



PUBLIC NOTICE 2022-1

CONSULTATION ON AMENDMENTS TO CHAPTER 14.02 TELECOMMUNICATIONS ORDINANCE (2018) AND REGULATIONS

February 28, 2022

The Telecommunications Commission wishes to consult on amendments to Chapter 14.02 Telecommunications Ordinance 2018, Telecommunications (Fee Structure) Regulations 2020 and Telecommunications (Telecommunications and Frequency Licensing) Regulations 2005 that it proposes to recommend to government.

Background

The Telecommunications Ordinance (“the Ordinance”) was enacted in 2004 to establish the Telecommunications Commission and provide for its functions and laid out the legal framework that communication providers were to operate within. Since the inception of the Ordinance in 2004, the Commission has functioned without any substantial amendments to the Ordinance. Much have transpired since 2004 and several weaknesses in

the Ordinance and Regulations were exposed, which lessen the Commission's ability to effectively regulate. The Commission therefore seeks to remedy these deficiencies by proposing amendments that will allow the Commission to regulate more effectively. The proposed amendments will bring the Ordinance on par with other TCI legislations which have provisions for things such as the charging of penalties, and the alignment of licenses renewal anniversary with April 1st.

The proposed amendments will also simplify the process to suspend and revoke licenses. The changes proposed to the Ordinance and the aforementioned Regulations will serve to strengthen the regulatory framework and provide the Commission with a sound platform from which to regulate and collect fees in a timely manner.

The Telecommunications Fee Structure Regulations set out the licence fees payable for various categories of licenses that operators could select to operate under to provide telecommunications services. The regulations first came into force on 1 May 2007 but after consultation with industry were substantially revised on 1 December 2016 with minor revision in 2020. The 2020 Regulations now requires further amendments to better align it with the amendments proposed to the Ordinance.

The Telecommunications (Telecommunications and Frequency Licensing) Regulations 2005 set out the procedure to manage the licensing process for network or services and spectrum licenses. This Regulation has not had a significant amendment since its 2005 inception and changes are required to better manage the application for licenses and the renewal of licenses in force period. This will also better align it with the amendments proposed to the Ordinance.

Proposed amendments

Several amendments are proposed which are highlighted in green in column 2 titled "Proposed amendments" with the original text of the Ordinance included in column 1 titled "Original Ordinance Sections Wording" or "Original Regulations Wording". Column 3 has an explanation why each amendment is required and column 4 has an explanation of the intended result of each amendment.

The amendments

The Ordinance amendments are set out in Annex 1, with the Fee Structure Regulations amendments set out in Annex 2 and the Frequency licensing Regulations set out in Annex 3.

All amended text is highlighted in green in column 2.

The amendments are laid out in table form because they have not been laid before Cabinet or referred to the Attorney General Chambers for drafting.

Consultation

This Consultation is available to the public on the Commission's website at: www.tc telecommunications.tc

Responses are sought by March 29, 2022

Responses may be submitted to one or more of the following addresses:

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

Kenva Williams
Director General
Turks and Caicos Islands Telecommunications Commission
Business Solutions Building
872 Leeward Highway
Providenciales, Turks and Caicos Islands

Annexes

Annex 1: Telecommunications Ordinance CAP. 14.02 (2018) proposed amendments

Annex 2: Telecommunications (Fee Structure) Regulations 2020 proposed amendments

Annex 3: Telecommunications (Telecommunications and Frequency Licensing) Regulations 2005 proposed amendments

Proposed Amendments to the Telecommunications Ordinance CAP. 14.02 (2018) & Supporting Regulations:

ANNEX 1

CHAPTER 14.02 TELECOMMUNICATIONS ORDINANCE

Revised Edition

showing the law as at 31 March 2018

PART II

TELECOMMUNICATIONS COMMISSION AND DIRECTOR GENERAL OF TELECOMMUNICATIONS

Original Ordinance Sections Wording	Proposed amendments	Why the amendments are required	Intended result of amendment
<p>Telecommunications Commission</p> <p>3. (1) There is hereby established a Commission to be known as the Telecommunications Commission of the Turks and Caicos Islands, which shall consist of not more than six members all of whom shall be appointed by the Minister, acting with the approval of the Cabinet.</p> <p>(2) The members of the Commission shall be—</p> <p>(a) the Permanent Secretary, Communications or representative <i>ex officio</i>;</p> <p>(b) an Attorney-at-law;</p> <p>(c) an Accountant or Economist;</p>	<p>Telecommunications Commission</p> <p>3. (5) A member of the Commission shall be eligible for reappointment, unless he has previously been removed under this section.</p> <p>(8) The Board is the governing body of the Commission.</p> <p>(9) The Commission shall provide for the establishment and maintenance of a Pension Scheme for the benefit of the Director General and his staff.</p> <p>(10) The Commission shall, to the extent that it considers it necessary to discharge its functions use credit in the form of a credit card to obtain goods and services on credit. The Minister acting with the approval of Cabinet shall</p>	<ul style="list-style-type: none"> • Subsection (5) amendment is required to bar someone caught by sub-s (4) from qualifying for reappointed. • New sub-s (8) is required to state that the Board is the governing body of the Commission. • New sub-s (9) is required to allow the Commission to 	<p>Section 3. Telecommunications Commission</p> <ul style="list-style-type: none"> • Subsection (5) will bar persons who are caught by subsection (4) but does not bar a person who was removed by an incoming government for any other reason from being reappointed in the future. This will strengthen the composition of the Board. • New sub-s (8) makes it clear that the Board collectively is the governing body of the Commission. This was taken from the Financial Services Commission Ordinance CAP. 16.01 (2014) section 6(1).

<p>(d) a technical person who has experience of, and shown capacity in telecommunications matters; and</p> <p>(e) two other persons. <i>(Amended by Ord. 10 of 2009)</i></p> <p>(3) The Minister, acting with the approval of Cabinet shall appoint a chairman of the Commission from among the members of the Commission.</p> <p>(4) A member shall be appointed to hold office for a period not exceeding five years, but may be removed by the Minister, acting with the approval of Cabinet, if, in the Minister's opinion, based on evidence provided to the Minister the member is guilty of misconduct or malfeasance.</p> <p>(5) A member of the Commission shall be eligible for reappointment.</p> <p>(6) A member of the Commission who directly or indirectly has a pecuniary interest in any matter under consideration by the Commission shall be bound to declare such interest and shall not participate in any vote regarding such matter.</p> <p>(7) The Commission shall be a body corporate having perpetual succession, a common seal and power to</p>	<p>determine the credit limit of any credit card to be issued.</p> <p>(11) The Minister, acting with the approval of the Cabinet, shall set—</p> <p>(a) the payments for the members of the Commission; and</p> <p>(b) the travel expenses to be paid to members.</p> <p>(12) Schedule 1 shall have effect with respect to the meetings and proceedings of the Commission.</p> <p>(13) Schedule 2 shall have effect with respect to the operations, staff and finances of the Commission.</p> <p>(14) The Board may appoint an employee of the Commission, other than the Director General, to act as secretary to the Board.</p>	<p>establish a pension scheme.</p> <ul style="list-style-type: none"> • New sub-s (10) is required to allow the Commission to obtain credit cards. • New sub-s (14) is required to allow the Board to be able to select a secretary other than the Director General. 	<ul style="list-style-type: none"> • New sub-s (9): this will provide the Commission with the authority to establish a pension fund for its staff. Adapted with modification from the Financial Services Commission Ordinance CAP. 16.01 (2014) section 12(d). • New sub-s (10): this will provide the authority for the Commission to obtain a credit card which is needed for instances where a credit card must be used such as in the travel industry and online payments for certain services. This was taken from the Financial Services Commission Ordinance CAP. 16.01 (2014) section 18 with modification. • New sub-s (14) will remove the secretary role from the Director General, thereby freeing the Director General time up to focus on giving advice and delivering reports. • New sub-s (14) was derived from the Financial Services Ordinance section 9(3).
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<p>acquire, hold and dispose of land and other property.</p> <p>(8) The Minister, acting with the approval of the Cabinet, shall set—</p> <p>(a) the payments for the members of the Commission;</p> <p>and</p> <p>(b) the travel expenses to be paid to members.</p> <p>(9) Schedule 1 shall have effect with respect to the meetings and proceedings of the Commission.</p> <p>(10) Schedule 2 shall have effect with respect to the operations, staff and finances of the Commission.</p>			
<p>Functions of Commission</p> <p>4. (1) The functions of the Commission are—</p> <p>(a) to carry out the functions conferred on it by this Ordinance;</p> <p>(b) to advise the Minister on telecommunications;</p> <p>(c) to regulate telecommunications in the Islands in accordance with the policy guidelines published in the <i>Gazette</i> from time to time and in accordance with the principle of technological neutrality;</p>	<p>Functions of Commission</p> <p>4. (7) The chairman of the Commission shall affix his signature and the date of issuance on all licences granted by the Commission under this Ordinance.</p>	<ul style="list-style-type: none"> • New sub-s (7) is required to reduce the time it takes to issue a license. 	<p>Section 4. Functions of Commission</p> <ul style="list-style-type: none"> • New sub-s (7): this will allow the Chairman to sign off on licenses thereby reducing the turnaround time to issue a license. In the past, considerable time elapsed between the finalization of a license and the Minister’s signature being affixed on the license. • This will also eliminate the time taken to obtain the Minister’s signature thereby reducing the Minister’s workload.

