



Consultation Document

for the

Telecommunications (Competition) Regulations

issued by the

Turks and Caicos Islands Telecommunications Commission

on

April 19, 2017

1 Introduction

Pursuant to the *Telecommunications Policy 2013* (the "Policy"), Sections 4(1)(d), (f) and (i) as well as 65 of the *Telecommunications Ordinance 2009* (the "Ordinance") and the *Telecommunications (Administrative Procedure) Regulations* ("Administrative Regulations"), the Turks and Caicos Islands ("TCI") Telecommunications Commission (the "Commission") is hereby initiating a consultation process to seek public input and comments on the proposed Telecommunications (Competition) Regulations (the "Proposed Competition Regulations") that are included in the Annex.

The overall objective of the Government's sector Policy is to "ensure that all consumers and businesses in TCI have access to quality Telecommunication services at reasonable rates, in a fully competitive marketplace". The Ordinance provides the Commission with the authority to manage and, where necessary, regulate the provision of telecommunications services in TCI including, as set out in Section 4 of the Ordinance, to promote the following specific objectives:

(d) to facilitate, maintain and promote effective and sustainable competition in telecommunications

(i) to give advice and directions to a licensee with respect to anti-competitive practice or behaviour

In keeping with these objectives, the Ordinance includes certain competition-related provisions. However, these are generally broad in scope and deal primarily with ex-ante regulatory and certain merger control measures. The Ordinance is largely silent on ex-post regulatory measures related to anti-competitive conduct, although generally broad provisions to prohibit anti-competitive conduct are found in the telecommunications and spectrum licenses (the "Licences") issued under the Ordinance.¹ The Licences also indicate that the "Commission will issue Guidelines describing, or may otherwise determine, what constitutes a substantial lessening of competition and the procedures for assessing it".²

¹ For instance, in the case of Cable & Wireless (TCI) Ltd., Sections 13.4 and 13.5 of its 2006 Telecommunications and Spectrum license states:

13.4 The Licensee shall not engage in anti-competitive pricing and other similar practices or any other activities, whether by act or omission, which have; or are intended to or likely to have, the effect of unfairly preventing, restricting or distorting competition in any market for the Licensed Services, as may be further specified in Regulations and, in particular, the Licensee shall refrain from using revenues or resources from a Licensed Network or Licensed Service in respect of which the Licensee is dominant to cross-subsidise unfairly any other telecommunications network or telecommunications service, without the prior written approval of the Commission.

13.5 Without limiting the generality of Clause 13.4 above, any act or omission which leads, or is likely to lead, to a substantial lessening of competition in the market for any telecommunications network or telecommunications service is prohibited.

² E.g., Cable & Wireless (TCI) Ltd., 2006 Telecommunications and Spectrum license, Section 13.5.

There is no competition legislation of general application in TCI and the Commission is unaware of any plans by the Government to enact such legislation or to establish a specialized Competition Agency (“CA”) that would administer such legislation.

In this context, therefore, the purpose of the Proposed Competition Regulations is to provide a more comprehensive and unified competition legal framework for the telecommunications sector in TCI that reflects current internationally-accepted competition principles in a manner that is appropriate to the existing legal and administrative framework and proportionate to TCI’s relatively modest size. The Commission considers that the adoption of the Proposed Competition Regulations will serve to fill a long-standing gap in the regulatory framework in TCI and, in doing so, it will provide the Commission with the tools required to better promote competition and the interests of consumers in TCI.³

2 International/Regional Models

There are a number of international and Caribbean approaches as to how competition issues are dealt with in the telecommunications sector. When classifying these various approaches, perhaps the most important element to consider is whether the country has enacted competition legislation of general application. When this occurs, the legislation applies to all or most of the sectors of the economy, usually including the telecommunications and other regulated sectors.

Competition legislation of general application can be found in most larger jurisdictions. As part of the legislation, a separate specialized CA is usually established to administer the law. The national regulatory authority (“NRA”) in the telecommunications sector would typically coordinate the handling of competition matters under the telecommunications laws with the CA under the competition laws in a manner that is consistent with both legislations. There are a number of examples in the Caribbean of this "dual legislation / dual agency" approach, including Jamaica⁴ and Trinidad and Tobago.⁵

A more centralized approach is used in some intermediate-sized jurisdictions. In such cases, a single agency administers both competition and telecommunications-specific (and other regulated sector) legislation. For example, in the Caribbean, this “dual legislation / single agency” approach has been adopted in Barbados⁶ where the FTC is the telecommunications sector regulator and the competition agency for the economy as a whole.

Last, in perhaps half the jurisdictions in the world,⁷ no economy-wide competition legislation has been enacted and therefore no CA has been established. This “sector-specific legislation / single

³ Section 4(f) of the Ordinance states that one of the functions of the Commission is “to promote the interests of consumers”.

⁴ The Fair Trading Commission of Jamaica (“FTC”) and the Office of Utilities Regulation (“OUR”).

⁵ The Fair Trading Commission (“FTC”) of Trinidad and Tobago and the Telecommunications Authority of Trinidad and Tobago (“TATT”).

⁶ The Fair Trade Commission (“FTC”) of Barbados also regulates other sectors in addition to telecommunications.

⁷ See, for example, <http://www.worldbank.org/en/topic/competitiveness/brief/competition-policy>

agency” approach is found in most smaller jurisdictions in the Caribbean, including TCI, Anguilla, the five Eastern Caribbean Telecommunications Authority ("ECTEL") Member-States (Dominica, Grenada, St. Lucia, St. Kitts and St. Vincent) and Cayman Islands. In these jurisdictions, the respective NRAs may regulate competition matters in the telecommunications sector only to the extent that a competition-related legal framework is included as part of the legislative framework for telecommunications. As noted below, steps have very recently been taken in the case of ECTEL Member-States and Cayman Islands to introduce such a comprehensive competition legislative framework.

