles and objectives of the TARF and aims to complete this project by fourth quarter of the 2021-2022 financial year.

- 4.9 The rebuild of the BVI Internet Exchange Point, a project managed by our Technical Department, has been completed to facilitate connectivity by all operators, who have been engaged in discussion relating to fulfilling their joining obligations. Final details on the technical and legal matters relating to connecting to the Exchange are being discussed with operators, as the Commission endeavours to enable connection by the end of the fiscal year.
- 4.10 Lastly, the Commission established a Disaster Recovery Site, through a build-out at premises that would allow for the on-going operation of the Commission in the event of a disaster, natural hazard or force majeure event. We are awaiting the arrival of equipment on island; following which, relevant installations will commence immediately. We expect the site to be fully operational by the fourth quarter of the 2021-2022 financial year.
- 4.11 Additional details of work undertaken and completed by the Commission during the 2021-2022 financial year will be provided in our Annual Report.



5. Part II: Work Plan 2022/2023

The Commission's objective for the British Virgin Islands' telecommunications market is to ensure that it satisfies all reasonable demands for telecommunications services by accelerating development and fostering a progressive environment. Our critical projects for 2022 and 2023 are set out below.

A Competitive Telecommunications Market

Economic Analysis | Enhanced Oversight | Targeted Action

- 5.1 The Commission is mindful of its duty to ensure fair competition among licensees and all other operators of telecommunications networks or providers of telecommunications services.
- 5.2 The Commission will develop a new market review framework. The last market review was published by the Commission in 2010. A market review framework provides regulatory stability by allowing the Commission to conduct market assessments and impose remedies based on a forward-looking assessment of markets, taking into account expected or foreseeable developments that may affect competition. We will perform this work between October 2022 to March 2023.
- 5.3 Our aim is to increase competition to enable a thriving and levelled playing field between market players. To achieve this, the Commission will identify appropriate areas in the market to review. Our focus will be in finding possible dominance and anti-competitive behaviour. This will enable the Commission to resolve constraints on the development of the sector and identify remedies to address market failure. This project will be conducted during the third quarter of the financial year, between April 2023 to July 2023.
- 5.4 Our upcoming review will prioritise making the process more transparent and comprehensive. New priority markets for review will be considered, along with viable solutions for market effectiveness. This project will involve defining economic markets, conducting market assessments and proposing solutions. We will undertake this project between August 2023 to September 2023.

A Compliant Regulatory Body

Model Regulator | Effective Management | Best Practice

- 5.5 As the regulator for telecommunications, we recognise that we are a representation of what is to be expected from regulated entities in the local sector. With excellence in mind, we now wish to chart a new course for the industry, starting with our coming into compliance with all applicable legal and regulatory obligations.
- 5.6 Within three months after the end of the financial year, the Commission shall prepare and approve accounts which shall, within six months after the end of each financial year, be audited. During the 2022-2023 financial year, the Commission will become compliant with this obligation. The Commission is currently undergoing its 2020 audit with a view of completion by July 2022. We will complete the 2021 audited financial statements by September 2022.



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- 5.7 Within three months of the completion of the audit of the Commission's accounts in respect of any financial year, the Commission shall submit to the Minister responsible for finance (a) a copy of its audited accounts and (b) a written report of its operations and activities for that financial year together with a copy of the audited financial statements.
- 5.8 The Commission has been steadily working towards compliance with our reporting obligations in completing our annual report. In 2022/2023, we will continue our work of producing all outstanding annual reports, which will be completed by September 2023.