<p>(d) to facilitate, maintain and promote effective and sustainable competition in telecommunications;</p> <p>(e) to set standards for the quality of telecommunications services to be delivered to the public;</p> <p>(f) to promote the interests of consumers and to encourage licensees to operate efficiently;</p> <p>(g) to publish information, reports or other documents;</p> <p>(h) to carry out investigations and hold enquiries with respect to any matter in relation to its functions or duties under this Ordinance;</p> <p>(i) to give advice and directions to a licensee with respect to anti-competitive practice or behaviour;</p> <p>(j) to prescribe standards for the protection of consumers and the public;</p> <p>(k) to instruct the Director General to conduct research into the quality and standard of service of a licensee, and into tariffs or any anti-competitive behaviour;</p>			
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<p>(l) administer such of its own databases or other information or administrative or operational systems as it considers necessary in relation to the discharge of its functions; and</p> <p>(m) to carry out such other functions as may be necessary for the purpose of discharging its functions under this Ordinance.</p> <p>(2) The Commission, for the purposes of carrying out investigations or holding an enquiry under subsection (1) or for the purpose of conducting any hearing or making any decision or order under this Ordinance—</p> <p>(a) may receive and consider any material whether by way of oral evidence, written statements, documents or otherwise, notwithstanding that such material would not be admissible as evidence in a court of law in civil or criminal proceedings;</p> <p>(b) may determine the manner in which such material shall be received and what</p>			
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<p>persons or class of persons shall be permitted or required to give evidence;</p> <p>(c) may require any person who wishes to give evidence before the Commission to submit a summary in writing of the evidence proposed to be given;</p> <p>(d) may summon any person, in the prescribed form and manner, to attend to give evidence or to produce any article or document;</p> <p>(e) may administer oaths and affirmations;</p> <p>(f) may examine on oath, affirmation or otherwise any person attending before the Commission and require such person to answer all questions put by or with the consent of the Commission, and produce any article or document in his possession or under his control;</p> <p>(g) may reimburse any private individual (which for the avoidance of doubt shall not include any commercial parties) attending before the</p>			
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<p>Commission such compensation as in the opinion of the Commission represents the loss to that private individual occasioned by the time spent in such appearance before the Commission;</p> <p>(h) may prescribe rules which prohibit the disclosure or publication by any person attending before the Commission, or by any member or staff of the Commission, of all or part of any material received by the Commission;</p> <p>(i) shall determine the procedure to be followed at the inquiry and the form of any summons, warrant, or other document to be made or issued by the Commission;</p> <p>(j) shall observe the principles of procedural fairness and natural justice; and</p> <p>(k) shall publish in a local newspaper circulating in the Islands the procedure to be followed when making</p>			
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<p>applications for licences under this Ordinance including any applicable licensing criteria.</p> <p>(3) Any person whose conduct is the subject of an inquiry, or who is implicated or concerned in the subject matter of the inquiry, shall, subject to section 5, be entitled to be represented by an Attorney-at-law at the inquiry.</p> <p>(4) For the purpose of subsection (3), the Commission shall determine whether the conduct of any person is the subject of the inquiry or whether a person is in any way implicated or concerned in the subject matter of the inquiry.</p> <p>(5) The Commission may delegate to any person including the Director General such of its investigating or reporting functions as the Commission may unanimously decide, except essential decision making functions including the making of orders.</p> <p>(6) The Commission shall in the performance of its functions act in a fair and an impartial manner.</p>			
<p>Director General 6. (1) The Minister, acting with the approval of the Cabinet, shall appoint a</p>	<p>Director General Amend section 6(2)(a) by repealing it and adding:</p>		<p>Section 6. Director General</p>