In a jurisdiction such as TCI, which does not have competition legislation of general application, there are a number options that can be employed to incorporate concepts from competition law into the telecommunications legislative framework:

- **Option 1: Enact new comprehensive competition legislation that only applies to regulated sectors.** This approach was followed in The Bahamas and most recently the Cayman Islands. In The Bahamas, the Communications Act of 2009 includes a comprehensive competition framework and the Utilities Regulation and Competition Authority (“URCA”) has dual telecommunications (and other regulated) sector regulatory and competition responsibilities. Under the recently enacted (November 2016) “Utility Regulation and Competition Law” in Cayman Islands, the Utility Regulation and Competition Office (“OfReg”) was established as the new multisector regulatory authority⁸ and competition authority. In contrast to an earlier sector law that included few competition provisions, the new law offers a comprehensive competition framework. In Cayman Islands the existing telecommunications legislation and other sector-specific legislation otherwise remained mostly intact. The Commission is not recommending this approach, which would involve drafting and enacting new competition legislation for the telecommunications sector and other utility sectors, because it does not consider it necessary or proportionate to the problem at hand.
- **Option 2: Amend and rewrite the telecommunications legislation to provide a comprehensive competition framework.** This approach that is being followed by the five ECTEL Member-States. In 2016, ECTEL proposed new sector legislation that would repeal each country’s existing telecommunications legislation that dates from 2000/01. In contrast to the earlier legislation that included few competition provisions, the new legislation would include a comprehensive competition framework, including merger control, anti-competitive conduct and agreements, market definition and significant market power matters, among others, as they relate to the sector. ECTEL also proposed a series of new regulations to augment the new framework including the “Draft Regulation on Guidelines on market analysis and the assessment of Significant Market Power”. Under the proposed legislation, the respective regulatory authorities of the Member-States (the NTRCs) and ECTEL would continue to be responsible for the regulation for the sector and now also the enforcement of the competition rules. As in the case of Option 1, the Commission is not recommending this approach, which would involve at a minimum revising and reissuing the Ordinance and

⁸ OfReg is an amalgamation of the previous telecommunications NRA (Information and Communications Technology Authority (ICTA)) and other regulatory agencies for the electricity and fuel sectors.

adding supporting regulations, because it considers that the Proposed Competition Regulations can largely achieve the same legal end-result but in a less burdensome manner

- **Option 3: Issue telecommunications-specific regulations that more fully develop the competition framework.** This is option that the Commission considers most appropriate for TCI. The Commission believes that this option reflects an appropriate balance between obtaining a comprehensive and sound legal competition framework with the least legislative burden and administrative disruption. The Commission considers that the existing telecommunications regulatory framework comprising the Ordinance, existing Regulations and Licences constitutes an adequate base that can and should be complemented and further developed with regulations to address competition matters – i.e., the Proposed Competition Regulations. This is a less legislatively onerous approach than substantially amending the Ordinance to include a comprehensive competition framework, as well as preparing the inevitable supporting regulations. The Ordinance includes wide powers to enact regulations of the sort proposed. Section 65 of the Ordinance provides that “the Governor, acting with the approval of Cabinet, may make regulations for giving effect to the provisions of this Ordinance” and includes an indicative and non-exhaustive list of regulatory matters. A total of eight other Regulations have been issued by the Governor since 2006.⁹ The Proposed Competition Regulations would then become the ninth. By way of a Caribbean example, the NRA of the Dominican Republic (INDOTEL) in 2005 issued Competition Regulations that complemented and further developed the existing competition provisions in the telecommunications legislation. INDOTEL is thus responsible for sector regulation and competition matters in the telecommunications sector. This set of responsibilities has been maintained, even after 2008 when the Dominican Republic enacted general competition legislation and established a corresponding CA (the *Comisión Nacional de Defensa de la Competencia* “PROCOMPETENCIA”) which established that the general competition legislation applied only on a residual basis in regulated sectors that had their own sector-specific competition provisions
- **Option 4: Issue telecommunication-specific guidelines that address competition issues.** Guidelines are non-binding administrative documents that provide guidance as to how particular aspects of an existing legal framework are likely to be handled. Guidelines are generally issued by NRA or CA to “fill in” existing legal framework and therefore are typically issued as a complement to, rather than as a substitute to a comprehensive legal framework. In the Caribbean, for instance, URCA of The Bahamas has issued such Competition Guidelines to complement the extensive competition provisions in the Communication Act. The Commission considers that competition guidelines are less desirable than competition regulations because guidelines would inevitably be of more

⁹ The following Regulations have come into legal effect (date and short name): (1) Telecommunications (Frequency Management) Regulations (“Frequency Regulations” – January 2006); (2) Telecommunications (Numbering) Regulations (“Numbering Regulations” - January 2006); (3) Telecommunications (Pricing) Regulations (“Pricing Regulations” - January 2006); (4) Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations (“Interconnection Regulations - January 2006); (5) Telecommunications (Telecommunications and Frequency Licensing) Regulations (“Licensing Regulations” - January 2006); (6) Telecommunications (Universal Service and Public Telecommunications) Regulations (“Universal Service Regulations - January 2006); (7) Telecommunications (Fee Structure) Regulations (“Fees Regulations” - May 2007); (8) Telecommunications (Administrative Procedure) Regulations (“Administrative Regulations” - July 2008).

limited scope and application. As noted, guidelines should ideally only be used to “fill in” but not to “extend” the existing legal framework. The guidelines would also have to incorporate competition concepts from a TCI telecommunications framework that is both fragmented as to legal instruments (the Ordinance and the Licences) and very limited in its focus on competition concepts. In terms of process, competition guidelines have the advantage that they could be issued directly by the Commission, in comparison to the Proposed Competition Regulations, which as all regulations, have to be enacted by Government. For all the reasons above, while this option is not the Commission’s preferred option, because it is one that it may implement directly, the Commission considers this to be its second preferred option and one that may be used as a “fall-back” if it does not appear feasible to enact the Proposed Competition Regulations. To be clear, if the Commission were to move forward with this guidelines approach, the Proposed Competition Regulations would need to be substantially rewritten in order to become Competition Guidelines.

Consultation Question 1: Please provide your views on the need for a more comprehensive and unified competition framework in the telecommunications sector in TCI, with supporting rationale.

Consultation Question 2: Please provide your views on the manner in which a more comprehensive and unified competition framework in the telecommunications sector should be implemented in the TCI. Specially, please provide your views of the advantages and disadvantages of each of the four options discussed above and whether you agree with the Commissions preferred option of Competition Regulations and the Commission’s second preferred option of Competition Guidelines.

3 Proposed Competition Regulations

The Proposed Competition Regulations included in the Annex consist of six Parts: Preliminary Provisions, Dominance Determination, Ex-Ante Remedies, Anti-Competitive Practices and Agreements, and Mergers.

Consultation Question 3: Please provide your views on the proposed structure of the Proposed Competition Regulations.

3.1 Part I – Preliminary Provisions

Part I of the Proposed Competition Regulations sets out the general principles and objectives of the regulations, along with definitions of key terms used in the regulations.

Consultation Question 4: Please provide your views on the provisions included in Part I. If you recommend specific edits or revisions, please also provide the corresponding rationale.

