



# Turks and Caicos Islands

## Telecommunication & Broadcasting Policy

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Draft comments added for the addition of Broadcasting (1<sup>st</sup> April 2012) by COBC-PMA





# Executive Summary

The Telecommunication Policy for the Turks and Caicos Islands applies to the following mass Telecommunication media;-

- Telecommunication
- Broadcasting
- Internet Print

A fundamental goal of the policy is that the communication services shall serve the well-being of all Turks and Caicos Islanders. It regards Telecommunication services as a public trust. It therefore holds that the public interest shall be paramount in the operation of all communication services.

The Policy brings into perspective the historical journey towards developing a comprehensive communication policy which speaks to all aspects of mass / commercial communication in the Turks and Caicos Islands. It discusses the issues and principles, and regulatory framework which will guide the implementation of the policy. In addition to the communication services as a public trust, the policy document also recognizes the freedom and independence of the media and communication sector, media pluralism and universal access. Issues including cultural improvements, education and public accountability are also addressed by this policy.

The well-being of all our people and the continuing vitality of our culture animate our vision of communication. Our people are the main agents of our National Communication Policy. Their well-being is both the goal of the policy and evidence of its efficacy.



# BACKGROUND

The Telecommunication Commission was established in 2004 pursuant to the Telecommunication Ordinance 2004. At the same time, the government began negotiations with the then monopoly Telecommunication Company, Cable and Wireless, to open the telecom market in TCI to competition, which was in keeping with best international practice, and the trends in the region.

Since that time, the Commission has licensed a number of other operators who are competing with Cable and Wireless, and the results have been nothing less than spectacular, with new services, better quality and pricing to end users. This trend will continue under the surveillance of the Commission, and this policy outlines some important objectives to be set for the future.

The priority for this policy is to establish a stable, predictable regulatory framework within which the Telecommunication industry in Turks and Caicos can operate, serving the interests of our citizens and businesses.

The demand for communication services and the entities and technologies necessary to deliver those services has increased by extraordinary proportions over the past six years.

The TCI is a multi-lingual, multi-cultural, multi-island market and our development is now inextricably dependent upon the existence of a vibrant Telecommunication industry, the establishment of modern Telecommunication infrastructure and the satisfaction of the growing demand for affordable Telecommunication services.

Additionally even though the existing Telecommunication Ordinance regulates spectrum so far as broadcasting is concern, it does not regulate the Broadcasting Sector, which has left the Sector directionless and open to abuse.



The Government of the Turks and Caicos Islands (TCI) is cognizant of the importance of Telecommunication, the convergence and integration of communication and broadcasting networks and services, the explosive growth of the Internet and electronic commerce. Accordingly the Government has developed after consultations with all stakeholders, the following Telecommunication policy. This policy is a blue print for the economic transformation of the Turks and Caicos Islands through the continued growth and development of our Telecommunication industry. In its implementation, this policy will provide the requisite legal and regulatory framework as well as financial and social incentives, which will ensure that the people of Turks and Caicos Islands are active participants in the Global Village and reap the full rewards of globalization.



# VISION

Every Turks and Caicos Islands citizens will have available – at reasonable cost and without discrimination – rapid, efficient, national and international Telecommunication services.

# Mission

To ensure that all consumers and businesses in Turks and Caicos Islands have access to quality Telecommunication services at reasonable rates, in a fully competitive marketplace.

# POLICY OBJECTIVES

We will continue to work at improving the sector performance so that the economy will achieve growth, increased employment opportunities, revenue inflows and a vibrant and innovative Telecommunication industry.

- 1) Telecommunication is to act as a catalyst for economic growth and development in relations to the Telecommunication sector by-
  - a. encouraging, promoting and enforcing sustainable Telecommunication network and services;
  - b. promoting optimal use of radio spectrum;
  - c. contributing to maintain public safety and security;
  - d. contributing to the protection of personal privacy; and
  - e. limiting public nuisance through Telecommunication
  
- 2) The people in the TCI are to have access to high quality networks and the people of the TCI to become active participants in the global Telecommunication innovations



- 3) A vibrant Telecommunication industry is to be developed within TCI that will provide mass employment opportunities and ensure that TCI benefits from the converging areas of telecommunication, broadcasting and information technology
- 4) Develop a cadre of professionals to provide leadership and guidance in an expanding and diversified Telecommunication industry
- 5) Encourage regional support for policies that are beneficial to small island states

Expand the mandate of the independent telecommunication regulatory authority to include Broadcasting services.