A Progressive Organisation

People-Focused | Enhanced Image | Consumer Education

- 5.9 The Commission believes that its most important resource is its employees. In tandem with this, we know that our work as a regulator is not merely about what we do, but what we are seen to be doing. In this regard, we aspire to bridge the divide in both areas.
- 5.10 To show our staff that they are valued, we will organise a staff retreat with a goal to build stronger relationship among our team – one team; one goal – and to strengthen the organisation holistically. This event is scheduled to take place in February 2023 and will, thereafter, become an event held periodically in our quest towards engendering an empowered and family-oriented work environment.
- 5.11 To advance our desire of interfacing with the public, whom we serve, we will establish a public relations resource for the organisation. This worker will have responsibility for utilising a combination of virtual and physical engagements, at regular intervals, to educate stakeholders on our regulatory work and activities.
- 5.12 The Commission intends for its progression as an organisation to translate to an empowered BVI, whereby we will endeavour to create a digital literacy campaign on the use of Information and Communications Technologies (ICTs), the capabilities of related devices and the potential of cyber threats to enable safe and effective communication. This project is dependent on the securing of the public relations resource and, therefore, a specific commencement date is undetermined at this time. Notwithstanding this, we are cognisant that such an important undertaking should not be a one-time occurrence and we expect this to span beyond the 2022-2023 work year.

A Reformed Regulatory Framework

Revamped Legislation | Purposeful Regulation | Adaptable Oversight

- 5.13 The Commission, as a creature of statute, can only regulate within the four corners of the law. Legislative good practice dictates that statutes are reviewed, at minimum, every 10 years. Given the lapse of time and the evolution of the telecommunications industry, the Commission considers that the regulatory framework may no longer be fit for purpose.



- 5.14 This was indicated by the Commission in its 2021-2022 work programme; following which, a Request for Proposals in relation to the review of the telecommunications legislative regime was issued by the Commission, with a view to ensuring that the relevant laws are current, modern, reflect international best practices and promote the systematic development of telecommunications throughout the Virgin Islands.
- 5.15 The legislative framework as applicable to this project include (i) the Telecommunications Act 2006 (No. 10 of 2006), which established the Commission to license, regulate and develop the telecommunications services industry in the Virgin Islands, (ii) the Telecommunications (Amendment) Act 2010, which amends the 2006 Telecommunications Act, (iii) the Telecommunications (Licences and Fees) Order made July 12, 1977 under section 6 of the Telecommunications Act 1951, which outlines the fees associated with various radiocommunications services, (iv) the Telecommunications Rules, dated June 1, 1951, made under section 18 of the Telecommunications Act 1951, which outlines the rules as applicable to various radiocommunications services, and (v) the Telecommunications (Side Band Restrictions) Rules, made January 3, 1975 under section 18(2)(e) of the Telecommunications Act 1951, which outlines the restrictions as applicable to double-side band transmitting equipment.
- 5.16 The Commission is finalising its engagement with a local firm to assist with carrying out this project, which is estimated to take approximately sixteen (16) months. We will aim to complete the new telecommunications legislative framework in the fourth quarter of the financial year.

A Modernised Internal Environment

Reformed Processes | Enhanced Communication | Improved Relationships

- 5.17 As the Commission seeks to become a model regulator, we are of the view that our resources must be managed effectively and in way that reflects responsible and valued usage.
- 5.18 The Commission will seek to streamline and optimise our communication processes with a view towards the improvement of our relationship with our external stakeholders, which include the operators and other licensees, government and business and residential consumers. This will be accomplished by determining the best methods of communications for each group (where not mandated by regulations) and the type of information to be exchanged. Through a process mapping exercise, we will also review our current practices and implement the necessary changes to improve the efficiency of the organisation. This will be targeted to be completed in the third quarter of the financial year.

An Accelerated Network

Valued Investment | New Technologies | Increased Development

- 5.19 The Commission supports the continued investment in resilient communications networks with a view to achieving quality services for people and businesses. The need for better and accelerated services became apparent from the onset of the covid-19 pandemic.