<p>Director General of Telecommunications.</p> <p>(2) The functions of the Director General are—</p> <p>(a) to act as secretary to the Commission;</p> <p>(b) to report to the Commission the findings of any research conducted by him;</p> <p>(c) to take part in the deliberations of the Commission but without a right to vote;</p> <p>(d) to instruct a licensee to supply to him, not later than the end of the period of three months beginning with the day after the end of its financial year, a copy of its audited annual accounts and such return as he may instruct;</p> <p>(e) to carry out such duties as may be conferred on him by the Commission; and</p> <p>(f) to carry out such other duties as may be required by this Ordinance.</p> <p>(3) The Director General may have such staff as the Commission may specify.</p>	<ul style="list-style-type: none"> • The Director General shall be a full time officer and employee of the Commission. • The Director General shall be an <i>ex officio</i> member of the Board without any voting rights and shall be answerable to the Board for his acts and decisions. 	<ul style="list-style-type: none"> • These amendments are required to place the Director General in a better position to provide advice to the Board by freeing his time up while in board meetings. 	<ul style="list-style-type: none"> • This will place the Commission on par with other statutory bodies who have their most senior staff functioning as a member of the Board. • The first two bullet points were derived from the Airports Authority Ordinance section 14(2) and (3).
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PART III

TELECOMMUNICATONS NETWORK AND SERVICES

Original Ordinance Sections Wording	Proposed amendments	Why the amendments are required	Intend result of amendment
Islander control	Islander control		Section 9. Islander control