- 6) The freedom and independence of all media and communication services shall be upheld and protected in full measure in consonance with the letter and spirit of the constitution.
  - a. the freedom and independence of the media shall be the condition for the people to exercise their democratic right to information. It shall also be the operating environment for media professions to carry out their work with integrity and creativity.
  - b. the freedom shall be exercised responsibly and ethically. In particular, the media shall exert with care its influence in shaping the sensibilities of children and minors.
- 7) Communication technologies are to be used to achieve and enhance social objectives in education, health and national security.



# GOVERNMENT COMMITMENT

The Government is committed to this policy and invites all the people of Turks and Caicos Islands to embrace it to ensure that Turks and Caicos Islands is a major beneficiary of the development occurring globally attributable to advances in broadcasting, information and communication technologies.



# SUMMARY

## OF PLAN OF ACTION

1. Telecommunication is regulated by an independent regulatory authority that will operate in a transparent, accountable and nondiscriminatory manner. The Regulator will be mandated to facilitate effective competition.
2. The laws relating to telecommunication will be updated to include broadcasting services, to facilitate competition and encourage the development of the broadcasting, information and telecommunication industry.
3. The Universal Service policy will be managed to ensure timely access to basic communication services, including broadcasting services to all households, schools, libraries and hospitals.
4. The Economic Regulation of Prices strategy will follow the recently mandated Price Cap Regime.
5. The Government will address convergence issues and develop a regulatory framework that fosters the safe use of the Internet and protects intellectual property in a digital environment.
6. The Government will develop an electronic commerce policy and regulatory framework to encourage the further growth of the offshore financial institutions and enable small and medium size enterprises to participate fully in electronic commerce.
7. The Government will develop an Internet governance policy and regulations framework to better regulate the emerging technologies in cyberspace.
8. Appropriate and adequate representation will be made internationally to safeguard the Telecommunication interests of Turks and Caicos Islands.



# TELECOMMUNICATION POLICY:



## FRAMEWORK & PLAN OF ACTION



# **1. REGULATING TELECOMMUNICATION**

## **1.1 The Independent Regulator**

Globally, an environment now exists in which competition in communication services within a modern regulatory and policy framework has proven to be beneficial in developing and developed countries around the world. Undoubtedly, competition in TCI will continue to enhance consumer welfare and economic development.

The Government will expand the mandate of the independent telecommunication regulator to include broadcasting services. The Regulator will be sufficiently empowered to detect, prevent and curtail anti-competitive practices in all the communication sectors, promote ethical code of conducts, as well as ensure that the dominant communication operators does not abuse their dominant position.

The Regulator will have responsibilities relating to licensing, tariffs, interconnection, technical standards and service quality.

# **2. TELECOMMUNICATION LEGISLATION**

The laws and regulations relating to telecommunication will be revised in conformity with this policy document to provide a legislative framework which addresses critical communication issues such as:

- a. Licensing of telecommunication services and equipment
- b. Licensing of Broadcasting services
- c. Expanding the mandate of the Independent regulator to accomplish this



### **3. THE INTERNET**

The convergence of telecommunication, broadcasting, information technology and other media services are resulting in a blurring of the distinctions between the forms of delivery used to carry different types of content. The Government will continue to promote the use of the internet and electronic commerce, but is mindful of the potential dangers inherent in interactive media, such as abuse of privacy, infringement of copyright and computer hacking. An Internet governance policy will be formulated to deal with the emerging technologies in cyberspace.

### **4. DIGITAL TOURISM**

Telecommunication and broadcasting technologies are now playing a pivotal role in engineering new, flexible and quality services to tourism. The Government intends to maximize on Turks and Caicos Islands being an exceptional tourist attraction by facilitating the communication needs of its tourists. Hotels, small and medium size enterprises in the tourism sector will continually be encouraged to establish their presence on the internet and to engage in electronic businesses. The government continues to encourage investment in information and communication technologies and the development of Cybercentres in tourist areas. We intend to position the Turk and Caicos Islands to effectively compete in the increasingly growing and competitive international tourist trade.

### **5) REGIONAL REPRESENTATION**

Telecommunication is a truly global industry that thrives on competition and multilateral co-operation. For Turks and Caicos Islands to benefit from developments in the Telecommunication sector, it must actively participate in the formulation of communication policies and regulations regionally. Therefore, the government welcomes and supports the activities of organizations that promote the development of Telecommunication in the region.