- 5.20 The Commission plans to release spectrum to support new and innovative wireless services, including Fifth Generation (5G) wireless technologies by fourth quarter of the 2022-2023 work year. This spectrum is expected to provide mobile network operators (MNOs) with access to additional spectrum to address growing consumer demands for improved wireless network performance and evolving end user needs.
- 5.21 Previously, in its 2021-2022 work programme, the Commission signaled to the industry that it would make spectrum available that supported ‘Advanced LTE and 5G services’. However, due to the uncertainty in the market brought about by the pandemic, and the need for both the Commission and operators to focus efforts on the renewal of expiring 15-year licences, the Commission saw benefit in delaying its planned spectrum award. In this upcoming year, however, we will resume our work started in this realm. This project will be commenced in the second quarter of the financial year, to allow for the prior completion of the licence renewal process.
- 5.22 To prepare for the release of spectrum, the Commission will be undertaking a spectrum audit to assess any inefficient or illegal usage of spectrum and developing a 5G strategy to ensure the full realisation and benefit of 5G in the Territory.

An Empowered Consumer-Base

Informed Choices | Service Standards | Digital Cohesion

- 5.23 Empowering consumers and ensuring they are informed when making decisions in the telecommunications industry is an important priority for the Commission.
- 5.24 The Commission will implement an annual customer satisfaction survey of broadband users across the Territory. When published, the empirical data captured from the various categories of broadband users will (i) facilitate an analysis of service quality across the territory, (ii) facilitate a comparison of service quality among operators, (iii) assist customers with making an informed choice of service provider (iv) provide useful data for year-on-year comparison of usage and quality (v) provide the Commission with useful input for the establishment of minimum service standards.
- 5.25 This project will be conducted using a combination of online and face-to-face interviews; following which, the survey results will be analysed and a final report produced. Work on this project will commence in the second quarter of the work year and run for approximately three (4) months.
- 5.26 Additionally, the Commission is cognisant that following the near complete destruction of the telecommunications infrastructure by hurricanes Irma and Maria in 2017, all operators have embarked on programs to rebuild their broadband networks, primarily focusing on delivering Fibre to the Home (FTTH), some promoting speeds of up to 1 Gbps download. Recognising that such service and speeds will not be available everywhere and affordable to everyone, the Commission will conduct a study to determine the extent of the existence of a digital divide.
- 5.27 The data gathered from the above-mentioned study will help the Commission to (i) assess both the availability and competitiveness of service across the territory, (ii) identify locations limited by transmission technology, and (iii) identify locations that might be completely unserved. Ultimately, this information will provide the Commission with a clear understanding of digital inequalities



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across the territory. This project will commence in the third quarter of the work year and is aimed for completion by September 2023.



6. Part III: Ongoing Work

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.

6.1 Protecting consumer interests

As one of the essential safeguards of the public's 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.

6.2 Addressing consumer complaints

When telecommunications users in the BVI submit a complaint, the Commission investigates these allegations, facilitates relief to the consumer, and creates a firm and practical solution where it sees harm.

6.3 Market Research and Tracking Survey

To expand our understanding of the industry and ensure optimal performance, we conduct surveys on concerns that arise in various markets. We also assess customer behaviours, attitudes and satisfaction with telecommunications products, services, and devices.

6.4 Monitoring industry compliance

We assess the 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 oversee timely investigations, proactive reviews, and monitoring of risk areas, ensuring that our regulatory powers are exercised in a transparent, appropriate, and non-discriminatory manner.

6.5 Enforcing competition conditions

To ensure effective competition in the market, we investigate operator issues concerning interconnection and shared facilities, enabling timely and amicable resolutions, as necessary. We also enforce regulatory conditions on communications providers to promote competition.

6.6 Managing spectrum usage

The Commission ensures that the radio spectrum is used efficiently, limiting interference between users and maximising benefit 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.

6.7 Radio Monitoring Measurements

We perform radio monitoring measurements, using our mobile monitoring unit, to ensure users of the radio spectrum remain compliant with the Telecommunications Act, their frequency authorisation, and technical standards, including but not limited to the international standards of the ITU Radio Regulations, where applicable.



6.8 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.