3.2 Part II – Dominance Determination

Part II sets out a general framework for determining whether or not a licensee(s) is dominant in one or more relevant markets, pursuant to Section 16 of the Ordinance. This framework includes the procedures and economic criteria the Commission may employ to assess dominance as well as the proposed approach to defining the relevant markets. This proposed methodology and the corresponding criteria are based on recognized approaches adopted internationally. Defining the relevant markets is usually the first step in assessing dominance in general or reviewing specific conduct of a dominant licensee. A second step involves an assessment of the nature and extent of competition in the relevant market(s) under consideration. This general framework can be used not only for the assessing dominant licensee designations but also, with some modification, assessments of the need for ex-ante remedies, forbearance reviews and investigations of potential abuse of dominance conduct.

Consultation Question 4: Please provide your views on the provisions included in Part II. If you recommend specific edits or revisions, please also provide the corresponding rationale.

3.3 Part III – Ex-Ante Remedies

Sections 17 and 28 of the Ordinance provide the Commission with the authority to regulate on an ex-ante basis products or services offered by a designated dominant licensee. However, neither provision includes procedures or criteria to be used to determine whether any specific product or service offered by a dominant licensee is susceptible to ex-ante regulation. In this context, Part III of the Proposed Competition Regulations establishes a proposed framework for the assessment of the need for and the application of ex-ante remedies in a relevant market, including the criteria and process to be followed by the Commission. The proposed methodology and the corresponding criteria are based on modern and recognized approaches adopted internationally.

Section 29(2) of the Ordinance provides the Commission with the authority to forbear from regulating one or more products or services offered by a dominant licensee where the Commission finds that competition is sufficient to protect the interests of users. The Proposed Competition Regulations establish a framework, criteria and procedures in relation to these forbearance matters.

Consultation Question 5: Please provide your views on the provisions included in Part III. The Commission specifically invites comments on whether having to administer both a dominance-related ex-ante remedy provisions and forbearance provisions is appropriate given the overall framework included in the Proposed Competition Regulations and whether an amendment of the Ordinance should be sought that simplifies this dual approach. If you recommend specific edits or revisions, please also provide the corresponding rationale.

3.4 Part IV – Anti-Competitive Practices and Agreements

Part IV provides a general framework to deal with anti-competitive conduct on an ex-post basis. This Part is intended to provide guidance relating to the more general anti-competitive practices prohibitions included in the Ordinance and the Licences. It covers abuse of dominance issues in the case of a dominant licensee as well as a variety of other forms of anti-competitive conduct. The specific forms of anti-competitive conduct include price fixing, bid-rigging, misleading representations, resale price maintenance and restrictive agreements. This part of the Proposed Competition Regulations includes the procedures and criteria for dealing with such concerns and is based on recognized approaches adopted internationally.

Where a licensee is found to have contravened a provision under Part IV of the Proposed Competition Regulations, it is proposed that the Commission would have the ability to implement remedial actions, including the imposition of financial penalties of up to \$1 million. Although the Ordinance contains in section 52 a financial penalty provision for failure to comply with certain Commission directions, the provision in the Proposed Competition Regulations expands the Commission's fining powers. Section 65 of the Ordinance, which authorizes the making of regulations "for giving effect to the provisions of this Ordinance", is wide in scope, but does not specifically refer to the possibility of the Commission imposing financial penalties. It should however be noted that many telecommunications regulators and competition authorities in other countries have extensive fining powers.

Consultation Question 6: Please provide your views on the provisions included in Part IV. The Commission specifically invites comments on whether granting the authority to the Commission to impose financial penalties can properly be included in the Proposed Competition Regulations, or whether an amendment of the Ordinance is first required. If you recommend specific edits or revisions, please also provide the corresponding rationale.

3.5 Part V – Mergers

Part V provides a general framework related to proposed mergers and includes criteria and procedures for the Commission assessment of proposed transfers of control of a licensee's operations, including the potential for such a transfer to lessen or prevent competition in one or more relevant markets. Part V is intended to further develop the licence transfer and approval process currently addressed under section 20 of the Ordinance and section 12 of the Licensing Regulations. The proposed methodology and the corresponding criteria included in Part V are based on recognized approaches adopted internationally.

The Commission has proposed a relatively narrow ambit for the merger provisions whereby only mergers among licensees (whether directly or indirectly through persons that control the licensees). These are considered to be the mergers that are most likely to raise competition issues. An alternative and wider approach would be for the Commission to be able to review all mergers and acquisitions by licensees with any other parties. Such an approach would subject more transactions to review, and thus would allow the Commission to detect and address more possible anti-competitive issues, but at a substantial increase in Commission review activities and licensee compliance costs. A variation on this approach would be to include under the merger review process all acquisitions involving, directly or indirectly, a change in ownership of

a licensee (but not address acquisitions by a licensee, except if the acquisition involves another licensee). The Commission already has some responsibility to review such ownership change acquisitions under the Licensing Regulations.

Consultation Question 7: Please provide your views on the provisions included in Part V. Specifically, the Commission would appreciate comments on whether the proposed scope of the merger review provisions. If you recommend specific edits or revisions, please also provide the corresponding rationale.

3.6 General

Consultation Question 8: Please indicate if you consider that additional matters or provisions should be included in the Proposed Competition Regulations and, if so, please provide suggested wording for any such additions. Please provide the supporting rationale for your comments.

4 Consultation Process

The Commission is initiating a consultation process to seek public input and comments on the Proposed Competition Regulations included in the Annex. The Commission invites interested parties (“Respondents”) to provide their input and comments (the “Responses”) with respect to the questions raised in this Consultation Document and the attached Proposed Competition Regulations.

The Commission notes that it has engaged the services of Consultants to assist it with the consultation process and the preparation of the Proposed Competition Regulations.

4.1 Process for Responses

This Consultation Document, along with all referenced Government and Commission documents, is available on the Commission’s website at <http://www.telecommission.tc/>.¹⁰ Respondents who wish to provide their views with, as may be required, supporting rationale and information in response to this Consultation Document are invited to submit their Responses in writing to the Commission. Responses should also be submitted in electronic form to facilitate further distribution and posting on the Commission’s website.

The Consultation Process is structured in two phases. In the first phase, Respondents may submit Initial Responses to comment on this Consultation Document. In the second phase, Respondents may submit Reply Responses to comment on the Initial Responses of other Respondents in whole or part.

¹⁰ Note that exceptions in this regard include the C&W Agreement of January 26, 2006 and operator-specific license agreements and inter-carrier interconnection agreements which include confidential information.

The filing deadlines for Initial Responses and Reply Responses are as follows:

- Initial Responses must be received by the Commission no later than 3:30 p.m. local time on May 19, 2017.
- Reply Responses must be received by the Commission no later than 3:30 p.m. local time on June 2, 2017.