<p>9. (1) A person shall not obtain a licence under this Part unless the person satisfies the Commission that the person is owned or controlled by Islanders.</p> <p>(2) For the purposes of subsection (1), a person is owned or controlled by Islanders if in the case of a company—</p> <p>(a) not less than fifty-one per cent of the members of its board of directors are individual Islanders;</p> <p>(b) otherwise than byway of security only, not less than fifty-one per cent of the company’s voting shares issued and outstanding are owned by Islanders; and</p> <p>(c) the company is not otherwise controlled by persons that are not Islanders.</p> <p>(3) The Minister may exempt any person from subsection (1).</p> <p>(4) Subsection (1) shall not apply to a person listed in Schedule 3 who was legally authorised to provide a public telecommunications service or operate a public telecommunications</p>	<p>9. (6) A person who has been given an exemption under subsection (3) shall for the duration of the exemption notify the Commission within thirty (30) days of any changes—</p> <p>(a) in the persons who have a controlling interest in the body corporate;</p> <p>(b) in the persons in accordance with whose directions or instructions the directors of that body corporate are accustomed to act;</p> <p>(c) in the persons who are directors of the body corporate.</p> <p>(7) A person who fails to comply with subsection (6) commits an offence and is liable on summary conviction to a fine of \$30,000.</p>	<ul style="list-style-type: none"> • New sub-s (6) is required to ensure that affected licensees provide pertinent information for the Commission to be able to monitor any exemption granted. • New sub-s (7) is required so a fine can be levied if sub-s (6) is not adhered to. 	<ul style="list-style-type: none"> • New sub-s (6) places a requirement on the person granted an exemption to report any board changes to the Commission thereby enabling the Commission to effectively monitor the Islander control clause. • New sub-s (7) sets a fine for breach of subsection (6) thereby discouraging licensees from not disclosing changes in their board structure. • New sub-ss (6) and (7) are taken from the Business Licensing Ordinance CAP. 17.02 (2018) sub-ss 8(2) and (3) respectively.
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<p>network, on or before the coming into force of this Ordinance.</p> <p>(5) After the expiration of a licence granted under this Ordinance to a person listed in Schedule 3, the provisions of subsection (1) shall apply. <i>(Rectified by L.N. 16/2017)</i></p>			
<p>Fees</p> <p>12. (1) The prescribed fees payable under section 11(4) shall be in respect of the year commencing on the date on which the licence comes into force.</p> <p>(2) The prescribed fees under section 11(4) shall be payable for each year for which the licence is in force and such fee shall be due on each anniversary of the date on which the licence was issued.</p>	<p>Fees</p> <p>12. (1) The prescribed fees payable under section 11(4) shall be in respect of the year commencing on the date on which the licence comes into force to the 31 March next following</p> <p>(2) The prescribed fees under section 11(4) shall be payable for each year for which the licence is in force and such annual fee shall be due 1 April following the grant of the licence subject to the following:</p> <p>(a) the initial fee for the grant of a license coming into force on October 1 or later and the first annual renewal fee thereof must be paid in full; and</p> <p>(b) All license renewal fees beginning with the second annual renewal fee are to be paid in full.</p>	<ul style="list-style-type: none"> • Subsections (1) and (2) and new sub-s (2)(a) amendments are required to bring licenses in force period, and annual license fees payment periods in line with the Commission’s financial year period. • New sub-s (2)(b) is required to legitimize the practice of allowing network 	<p>Section 12. Fees</p> <ul style="list-style-type: none"> • Subsection (1) sets March 31 as the end of a license in force period. • Subsection (2) sets the renewal date for annual license renewal to April 1. • New sub-s (2)(a) makes it very clear that fees are to be paid in full for the initial and first renewal periods. • The first annual renewal fee is to be paid in full to compensate for the shorten initial grant of license period for licenses granted in May to December of the same year and January to March of the following year. • New sub-s (2)(b) makes provision to allow payments on a monthly or quarterly period basis from the second annual renewal period although increasing the risk that the TCIG may not recover the full year’s payment due in the case of a licensee bankruptcy, will allow the licensees who are

	<p>but the Minister on advice of the Commission may allow for annual license renewal fees greater than \$10,000 in aggregate value to be paid on a monthly basis.</p>	<p>licensees to pay their license fees in monthly installments.</p>	<p>obligated to make substantial payments, to spread those payments out thereby making them more manageable. This is the current practice extended to the network licensees although the Ordinance and Regulations do not make provision for this, (i.e., it is in breach of the Ordinance), and this amendment will simply regularize it.</p> <ul style="list-style-type: none"> • Subsections 1 and 2 amendments wording were taken from the Business Licensing Ordinance CAP. 17.02 (2018) Business Licensing Regulations, Schedule 2, paragraph 2(2) with some modification.
<p>Grant of licence</p> <p>13. (1) An application for a licence under this Part shall be made to the Commission which shall forward the application along with its recommendations to the Minister.</p> <p>(2) Where the Minister is satisfied that an application for a licence complies with the provisions of this Ordinance in relation to the licence for which application is being made, the Minister, on terms and conditions as</p>	<p>Grant of licence</p> <p>13. (3) A licence granted under this Part shall continue in force for a period of ten years. This period may be shorter due to the prorating of the initial grant year to align the license annual renewal date with 1 April next following unless previously revoked in accordance with a condition contained in the licence or under this Ordinance.</p>	<ul style="list-style-type: none"> • Subsection (3) amendment is required to reduce the in force period of a license issued under Part III to ten years. 	<p>Section 13. Grant of licence</p> <ul style="list-style-type: none"> • Subsection (3) amendment will reduce the license in force period from fifteen to ten years and make provision for the license in force period to be less than or equal to ten years depending on the date the license was issued on in relation to March 31. • Reducing the license duration to 10 years should be acceptable now that the major network licensees have already had an extended time due to the original