6.9 Frequency Coordination

Where applicable and as part of our spectrum planning efforts, we will engage the FCC to coordinate on frequency bands of interest in the British Virgin Islands, United States Virgin Islands and Puerto Rico. The Commission strives for a more formal arrangement but recognises that coordination will continue with the FCC on a case-by-case basis.

6.10 Determining licence and frequency authorisation applications

Based on applicable policies and regulations, we assess commercial TV and radio services applications and other licences and frequency authorisations. Where the Commission grants licences or frequency authorisations, we monitor and enforce effective compliance.

6.11 ITU Data Collection

To assist in the global assessment of the Information and Communications Technology (ICT) market, the Commission solicits and collates relevant market data from local operators for submission to the International Telecommunications Union (ITU). The ITU then uses this data to monitor the latest trends and developments in the ICT Sector.

6.12 Monitoring telecommunications developments

Technical and commercial developments in the industry inform our policy work. Therefore, we monitor, analyse, and consider respective outcomes of future opportunities and challenges to ensure that we are appropriately informed and that our regulation and promotion of expansion are appropriate.

6.13 Implementing technical development

As telecommunications advances, the Commission determines the various implications of implementing technical initiatives. We will continue to encourage the proliferation of IPv6 across the Territory.

6.14 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.

6.15 Engaging with international stakeholders.

We believe that discussing best practice is of utmost importance 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.



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6.16 Organising Industry Events

The Commission celebrates telecommunications related occasions such as World Telecommunications and Information Society Day. In December 2018, we hosted our first cocktail reception for industry stakeholders. We aim to provide an opportunity for mutual engagement and specified symposiums that promote timely learning and sharing with peers, stakeholders, and the public during the 2022/2023 year.

6.17 Continuous Professional Development

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. We also aim to optimise digital literacy through consumer education on the most effective and secure usage of ICTs.

6.18 Collecting telecommunications fees

We assess and collect fees and other charges payable to the Commission, including without limitation, licence fees, royalties, the industry levy and spectrum fees.

6.19 Informal Meetings

Expressing ideas and concerns and also receiving them are crucial for a Regulator. The Commission proposes to host different forms of informal meetings to open dialogue and boost communication with its stakeholders. The Commission endeavours to achieve holistic and practical lines of communication with regulated entities. Informal discussions or socials will be held by us once a year.

6.20 Corporate Social Responsibility (CSR)

As we attempt to improve our public image, The Commission considers new, hands-on initiatives that provide an avenue to fulfil its CSR to the BVI. Providing an ethical work environment, charity events, and a solid social media presence will all aid in improving this within the organisation and for the public, who we serve.



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7. Part IV: Budget for 2022/2023 Financial Year

<u>Estimated Income</u>		
FY 2023 Budget - Income	FY 2023 Budget	FY 2022 Budget
Domain Registration Fees	28,000.00	28,000.00
Radio Licence Fees	60,000.00	50,000.00
Royalty Fees	1,782,331.56	1,807,330.34
Spectrum Fees	516,650.00	516,650.00
Submarine Cable Fees	734,000.00	638,000.00
Financial Income	10,000.00	10,000.00
Estimated Income	3,130,981.56	3,049,980.34

<u>Estimated Expenditure</u>		
FY 2023 Budget - Expenditure	FY 2023 Budget	FY 2022 Budget
Operational Expenditure		
Non-Executive and Executive Members Honoraria and Expenses	84,600.00	63,600.00
Employee Compensation	1,388,658.20	1,413,099.88
Government Fees and Staff Benefits	506,289.02	681,921.35
Professional Services	594,750.00	596,800.00
Conferences, Training and Travel	67,000.00	60,400.00
Rent and Utilities	451,603.24	447,391.24
Maintenance Expenses	90,240.00	90,433.45
Consumers Education and Public Relations	33,800.00	60,000.00
General and Administration	183,906.00	189,641.25
Special Project	-	-



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Total Operational Expenditure	3,400,846.46	3,603,287.17
Capital Expenditure	14,598.10	196,700.00
Total Expenditures	3,415,444.56	3,799,987.17

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.
- **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. This income increased by 10%, as a result of marine enforcement of local and international regulations.
- **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 1%, as a result of impact to the Covid-19 pandemic.
- **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 revenue stream for the Commission, because of CWC submarine cables that terminate or transit the BVI, pursuant to the Submarine Cable Directive dated 18 December 2014. This revenue increased by 15%, as a result of, increase broadband traffic on the submarine cables.
- **Finance Income:** Interest Income on bank deposits.