Responses filed in relation to this Consultation Document may be submitted to one or more of the following addresses:

- a) E-mail to: consultations@tcitelecommission.tc
- b) Delivery (paper and electronic copy) by hand or by courier to:

Mr. John Williams,
Director General
Turks and Caicos Islands Telecommunications Commission
Business Solutions Complex, Leeward Highway
Providenciales,
Turks and Caicos Islands

The Commission welcomes all Responses on the Consultation Document. The Commission invites Respondents to provide responses to the specific numbered questions set out in this Consultation Document (the “Consultation Questions”) and any other issues Respondents consider relevant. As noted, Respondents are encouraged to provide specific proposed edits or revisions to the Proposed Competition Regulations in the Annex hereto.

The Commission encourages Respondents to support all Responses with relevant information and analyses based on the national situation or on the experience of other countries to support their comments. The Commission may give greater weight to Responses supported by appropriate evidence. In providing their comments, Respondents are requested to indicate the number of the Consultation Question(s) to which each comment relates. Respondents are not required to comment on all Consultation Questions. The Commission is under no obligation to adopt the comments or proposals of any Respondent.

Copies of all Responses submitted by Respondents in relation to this Consultation Document will be published on the Commission’s website at <http://www.telecommission.tc>. With a view to having as open a public consultation process as practical, the Commission encourages Respondents to structure their Responses not to include any confidential information.

If necessary, Respondents may submit Responses that include claimed confidential information in the form of two Responses:

- **Redacted Response** – In this document any claimed confidential information would be excluded. The other comments and information, not claimed as confidential, would be included in this version. This is the public version document that would be posted on the Commission website.

- **Confidential Response** – This document would be identical to the Redacted Response except that this version would also include the claimed confidential information for the use of the Commission. This document would not be posted on the Commission website and, subject to section 19 of the Administrative Regulations, all confidential information in the document would be held in strict confidence by the Commission and its Consultants.

Claims of confidentiality will be determined by the Commission on a case-by-case basis, and in compliance with the requirements set out in section 19 of the Administrative Regulations.

4.2 Process Timeline

As noted, the Commission has allowed for Initial and Reply Responses to this Consultation Document. Once the Commission has received all interested parties Responses, it plans to issue a decision, including revised Proposed Competition Regulations, which the Commission shall forward to Government recommending that they be adopted and implemented immediately.

Table 1 provides the expected timeline for this consultation process.

Table 1: Competition Regulations Consultation Timeline	
Event*	Date
1. Consultation Document issued	April 19, 2017
2. Initial Responses submitted	May 19, 2017
3. Reply Responses submitted	June 2, 2017
4. Decision & Final Competition Regulations and Recommendation to Government	July/August, 2017
5. Competition Regulations enacted	To be determined
Note: * If the Commission decides to implement Competition Guidelines rather than Competition Regulations as a result of this consultation, then Event 4 above would be replaced by a "Decision and Final Competition Guidelines" and Event 5 would become unnecessary.	

Annex:

Proposed Competition Regulations

TELECOMMUNICATIONS ORDINANCE 2009

TELECOMMUNICATIONS (COMPETITION) REGULATIONS 2017

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TELECOMMUNICATIONS ORDINANCE 2009

TELECOMMUNICATIONS (COMPETITION) REGULATIONS 2017

MADE by the Governor under section 64 of the Telecommunications Ordinance 2009

PART I – PRELIMINARY PROVISIONS

1. Citation

These Regulations may be cited as the Telecommunications (Competition) Regulations.

2. General Principles and Objectives

- 1) Pursuant to the Telecommunications Ordinance, these Regulations are made to provide a regulatory framework to facilitate, maintain and promote effective and sustainable competition in the telecommunications sector and to promote the interests of consumers in the Turks and Caicos Islands.
- 2) These Regulations also provide guidance to licensees as to what constitutes conduct that prevents or substantially lessens, or is likely to prevent or substantially lessen, competition and the procedures for assessing such conduct.
- 3) In addition to compliance with these Regulations, a licensee remains subject to any requirements and prohibitions concerning anti-competitive conduct that are set out in the Ordinance, other telecommunications sector Regulations and its licence, as well as and any laws of general application.

3. Interpretation

- 1) In these Regulations unless the context otherwise requires
 - a) “**affiliate**” includes in relation to another company, a company which directly or indirectly controls, is controlled by or is under common control with, another company.
 - b) “**competitor**” includes a person for whom it is reasonable to believe would be likely to compete with the licensee with respect to a product in the absence of a conspiracy, collusion, agreement or arrangement that is prohibited under these Regulations.
 - c) “**control**” means control in any manner that results in control in fact, whether directly through ownership of shares or indirectly through an agreement, arrangement or otherwise, or indirectly through an agreement or arrangement involving next of kin.
 - d) “**dominant**” means that a licensee enjoys, either individually or jointly with others, a position of economic strength that enables it to behave

independently of competitors and customers in any relevant market for telecommunications products (and “dominance” has a corresponding meaning).

- e) “**ex-ante remedies**” means the requirements imposed on a licensee by its conditions of licence, or on a dominant licensee by the Commission pursuant to the Ordinance, in order to counter, prevent or neutralize the impact of dominance and possible anti-competitive practices, and including any requirements imposed under Part III of these Regulations, but excluding any ex-post remedies.
 - f) “**ex-post remedies**” means the requirements imposed by the Commission on a licensee under Part VI of these Regulations.
 - g) “**licensee**” means a person who has been granted a licence under the Ordinance.
 - h) “**merger**” means the acquisition or establishment, direct or indirect, by a licensee and/or one or more of its affiliates and/or one or more persons that control the licensee, whether by purchase or lease of shares or assets, by amalgamation or by combination or otherwise, of control over, or significant interest in, the whole or part of the business of another licensee, regardless of whether accompanied by a transfer or other disposition of its licence, or of any rights and obligations under its licence.
 - i) “**Ordinance**” means the Telecommunications Ordinance 2009.
 - j) “**person**” includes, without limitation, an individual or group of individuals who are next of kin, a corporation, a company or a group of persons acting in common.
 - k) “**product**” includes a service.
- 2) Unless otherwise specified, terms used in these Regulations shall have the meanings assigned to them under the Ordinance.