## **6) BROADCASTING SERVICES**

### **6.1 Introduction**

The following sets out the policy goals of the government relating to the Broadcasting services segment of the Telecommunication sector in the Turks and Caicos Islands, addressing issues that are important to the development of broadcasting services for the islands:

### **6.2 Policy Goals for the Broadcasting Sector in the TCI:**

- (a) - the Broadcasting Services in the Turks and Caicos Islands should be open to fair competition and private ownership of broadcasting enterprises;
- (b) - contribute to the strengthening of a shared consciousness and identity;
- (c) - provide for the safeguarding, enrichment and strengthening of the cultural, social and economic fabric of the society of the Turks and Caicos Islands;
- (d) - promote the growth of expression in the Turks and Caicos Islands through diversified programming that reflects the rich cultural diversity, traditions, history, attitudes, opinions, ideas, beliefs and values of the nation and provides a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern;
- (e) - provide for a broad range of services, specifically for the programming needs of children, women, youth, the disabled and the socially disadvantaged;
- (f) - be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of



all ages and interests;

- (g) - encourage the development of local programme content and the use of talent, skills and resources;
- (h) - provide news and public affairs programming which meets the highest standards of journalism, including fair and unbiased coverage;
- (i) - include a significant amount of educational programming both curriculum-based and informal, on a wide range of social, political and economic topics such as health, culture, gender issues and youth development; and
- (j) - is responsive to the needs of the audience with respect to the balanced coverage of national and international events.
- (k) - ensure that important content copyright principles and laws are not undermined, while at the same time encouraging fair use.

The achievement of these goals will be entrusted to a combination of public and private broadcasters in the Turks and Caicos Islands, with the implementation of the policy assigned to the Telecommunication Commission of the Turks and Caicos Islands.

The Commission will be charged with conducting the necessary public consultations on these issues, with the aim of establishing regulations that will govern the operation of the various media under their jurisdiction.

### **6.3 Ownership and Control of Broadcasting Operations in Turks & Caicos Islands**

The Telecommunication Ordinance 2004 requires that any licensed telecom service provider must be controlled by Belongers (that is, 51% ownership of



shares, or equivalent). There is, however, a provision in the ordinance that gives the Minister discretion to exempt a licensee from this requirement. While the Ordinance contains no specific guidance as to the criteria for such exemptions, there are cases where foreign controlled entities have been allowed to operate in TCI. One major example is Cable and Wireless, which was “grandfathered” in return for liberalizing the sector earlier than the company’s licence contemplated. Other examples exist, including the undersea cable operator, Columbus Networks, and a number of other, specialized international operations for which Belonger control was simply not practicable.

In the broadcasting domain, there is a similar set of issues relating to long-standing operations that have been providing services in the Turks and Caicos Islands without a specific cable or broadcasting licence.

With the enactment of the proposed Telecommunication Ordinance covering the regulation of both telecommunication and broadcasting undertakings, the question of the status of existing broadcasting entities will arise. It will therefore be necessary to address the Belonger control criterion that shall be included in the new Ordinance, and any exemption powers that might apply to such licences.

The following factors have been considered by the government in the drafting of the new ordinance:

- 6.3.1 Many nations, including the United States, Canada, the UK and others in the Caribbean region impose national ownership requirements on broadcasting companies. Issues such as political balance, indigenous content, national emergencies and cultural sensitivity and local legal aspects all come into play in such restrictions, and in many countries, the ownership limits are more restrictive than those on telecom operations. In some cases, as much as 80% or even 100% local ownership is required.
- 6.3.2 The question of whether or not to impose a limit on foreign ownership of media in TCI is an important policy issue. At the present time, the government is inclined to impose a limit that is higher than that imposed on the telecommunication area. The



government believes that a requirement of 80% Belonger control is an appropriate level to impose, bearing in mind the importance of establishing and maintaining national control over an important medium of Telecommunication.

6.3.3 As occurred upon the enactment of the telecommunication Ordinance, there is also the question of the “grandfathering” of existing operators of broadcasting businesses in Turks and Caicos. The government recognizes the implications of suddenly imposing a specific limit on foreign control when a foreign-controlled company has been operating legally in the country for many years. If an immediate requirement were imposed, the owners of such companies could be forced to sell off their operations at huge losses or worse, to close their operations all together. In the government’s view, this is not an acceptable outcome and would be unfair to such long standing businesses. However, to simply exempt the operation on the basis of a long-standing presence could also be viewed as unfair to prospective local investors in the sector. A compromise that may be considered would be to require the companies to meet the restrictions contained in the eventual ordinance within some realistic time frame (say, 2 or 3 years), or to impose a more “relaxed” Belonger participation level within, say, one year.