Expenditures

- **Total operating expenditure (OPEX):** This is anticipated to decrease in 2022/2023 by 6% when compared to the previous year in lieu of steadfast efforts aimed at promoting policy objectives of the Commission. The Commission continues its efforts to effectively manage and where possible reduce its operational costs.
- **Executive and Non-executive Members Honoraria and Expenses:** This represents the budgeted cost for all members of the Board of the Commission. This expenditure has increased by 33% over



the prior year budget. The previous budget reflected compensation for non-executive members only whereas the current budget provides compensation for both executive and non-executive members.

- **Employee Compensation:** This represents remuneration for all employees, inclusive of nineteen (19) full time positions. Overall staff costs for the Commission have decreased by 2% over the prior budget year which is due to freezing of proposed addition of new hires.
- **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, sub-committee allowances, performance management and gratuity scheme. This figure has decreased by 26% 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 0.34% 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 11% 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. The Commission anticipates a resumption of in-person training for staff that aligns with their designation and long-term planning strategies.
- **Rent and Utilities:** This represents occupancy of the 2nd and 3rd floor of the LM Business Centre and a Disaster Recovery site. This figure has increased 1% over the prior budget year.
- **Maintenance Expenses:** This represents automobile maintenance, building maintenance, cleaning and cleaning materials, computers, equipment and site, fuel, and office equipment. This figure has decreased by 0.2% over the prior budget year.
- **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 decreased 44% over the prior budget.
- **General and Administration:** This represents subscriptions, customs duties, general office expenses, and messenger services. This figure has decreased by 3% over the prior budget year.



8. Annex: Responses to the Draft Annual Work Plan and Budget 2022/2023

We received two responses to the Consultation on our Draft Annual Work Plan and Budget 2022/2023 within the consultation period (“Annual Plan”). These responses were submitted by Digicel (BVI) Limited (“Digicel”) and Cable and Wireless (BVI) Limited (“Flow”). Accordingly, in finalising the Annual Plan, we have considered the views of both respondents and will publish their submissions in full on our website. Below, we provide our response to the key points raised during the Consultation.

Part I: Strategic Overview

Digicel commended the Commission on the revamp of its organisational statements and noted its hope for this to translate into overall improvements for the industry’s entities and consumers. These comments are noted, and this Part of the Annual Plan remains unchanged.

Part II: Work Plan 2022/2023

The Commission received several comments in relation to this part of the Annual Plan.

A Competitive Telecommunications Market

Digicel noted the Commission’s projection of undertaking a project between April to June 2023 to determine possible dominance and anti-competitive behavior by the operators in the market. Digicel is concerned that the projected timeline is unrealistic and a proper exercise for such a project will require a timeline of twelve (12) months or more. Additionally, Digicel requires the Commission to identify specifics of the market review, the candidate markets and clarify the frequency of the market reviews.

The project will be conducted by the Commission in two phases and for a 12-month period. The first phase is setting out the general approach to market reviews in the form of comprehensive guidelines and will be carried out from October 2022 to March 2023.

The second phase will involve a full understanding of the dynamics in the telecommunications market. Therefore, the Commission will issue a request for information on each market and possibly each sub-market. The Commission would still have to define the relevant market and undergo a full market definition exercise which would start when this phase begins. Possible priority markets would include, but not be limited to a review of (i) Interconnection Rates, (ii) Wholesale & Retail Leased Lines and (iii) Dedicated Connectivity Services. Once the priority markets are defined, the Commission would produce a document and identify a schedule for conducting those market reviews. In general, the frequency of the market reviews would be determined by market dynamics. This phase of the project will be performed by the Commission between April 2023 to September 2023.