PART II – DOMINANCE DETERMINATION

4. Determination of a Dominant Licensee

- 1) Pursuant to section 16 of the Ordinance, the Commission may determine whether a licensee is dominant or not dominant in one or more relevant markets.
- 2) In determining that a licensee is dominant in one or more relevant markets, the Commission may consider:
 - a) a previous determination under section 16 of the Ordinance that the licensee is, or is not, dominant in relation to the establishment, operation or maintenance of a telecommunications network or product;

- b) a dominance designation under section 19 the Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations, as set out in Schedule 1 of these Regulations; and
- c) a licence condition stating that the licensee is dominant in respect of the establishment, operation or maintenance of a telecommunications network or product, as set out in Schedule 1 of these Regulations.

5. Dominance Assessment Process

- 1) To determine whether a licensee is dominant with respect to one or more relevant markets, the Commission may rely on a two-part dominance assessment process:
 - a) the first part consists of defining one or more relevant markets for the product(s) under consideration; and
 - b) the second part consists of an assessment of the nature and extent of competition in the relevant market(s).
- 2) The Commission may modify the dominance assessment process and criteria, as the Commission considers appropriate, depending on the proceeding where dominance is being assessed, including:
 - a) an assessment in the context of possible ex-ante remedies pursuant to Part III of these Regulations; or
 - b) an investigation of abuse of dominant position pursuant to Part IV of these Regulations.

6. Relevant Market Definition

- 1) The Commission may define a relevant market for the purposes of a proceeding under these Regulations, and in doing so, the Commission may consider the following:
 - a) the products in the market;
 - b) the users of the products (for example, retail versus wholesale, residential versus business); and
 - c) the geographic scope of the market.
- 2) In defining a relevant market, the Commission may consider the following factors:
 - a) demand-side substitutability in order to determine the extent to which users may substitute other available products for the those under specific consideration; and
 - b) supply-side substitutability in order to determine the extent to which suppliers are in a position to supply products, in the immediate term or potentially in the intermediate term, that would be considered by users as potential substitutes to those under specific consideration.

- 3) In its assessment of substitutability, the Commission may also consider any factor that, in its opinion, reasonably affects market definition, including consideration of the smallest group of products and the smallest geographic area in relation to which a provider could potentially impose and profitably maintain a small but significant non-transitory increase in price. In most cases, a 5% price increase would be considered significant and a period of one year or more would be considered non-transitory in this respect
- 4) The Commission may consider prospective or retrospective market considerations when defining a relevant market depending on the proceeding where the definition is to be used:
 - a) prospective considerations, such as market and technological trends and the potential for new entry, would typically apply in the case of dominance, ex-ante remedy, forbearance or merger proceedings; whereas
 - b) retrospective considerations would typically apply in the case of an abuse of dominance investigation, where market conditions at the time the alleged abuse occurred would likely be relevant.
- 5) The Commission may also consider telecommunications sector market analysis experience in other jurisdictions as a basis for defining relevant markets in the Turks and Caicos Islands.

7. Dominance Assessment Criteria

- 1) In determining whether a licensee may be dominant in a relevant market, the Commission may consider the following:
 - a) market-specific data pertaining to the relevant market, including product price, volumes and revenue levels and trends, financial resources and profitability;
 - b) availability of existing and potential competitive alternatives, including their scale of operation in terms of supply capacity and geographic coverage;
 - c) market shares or concentration levels and trends as determined by reference to revenues, subscribers or other relevant metrics;
 - d) evidence of rivalrous behaviour in the form of declining prices, vigorous sales and marketing promotions and expanding scope of marketing activities;
 - e) consumer and technological trends affecting the nature and scope of existing and potential competition in the relevant market;
 - f) barriers to entry, including those of a financial, technical, regulatory nature that may have the effect of limiting entry or expansion in the relevant market; and
 - g) any other factors that the Commission considers appropriate.

- 2) The Commission may also consider other relevant dominance assessment criteria depending on the purpose of the assessment and/or the characteristics of a relevant market under consideration.

8. Dominance Determination or Review Process

- 1) The Commission may initiate a dominance determination or review proceeding on its own motion or at the request of dominant licensee or any other person.
- 2) Any request submitted to the Commission by a dominant licensee or any other person to initiate a dominance determination or review proceeding should include supporting evidence that, as may be applicable, addresses the relevant market definition and dominance assessment criteria set out in regulations 6 and 7. The Commission shall determine whether such a proceeding is warranted, based on the supporting evidence submitted, and shall notify the licensee or person within forty-five (45) calendar days of receiving the request with an explanation of its determination and, where warranted, issuing directions on the procedures for the proceeding.
- 3) For the purposes of a dominance determination or review proceeding, the Commission shall follow the procedures set out in the Telecommunications (Administrative Procedures) Regulations, with such modifications as the Commission considers appropriate, and may include the following:
 - a) a request for information process through which the Commission collects market data relating to the products under consideration;
 - b) a preliminary determination by the Commission on the applicable relevant markets and a preliminary dominance assessment;
 - c) issuance of a consultation document summarizing the Commission's preliminary determination and inviting interested parties to submit comments to the Commission; and
 - d) issuance of a final decision with supporting rationale.

PART III – EX-ANTE REMEDIES

9. Application of Ex-Ante Remedies to Dominant Licensees

- 1) Where a licensee is determined to be dominant in a relevant market, the Commission shall determine whether to impose ex-ante remedies, and, if so, to what extent.
- 2) The ex-ante remedies applicable to a licensee as of the date of the issuance of these Regulations shall remain in effect until such time the Commission makes a decision revoking or amending them, or makes a forbearance decision under section 29 of the Ordinance in relation to them.

10. Criteria for the Application of Ex-Ante Remedies

When determining whether, and the extent to which, to impose ex-ante remedies on a dominant licensee, the Commission may consider the following:

- a) existence of high and non-transitory barriers to entry;
- b) whether the relevant market under consideration would naturally tend, in the short or medium term, toward sufficient competition to protect the interests of customers, even without Commission action;
- c) whether ex-post remedies alone would likely be sufficient to address concerns related to dominance; and
- d) any other factors that the Commission considers appropriate.

11. Determination of Ex-Ante Remedies to be Imposed

- 1) Where the Commission finds that ex-ante remedies are necessary, the Commission shall have regard to the provisions in sections 17 and 28 of the Ordinance and Part VI of the Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations, as may be relevant, to determine the appropriate ex-ante remedies to be imposed, which may include:
 - a) constraints on price levels or pricing flexibility;
 - b) mandating the provision of wholesale products on fair and reasonable terms and conditions; and/or
 - c) other requirements that the Commission considers appropriate.
- 2) Where ex-ante remedies are imposed on a licensee, the Commission may undertake to review the continued need for and nature of the remedies after a fixed period of time such as three (3) to six (6) years.