#### **6.4 Content Requirements for Broadcasters**

The government will be using its broadcast entity as a prime medium through which it will foster the development of Turks and Caicos artists and indigenous content, and will impose an obligation on private operators to participate at some level in such development programs

There shall be a code of practice for the regulation of content services and audiovisual media services which shall speak to but not limited to the following areas;



#### *6.4.1 Interpretation, Purpose and Applicability*

There shall be a set of guiding principles which establishes the boundaries of the Code's applicability and sets out definitions, which aid interpretation of the provisions of the Code.

#### *6.4.2 Operational and Technical Rules*

The Code shall contain Operational and Technical rules which generally underpin the more "content related" rules within the remainder of the Code. These rules shall ensure that Licensees have in place appropriate systems and procedures to enable effective application of the principles and rules set out in the Code.

#### *6.4.3 Underlying Principles for Broadcasting in the TCI*

The Code shall emphasize the underlying principles which the Government will seek to engender in TCI broadcasting. It shall include positive rules designed to encourage broadcasters to offer certain kinds of subject matter of particular relevance to Turks and Caicos Islands audiences and importance to the development of TCI culture and society.

#### *6.4.4 Harm and Offence*

The Code shall address various areas in which broadcast content has the potential to harm the public within The TCI either individually or collectively as a society, and seeks to put in place standards to protect against such harm. It includes issues such as preservation of law and order, harmful and offensive material, religious programming and contests and promotions.

#### *6.4.5 Protection of Young Persons*

The Code shall seek to ensure that Licensees adopt responsible policies through scheduling, advisories and programme classifications so as to limit the exposure of children and young persons in various age ranges to potentially harmful or unsuitable broadcast material that is intended for, and acceptable only to, adult audiences.

#### *6.4.6 Political Broadcasts and Political Advertisements*

The Code shall set out the standards applicable to the broadcasting of political advertisements and election programmes arranged and paid for by potential candidates, actual candidates, political parties and other persons or entities outside of election periods and during the period



preceding a parliamentary general election or bye-election, a referendum or a local government election.

#### *6.4.7 Advertising and Sponsorships*

The Code shall ensure that all programmes, advertisements and sponsorships are legal and in compliance with all applicable copyright laws, decent and truthful and that they are presented with a sense of obligation to the consumer, whether they are directed at adults or at children, and to society

#### *6.4.8 News and Factual Programmes*

The Code shall ensure that news, current affairs and factual programmes are presented accurately and impartially; are presented fairly, having regard to the likely composition of the audience and, in particular, the presence of children; and that they take account of personal privacy. Coverage of controversial issues, including subjects that some people may find offensive, is encouraged provided the coverage is presented carefully, taking into account cultural differences in communities or localities throughout The Turks and Caicos Islands, where relevant.

#### *6.4.9 Access Services*

The Code shall set out the standards to encourage and ensure access by persons with hearing or visual impairments to content delivered via audiovisual media services, particularly where that content is of public significance as in the case of news and current affairs, and emergency information.

#### *6.4.10 Important and Emergency broadcast*

The Government will ensure that matters that are considered important and urgent relating to an imminent or actual threat affecting a community or a locality within The TCI whereby life and/or property are at risk and which requires a significant and coordinated response by Governmental agencies, emergency services, or other essential service organisations are broadcast free of charge and in a timely and accurate manner.

#### *6.4.11 Complaints Handling Process*

There shall be a complaints committee task with the responsibility of fielding complaints regarding broadcast content involving issues of



offensive or otherwise “unacceptable” programming and is charged with the task of resolving such complaints, comprising members from the community.

## **7) STRUCTURE OF THE COMMISSION**

The Commission shall be appropriately staffed with the suitable competencies commensurate with the revised role which the Commission will now undertake to permit the effective discharge of this mandate.

There shall be a Commission board shall comprise of no more than 7 members which shall be drawn from the community to provide policy guidance and support of the Commission in discharging its mandate.

## **8) FINANCING OF THE COMMISSION**

The commission will be adequately staffed and funded from the industry to implement the legislation. Funding mechanism shall be defined in the ordinance to provide for the sustainable discharge of the Commissions function.