The requisite changes have been made in paragraphs 5.2 to 5.3 of the Annual Plan to reflect the new timelines for these projects.

A Compliant Regulatory Body

Digicel and Flow highlighted the continued challenge of the Commission to provide audited accounts and annual reports to the operators, respectively, which is required by statute. Digicel expressed that the absence of audited financials affects the consultation process and reiterated the need for the Commission to provide



outstanding audits in order to close the existing gap. Flow finds that there are no impediment preventing the Commission from providing outstanding reports.

The Commission recognises its error in the delay of timely completion of the audited accounts and annual reports. We have been working, and will continue to work, assiduously towards greater compliance with a view to resolving this issue within the shortest possible timeframe. Full compliance with these reporting obligations is expected by March 2023.

A Reform Regulatory Framework

Digicel stated several concerns in relation to the reformed legislative/regulatory framework, which it contends is likely to result in significant costs being incurred by the industry. The concerns included:

- (i) the Commission's finalisation of an engagement with a local firm to carry out this project.
- (ii) the cost of the engagement not being identified in the draft annual work plan.
- (iii) the need for clarification on the consultation process for the intended reform.

The Commission notes the concerns expressed by Digicel. The Commission can confirm that it went through an appropriate procurement process to seek the legal entity that will be engaged to assist with the revision of the telecommunications regulatory framework. Additionally, we are cognisant of the need for consultation with the industry on areas of required changes in the law and have all intent of carrying out the necessary engagements at appropriate intervals throughout the reform process.

Similar to the reform of the regulatory framework, Digicel strongly recommended that the Commission embarks on a simplification or streamlining of the process for the renewal of licences, noting that it is a cumbersome and onerous one. The Commission notes this comment.

An Accelerated Network

Digicel expressed concerns with the Commission's plans in relation to 5G spectrum, and the associated cost factors, the latter of which Digicel indicates were not identified in the Annual Plan.

The Commission note Digicel's comments on its plan to release spectrum to facilitate the rollout of Fifth Generation Network. Whilst the Commission recognises the financial challenges Service Providers may experience in deploying new technologies (such as 5G) in small markets, it cannot ignore the overall benefits such next generation networks and services will have on the BVI overall. The Commission is mandated to develop the sector and, in doing so, must position the industry by ensuring the timely release of spectrum. The Commission also takes note of the concern expressed on the pricing of 5G spectrum and give its assurance that this will be given due consideration as it embarks on this important project.

Additional General Responses

Digicel is concerned that the Commission's Annual Plan did not appear to take into account:

- (i) the findings of the judgement of Justice Ramdhani dated 4 April 2022 in the consolidated matters of BVIHCV2020/0136 Caribbean Cellular Telephone Limited and BVI Cable TV Limited v. TRC, BVIHCV2020/0153 Digicel (BVI) Limited v. TRC and BVIHCV2020/0160 Cable and Wireless (BVI) Limited v. TRC; and
- (ii) the consolidated appeal proceedings BVCVA2022/003 TRC v. Caribbean Cellular Telephone Limited and BVI Cable TV Limited, BVCVA2022/005 TRC v. Digicel (BVI) Limited and



BCVPA2022/004 TRC v. Cable and Wireless (BVI) Limited filed in the Court of Appeal, Territory of the Virgin Islands on 18 May 2022.

The Commission did not to include the Industry Levy in the 2022-2023 Annual Plan in light of the judgement referenced above. Notwithstanding this, the Commission has appealed the referenced judgement and any information in the 2022-2023 Plan is without prejudice to such appeal.