12. Ex-Ante Remedy Review Process

- 1) A review of any existing ex-ante remedies may be initiated by the Commission on its own motion, based on a prescribed review timeframe set out in the decision establishing existing ex-ante remedies or at the request of a dominant licensee or any other person.
- 2) Any request submitted to the Commission by a dominant licensee or any other person to initiate an ex-ante remedies review proceeding should include supporting evidence that, as may be applicable, addresses the criteria set out in regulation 10. The Commission shall determine whether such a proceeding is warranted, based on the supporting evidence submitted, and shall notify the licensee or person within forty-five (45) calendar days of receiving the request with an explanation of its determination and, where warranted, issuing directions on the procedures for the proceeding.

- 3) In the event the Commission commences an ex-ante remedy review process, it may include an assessment of the licensee's dominance designation in the relevant market(s) and/or consideration of whether or not forbearance, under regulation 13 to 15 inclusive, may be appropriate.
- 4) For the purposes of an ex-ante remedies review proceeding, the Commission shall follow the procedures set out in the Telecommunications (Administrative Procedures) Regulations, with such modifications as the Commission considers appropriate, and may include the procedures set out in subregulation 8(3).

13. Forbearance

- 1) Regulations 13 to 15 inclusive apply to a proceeding by the Commission under section 29(2) of the Ordinance, and do not apply to a proceeding under section 29(1) of the Ordinance.
- 2) Any conditions imposed by the Commission in connection with a decision under section 29(2) of the Ordinance shall remain in effect until such time the Commission makes a decision revoking or amending them.

14. Forbearance Criteria

When considering whether to forbear from regulating a licensee under section 29(2) of the Ordinance, the Commission may consider

- a) the relevant market definition criteria set out in regulation 6;
- b) the market dominance assessment criteria set out in regulation 7; and
- c) any other factors that the Commission considers appropriate.

15. Forbearance Review Process

- 1) A proceeding under section 29(2) of the Ordinance may be initiated by the Commission on its own motion, based on a prescribed review timeframe set out in a previous decision by the Commission under section 29(2) of the Ordinance or at the request of a dominant licensee or any other person.
- 2) Any request submitted to the Commission by a dominant licensee or any other person to initiate a forbearance proceeding under section 29(2) of the Ordinance should include supporting evidence that, as may be applicable, addresses the criteria set out in regulation 14. The Commission shall determine whether such a proceeding is warranted, based on the supporting evidence submitted, and shall notify the licensee or person within forty-five (45) calendar days of receiving the request with an explanation of its determination and, where warranted, issuing directions on the procedures for the proceeding.
- 3) Where a licensee applies under section 16 of the Ordinance to be declared non-dominant in relation to one or more relevant markets, the Commission may determine to proceed by way of a proceeding under section 29(2) of the Ordinance. In making such a procedural determination, the Commission shall

take into account the availability of market data which is sufficient for the purpose of a proceeding under section 16 of the Ordinance and any other factors that the Commission considers appropriate.

- 4) For the purposes of a proceeding under section 29(2) of the Ordinance, the Commission shall follow the procedures set out in the Telecommunications (Administrative Procedures) Regulations, with such modifications as the Commission considers appropriate, and may include the procedures set out in subregulation 8(3).

PART IV – ANTI-COMPETITIVE PRACTICES & AGREEMENTS

16. Anti-Competitive Conduct

- 1) A licensee shall not engage in any conduct, practice or agreement which has the purpose or effect of substantially lessening competition in a market.
- 2) Such prohibited conduct, practices and agreements include, but are not limited to those specifically set forth in this Part IV.
- 3) Other conduct, practices and agreements by a licensee that are not specifically set forth in this Part IV but that the Commission considers to have the purpose or effect of substantially lessening competition in a relevant market are also prohibited and shall be subject to Commission review and, where warranted, the Commission may issue applicable orders to the licensee under this Part IV.
- 4) Where a licensee implements in whole or in part, a direction, instruction, intimation of policy or other communication to the licensee, from a person who is in a position to direct or influence the policies or management of the licensee, which communication is for the purpose of causing the licensee to engage in conduct that that would, if engaged in by the licensee, contravene a provision under this Part IV, the licensee shall be deemed to have engaged in that conduct for the purposes of these Regulations.

17. Abuse of Dominant Position

- 1) A dominant licensee shall not engage in any conduct which has the effect of substantially lessening competition in one or more markets.
- 2) A dominant licensee who engages in any of the following non-exclusive list of conduct may be found to have abused its dominant position:
 - a) failure to comply, as may be applicable, with the obligations set out in Parts II and VI of the Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations;
 - b) squeezing the profit margin available to a competitor that requires a wholesale product from the dominant licensee, by increasing the price for

the wholesale product in question and/or decreasing the prices of the retail product dependent on the wholesale product as an input;

- c) supplying products at prices for which the licensee has been designated as dominant below long run incremental cost or such other cost standard as may be established by the Commission;
- d) cross-subsidizing a product in a competitive market by another product for which the licensee has been designated as dominant with the objective of lessening competition, except where such cross subsidy is specifically approved by the Commission or by approval of tariffs for relevant products;
- e) supplying bundled products that include one or more competitive market products together along with one or more other products for which the licensee has been designated as dominant with the objective of lessening competition;
- f) a failure by a dominant licensee to comply with any decision, rule, direction or guideline issued by the Commission regarding either prohibited or required conduct; or
- g) any other conduct that, in the opinion of the Commission, prevents or lessens or is likely to prevent or lessen competition substantially in a market.

18. Price Fixing

- 1) A licensee shall not, with respect to a product, conspire, collude, agree or arrange with a competitor
 - a) to fix, maintain, increase or control the price for the supply of the product;
 - b) to allocate sales, territories, customers or markets for the production or supply of the product; or
 - c) to fix, maintain, control, prevent, lessen or eliminate the production or supply of the product.
- 2) In subregulation (1), "**price**" means an amount of money or other consideration and includes a charge, fare, rate, rental, toll or other compensation payable to a licensee for the use of its products, and also includes any discount, rebate, allowance, price concession or other advantage in relation to the supply of the products.
- 3) Subregulation (1) does not apply in respect of a conspiracy, collusion, agreement or arrangement that would otherwise contravene that subregulation if
 - a) to the satisfaction of the Commission, the licensee establishes that
 - i. it is ancillary to a broader or separate joint venture agreement or arrangement that includes the same parties, and

- ii. it is directly related to, and reasonably necessary for giving effect to, the objective of that broader or separate joint venture agreement or arrangement; and
- iii. the broader or separate joint venture agreement or arrangement, considered alone, does not contravene that subregulation.