<p>recommended by the Commission, may grant the licence to the applicant.</p> <p>(3) A licence granted under this Part shall continue in force for a period of fifteen years unless previously revoked in accordance with a condition contained in the licence or under this Ordinance.</p> <p>(4) A licensee shall commence business not later than the end of the period specified for commencement by the Minister in the licence.</p> <p>(5) A licensee shall comply with the terms and conditions of the licence and all applicable rules, orders, regulations or decisions of the Commission.</p> <p>(6) Where the Minister refuses to grant a licence under this Ordinance, the reasons for the refusal shall be made known to the applicant on request.</p>			<p>15 years duration licence to establish themselves and make a profit.</p> <ul style="list-style-type: none"> • By shortening the duration period to 10 years allows the Commission and government the flexibility to respond to any rapid change in technology or other telecommunication practice. • Ten years duration allows for an earlier review of the license and the opportunity to deal with unresolved issues more quickly.
<p>Renewal of licence</p> <p>21. (1) The Commission shall automatically renew licences granted under this Ordinance for a period equivalent to the first licence granted unless—</p>	<p>Renewal of licence</p> <p>21. (1) A licensee shall prior to the expiration of its license in force period apply to the Commission for renewal thereof within such period as determine by Regulations.</p>	<ul style="list-style-type: none"> • New sub-s (1) amendment is required to ensure licensees submit an application to the Commission to renew 	<p>Section 21 Renewal of licence</p> <ul style="list-style-type: none"> • New sub-s (1) makes it clear that a licensee is required to submit a renewal of license application before the expiration of a license in force period.

<p>(a) the licensee failed to operate within the terms of the first licence;</p> <p>(b) the licensee failed to comply materially with any of the provisions of this Ordinance made hereunder or the terms and conditions of the licence;</p> <p>(c) the licensee failed to comply materially with any lawful direction of the Commission; or</p> <p>(d) in the case of a licence or service provider, the Commission has determined that it is not in the public interest to renew the licence and has given notice not less than three years before the expiration of the licence that the licence will not be renewed.</p> <p>(2) Before determining not to renew a licence pursuant to subsection (1), the Commission shall give the licensee adequate advance notice, which, shall, except as provided for in subsection (1)(d), not be less than one hundred and eighty days, in writing of its intention not to renew such licence, specifying the grounds on which it</p>	<p>(2) The Commission shall renew licences granted under this Ordinance unless—</p> <p>(a) the licensee failed to operate within the terms of the previous licence;</p> <p>(b) the licensee failed to comply materially with any of the provisions of this Ordinance or Regulations made hereunder or the terms and conditions of the licence;</p> <p>(c) the licensee failed to comply materially with any lawful direction of the Commission; or</p> <p>(d) in the case of a licence or service provider, the Commission has determined that it is not in the public interest to renew the licence and has given notice not less than three years before the expiration of the licence that the licence will not be renewed.</p> <p>(3) Before determining not to renew a licence pursuant to subsection (2), the Commission shall give the licensee adequate advance notice, which, shall, except as provided for in subsection</p>	<p>the in force period of their soon to be expire license in force period and to remove the term “the Commission shall automatically renew licenses”.</p> <ul style="list-style-type: none"> • Subsection (2)(b) amendment is required to include the words “or Regulations”. • Subsection (3) amendment is required to change the subsection 	<ul style="list-style-type: none"> • New sub-s (4) separates the period the license will be granted for from sub-s (2) for clarity. • It also links the duration of any license in force renewal period to that of s (13) and not the former license.
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<p>proposed to not renew, and shall give the licensee the opportunity to present its views; and to submit to the Commission within such time as the Commission may specify a written statement of objections to the decision not to renew the licence which the Commission shall take into account before reaching a decision on renewal.</p>	<p>(2)(d), not be less than one hundred and eighty days, in writing of its intention not to renew such licence, specifying the grounds on which it proposed to not renew, and shall give the licensee the opportunity to present its views; and to submit to the Commission within such time as the Commission may specify a written statement of objections to the decision not to renew the licence which the Commission shall take into account before reaching a decision on renewal.</p> <p>(4) The renewed license shall be granted for a period equivalent to the period prescribed in section 13.</p>	<p>references to subsection (2).</p> <ul style="list-style-type: none"> New sub-s (4) amendment is required to link the in force period of a renewed license to s (13) and not the previously issued license. 	
<p>PART IV SPECTRUM MANAGEMENT</p>			
<p>Recover cost</p> <p>34. (1) The prescribed fees payable under section 33(2) shall be in respect of the year commencing on the date on which the licence comes into force.</p> <p>(2) The prescribed fees under section 33 may enable the Commission</p>	<p>Recover cost</p> <p>34. (1) The prescribed fees payable under section 33(3) shall be in respect of the period from such grant of a license to the 31 March next following and such annual renewal fees shall be due on 1</p>	<ul style="list-style-type: none"> Subsection (1) and new sub-s (1)(a) amendments are required in order to bring the licenses in force period, and 	<p>Section 34. Recover cost</p> <ul style="list-style-type: none"> Subsection (1) sets March 31 as the end of a license period and April 1 as the renewal date for annual license renewal.