Finally, Digicel maintained several concerns similar to matters noted in previous years. These included the work plan's vagueness, failure to provide the actual level of resources to be allocated to a particular activity and a failure to develop a strategic plan for the sector, which Digicel believes will continue to adversely affect the formulation and adoption of the annual work plan by the Commission and by extension the systematic development of the industry.

The Commission notes these concerns. We are perplexed by the indication by Digicel relative to ambiguity in the Work Plan. The Commission acknowledges receiving this comment in prior years and sought to rectify the perceived issue. In this regard, we included dates for each of our major projects for the 2022-2023 year along with additional details, the former of which was applauded by Flow. It would be helpful, in the future, for Digicel to specify the exact elements of the Plan it considers to be imprecise to enable such to be properly addressed, where possible.

Additionally, while the Commission has not yet adopted a Strategic Plan for the sector, we have developed a draft Strategic Plan, which we are working to finalise. In fact, our activities for the 2022-2023 Work Plan were influenced by the draft Strategic Plan. The Commission will be conducting a consultation on this subject matter in the not too distant future and looks forward to engaging Digicel and other operators in this regard.

Part IV: Budget for 2022/2023 Financial Year

The Commission received several comments from Digicel and Flow in relation to the Draft Budget for the 2022/2023 Financial Year. The Commission, having taken these comments into account, has amended several figures in our budget. Some information in relation to these revisions are provided below. Our revised budget can be found under Part IV of the Plan along with our modified explanatory notes.

Non-Executive Members Honoraria and Expenses

Flow expressed serious concern and disappointment with a 33% increase in this expense item over last year's figure, in light of the current economic climate. Flow requests from the Commission a fulsome explanation for such an increase, which has currently not been provided.

The increase is reflective of additional stipends for members of the Board, who were not paid by the Commission prior to the 2021/2022 financial year. Accordingly, this expense was not previously included in the Commission's budget.

Employee Compensation

Digicel and Flow raised concerns in relation to the employee compensation expenditure which accounts for over 40% of the Commission's budgeted total expenses. The operators highlighted that the level of increase is substantive and warrants restraint. Flow, in summary, submitted that the budget increased by 4% in 2022 over 2021 despite a sharp decline in certain expenses due to the pandemic and no special projects in 2022. Additionally, Digicel requests that the Commission provide its organisation structure and identify the additional positions, duties and functions of all employees for necessary consideration.



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The Commission reconsidered its proposed hiring of new employees and the timing of this, given the economic climate, and has removed additional hires for the 2022/2023 financial year. The new amount for employee compensation reflects a 2% decrease below last year's figure, as noted in the Budget, which can be viewed under Part IV of the Plan.

Government Fees and Staff Costs

Flow finds that the increase of 14% for this expense is well above inflation and 4% percentage points above Employee Compensation cost. Flow submitted that this expense item is expected to move on par with inflation and any change in government policy that surrounds NHI, pension policy, and social security. Flow is of the opinion that, since those things remain the same, an increase of 5% for this expense item is not justifiable. Flow recommends that the Commission review this increase with a view to reducing it and/or provide further details to substantiate the proposed increase.

The Commission has revisited this expense item and reductions have been made due to the removal of additional hires, as explained above in this Annex, coupled with the lowering of staff benefits. Our revised budget can be viewed at Part IV of the Plan.

Conferences, Training and Travel

Flow objects to the 91% increase for this category of expense over the prior year. Flow submitted that many training programmes will still be available remotely/online although travel be may slowly returning to pre-Covid-19 levels, and as a result, the operator recommended a review and reduction of this budget item.

The Commission revisited this line item, considering the comment received. This expense now reflects an 11% decrease year-on-year. Our revised budget can be viewed at Part IV of the Plan.

Consumer Education and Public Relations

Flow welcomed the 44% decrease in this expense item, noting that the Commission has embraced a better and more efficient utilisation of resources to meet its related objectives.

These comments are noted and appreciated by the Commission and this item in the budget, accordingly, remains unchanged.