19. Bid-Rigging

- 1) A licensee shall not enter an agreement or arrangement between or among two or more licensees or persons whereby one or more of those parties agrees or undertakes not to submit a bid or tender in response to a call or request for bids or tenders, or agrees or undertakes to withdraw a bid or tender submitted in response to such a call or request, or the submission, in response to a call or request for bids or tenders, of bids or tenders that are arrived at by agreement or arrangement between or among two or more bidders or tenderers, where the agreement or arrangement is not made known to the person calling for or requesting the bids or tenders at or before the time when any bid or tender is submitted or withdrawn, as the case may be.
- 2) Subregulation (1) does not apply in respect of an agreement or arrangement that is entered into or a submission that is arrived at only by licensees each of which is, in respect of every one of the others, an affiliate.

20. Misleading Representations

- 1) A licensee shall not, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.
- 2) For greater certainty, in establishing that subregulation (1) was contravened, it is not necessary to establish that
 - a) any person was deceived or misled; or
 - b) the representation was made in a place to which the public had access.
- 3) For greater certainty, the making or sending of a representation includes permitting a representation to be made or sent.
- 4) For the purposes of this regulation, a representation that is
 - a) expressed on an article offered or displayed for sale or its wrapper or container,
 - b) expressed on anything attached to, inserted in or accompanying an article offered or displayed for sale, its wrapper or container, or anything on which the article is mounted for display or sale,
 - c) expressed on an in-store or other point-of-purchase display,

- d) made in the course of in-store or door-to-door selling to a person as ultimate user, or by communicating orally by any means of telecommunication to a person as ultimate user, or
- e) contained in or on anything that is sold, sent, delivered, transmitted or made available in any other manner to a member of the public,

is deemed to be made to the public by and only by the person who causes the representation to be so expressed, made or contained.

- 5) Subject to subregulation (4), a licensee who, for the purpose of promoting, directly or indirectly, the supply or use of a product or any business interest, supplies to a wholesaler, retailer or other distributor of a product any material or thing that contains a representation of a nature referred to in subregulation (1) is deemed to have made that representation to the public.
- 6) In a proceeding under this regulation 20, the general impression conveyed by a representation as well as its literal meaning shall be taken into account by the Commission in determining whether or not the representation is false or misleading in a material respect.

21. Resale Price Maintenance

- 1) A licensee shall not directly or indirectly by agreement, threat, promise or any like means, attempt to influence upward, or discourage the reduction of, the price at which the licensee's customer or any other person to whom the product comes for resale supplies or offers to supply or advertises a product within the Turks and Caicos Islands, or refuse to supply a product to or has otherwise discriminated against any person or class of persons engaged in business in the Turks and Caicos Islands because of the low pricing policy of that other person or class of persons.
- 2) Subregulation (1) does not apply if the licensee and the customer or other person referred to in subregulation (1) are principal and agent, or are affiliates.

22. Restrictive Agreements

- 1) A licensee shall not agree or arrange with a competitor, where the agreement or arrangement prevents or lessens or is likely to prevent or lessen competition substantially in a market.
- 2) Subregulation (1) does not apply if the agreement or arrangement is entered into only by companies each of which is, in respect of every one of the others, an affiliate.
- 3) In determining whether or not the agreement or arrangement will prevent or lessen, or is likely to prevent or lessen, competition substantially in a market, the Commission may consider the following factors:
 - a) the extent to which acceptable substitutes for products supplied by the parties to the agreement or arrangement are or are likely to be available;

- b) the extent to which effective competition remains or would remain in a market that is or would be affected by the agreement or arrangement;
- c) any other factor that is relevant to competition in a market that is or would be affected by the agreement or arrangement.

23. Anti-Competitive Conduct Review Process

- 1) The Commission may initiate a proceeding on its own motion where it considers that the conduct of a licensee has potentially contravened a provision of this Part IV.
- 2) A licensee or other person may submit a complaint to the Commission requesting that it investigate specific activities of a licensee that in the complainant's opinion has contravened a provision of this Part IV and, in such cases
 - a) the complainant must include the information set out in Schedule 2, using the form set out in that schedule;
 - b) if the Commission receives a complaint from a person and determines that a proceeding is not warranted, whether due to the likely *de minimis* impact on competition or for any other reason, the Commission shall notify that person within forty-five (45) days of receiving the request with an explanation of its determination; and
 - c) if the Commission determines that the complaint justifies further consideration, the Commission shall initiate a proceeding to investigate the matter and the Commission shall notify the complainant, and the affected licensee, within forty-five (45) days of receiving the request, issuing directions on the procedures for the proceeding.
- 3) In assessing the effect on competition of any alleged anti-competitive conduct, the Commission may, where appropriate, consider the relevant market definition as determined pursuant to regulation 6.
- 4) In the event the Commission initiates a proceeding under this Part IV, it shall follow the procedures set out in the Telecommunications (Administrative Procedures) Regulations, with such modifications as the Commission considers appropriate.
- 5) Where the Commission determines that a licensee has contravened any provision under this Part IV, the Commission may issue one or more orders:
 - a) requiring the licensee named in the order to cease the actions or activities specified in the order, immediately or at such time prescribed in the order, and subject to such conditions as may be prescribed in the order;
 - b) requiring the licensee named in the order to make specific changes in its conduct as are specified in the order, including without limitation the divestiture of assets or shares, in order to remedy the conduct that has resulted in the contravention of any provisions under this Part IV, and to reduce the likelihood of any further incidence thereof;

- c) requiring the licensee to provide periodic reports to the Commission to assist in determining whether the actions or practices are continuing and to determine their impact on communications markets, competing licensees and consumers;
 - d) imposing a financial penalty on the licensee; or
 - e) requiring any other remedial action the Commissions considers necessary or appropriate.
- 6) At any time in the course of a proceeding, where the Commission considers it in the public interest to do so, the Commission may issue an interim order authorizing, requiring or forbidding anything to be done that the Commission is empowered to authorize, require or forbid, and subject to such conditions as may be prescribed in the order.
- 7) An interim order under subregulation (6) shall remain in effect until the completion of the proceeding, and a final determination is made, or until otherwise amended or revoked by the Commission.

24. Financial Penalties

- 1) Where the Commission determines that a licensee has contravened a provision under this Part IV, and the Commission imposes a financial penalty on the licensee, the Commission shall consider the following factors in determining the amount of financial penalty:
- a) the nature of the conduct that resulted in the contravention;
 - b) the likely benefit to the licensee of that conduct;
 - c) the effect of that conduct on competition and consumers;
 - d) the history of the licensee's compliance with the Ordinance and the regulations thereunder, and its conditions of licence; and
 - e) any other factor that the Commission considers relevant.
- 2) The maximum financial penalty for violating a provision under this Part IV is \$1 million.
- 3) Where the Commission imposes a financial penalty under this Part IV, it shall be recoverable in the same manner as a fine imposed by the Magistrate's Court.

PART V – MERGERS

25. Commission Must Approve Merger of Licensees

- 1) A licensee shall obtain the prior approval of the Commission in respect of a merger with another licensee.

- 2) Applications for Commission approval of a merger shall be submitted at least ninety (90) days prior to the completion date, and shall include detailed information on the merger. Such information shall, at a minimum, include the information set out in Schedule 3.
- 3) The Commission shall consider any request for approval of a merger, and shall only approve such request if the Commission is satisfied that, by granting its approval, the merger will not prevent or lessen, or is not likely to prevent or lessen, competition substantially in a market. During any such merger review, the Commission shall also have regard to the provisions of sections 9 and 20 of the Ordinance and Part 4 of the Telecommunications (Telecommunications and Frequency Licensing) Regulations 2009.
- 4) If a licensee fails to apply to the Commission for the prior approval of a merger, the Commission may nonetheless review the merger as if a request for approval had been filed. In such an event, the time period in regulation 27 shall commence when the Commission issues a notice to the licensee announcing the commencement of the review of the merger.

26. General Criteria for Reviewing a Merger

In determining whether or not a merger will prevent or lessen, or is likely to prevent or lessen, competition substantially in a market, the Commission may determine, pursuant to regulation 6, the relevant market or markets affected by the merger, and may consider:

- a) whether a telecommunications business, or a part of the business, of a party to the merger or acquisition has failed or is likely to fail;
- b) the extent to which effective competition remains or would remain in a market that is or would be affected by the merger;
- c) any likelihood that the merger will or would result in the removal of a vigorous and effective competitor;
- d) the extent to which the merger is likely to bring about gains in efficiency that will offset the effects of any prevention or lessening of competition that will result from the merger; and
- e) any other factor that is relevant to competition in a market that is or would be affected by the merger.

27. Merger Review Process

- 1) Within ninety (90) days of receipt of a duly completed merger application under regulation 25, the Commission shall
 - a) approve the merger without conditions;
 - b) approve the merger with such conditions as are reasonably related to promoting the development of open and competitive telecommunication markets, and maximizing the benefit for telecommunication users, which conditions may include a requirement for the divestiture of assets or shares;

- c) deny approval of the merger; or
 - d) issue a notice extending the period of investigation of the merger for a further ninety (90) days.
- 2) During the Commission's review of a merger, the licensee shall provide such further information relating to the merger and its implications for telecommunication markets as the Commission may request, including information on the following matters:
- a) telecommunication-related products provided by parties to the merger, users, suppliers, market shares, and financial performance;
 - b) any information that the licensee may have in relation to competitors' activities and competitors' market shares;
 - c) availability of substitute products; and
 - d) generally, the impact of the transaction on suppliers, competitors and users in the relevant telecommunication markets.
- 3) Notwithstanding subregulation (1)(d), where the Commission is of the opinion that the licensee has failed to provide in a timely manner information under subregulation (2) that is sufficient for the Commission to make a determination under subregulation (1)(a) through (c), the Commission may issue a notice to the licensee extending the period of investigation under subregulation (1)(d) to 90 days after the Commission notifies the licensee that the Commission is of the opinion that it has received sufficient information under subregulation (2).
- 4) Where it deems it appropriate in any proceeding under this Part V, the Commission may issue directions on procedure, which shall govern the conduct of the proceeding and prevail over any provision of these Regulations that is inconsistent with those directions.

SCHEDULE 1: Dominance Designations

Relevant Market	Dominant Licensee(s)	Source of Designation
Residential Access at a Fixed Location	Cable & Wireless (TCI) Limited (dba Flow)	Licence and Telecommunications Decision 2013-3
Business Access at a Fixed Location	Cable & Wireless (TCI) Limited (dba Flow)	Licence and Telecommunications Decision 2013-3
Domestic Calling from a Fixed Location	Cable & Wireless (TCI) Limited (dba Flow)	Licence and Telecommunications Decision 2013-3
International Calling from a Fixed Location	Cable & Wireless (TCI) Limited (dba Flow)	Licence and Telecommunications Decision 2013-3
Domestic Private Leased Circuits	Cable & Wireless (TCI) Limited (dba Flow)	Licence and Telecommunications Decision 2013-3
International Private Leased Circuits	Cable & Wireless (TCI) Limited (dba Flow)	Licence and Telecommunications Decision 2013-3
Wholesale Mobile Network Call Termination	All licensed Mobile Network Operators	Interconnection Regulations * and Telecommunications Decision 2014-4
Wholesale Fixed Network Call Termination	All licensed Fixed Network Operators	Interconnection Regulations * and Telecommunications Decision 2014-4
Wholesale Fixed/Mobile Network Call Transit	Cable & Wireless (TCI) Limited (dba Flow)	Interconnection Regulations * and Telecommunications Decision 2014-4

* Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations

SCHEDULE 2: Form for alleging Anti-Competitive Practice or Agreement

1. Name of Complainant and Contact Information
2. Name of Licensee and Contact Information
3. Other Concerned Persons and Contact Information
4. Description of the Complaint
5. The Applicable Regulation(s) under Part IV of these Regulations that Most Relate to the Complaint?
6. Facts Supporting the Complaint (attach relevant documents and correspondence)
7. If Applicable, description of any attempts to resolve the Complaint (attach relevant documents and correspondence)
8. Relief Sought (what does the Complainant want the Commission to do?)

SCHEDULE 3: Merger Information Form

1. Identification of all persons involved in the merger, and their affiliates, and persons that have a greater than ten percent (10%) ownership interest in any of them.
2. Provide a description of the nature of the merger and a summary of its commercial terms.
3. Provide a copy of each legal document, or most recent draft thereof if not executed, that is to be used to implement the merger.
4. Provide a list of foreign regulatory authorities that have been notified of the merger, and the dates so notified.
5. Financial information on the persons involved in the merger, including their annual revenues from telecommunications markets, value of assets devoted to telecommunications business and copies of any published annual or quarterly financial reports.
6. Provide a description of the relevant telecommunication markets in the Turks and Caicos Islands in which the persons involved in the merger operate, and a description of the effects of the merger on competition in those markets.
7. Provide all studies, surveys, analyses and reports that were prepared or received by an officer or director of the licensee, or any affiliate, for the purpose of evaluating and analyzing the merger with respect to market shares, competition, competitors, market, potential for sales growth, and including for each document the identification of the individuals who prepared the document and the date it was prepared.