<p>to recover an amount in excess of the amounts under subsection (1) to reflect the market value of the licence granted.</p> <p>(3) In making regulations under section 33 the Governor may have regard to—</p> <p>(a) the extent of the part of the spectrum available for use under the licences granted;</p> <p>(b) the demand and likely future demand for use of that part of the spectrum;</p> <p>(c) the need to promote efficient use of the spectrum and competition in the provision of spectrum based services; and</p> <p>(d) the likely economic benefits available to licensees.</p>	<p>April following the grant of the licence subject to the following:</p> <p>(a) the initial fee for the grant of the license coming into force on October 1 or later and the first annual renewal fee thereof must be paid in full;</p> <p>(b) All license renewal fees beginning with the second annual renewal fee are to be paid in full, but the Minister on advice of the Commission may allow for annual license renewal fees greater than \$10,000 in aggregate value to be paid on a monthly basis.</p>	<p>annual license fees payment periods in line with the Commission’s financial year period.</p> <ul style="list-style-type: none"> • New sub-s (1)(b) is required to legitimize the practice of allowing network licensees to pay their license fees in monthly installments. 	<ul style="list-style-type: none"> • New sub-s (1)(a) makes it very clear that fees are to be paid in full for the initial and first renewal periods. • The first annual renewal fee is to be paid in full to compensate for the shorten initial grant of license period for licenses granted in October to March of the following year. • New sub-s (1)(b) makes provision to allow payments on a monthly or quarterly period basis from the second annual renewal period although increasing the risk that the TCIG may not recover the full year payment due in the case of a licensee bankruptcy, will allow the licensees who are obligated to make substantial payments, to spread those payments out thereby making them more manageable. This is the current practice extended to the network licensees although the Ordinance and Regulations do not make provision for this, (i.e., it is in breach of the Ordinance), and this amendment will simply regularize it. • Subsection (1) was taken from the Business Licensing Ordinance CAP. 17.02 (2018) Business Licensing Regulations, Schedule 2 paragraph 2(2) with some modification.
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<p>Grant of spectrum licence</p> <p>35. (1) In considering whether to grant a spectrum licence the Commission shall have regard to the spectrum plan under section 40.</p> <p>(2) Where the Commission is satisfied that the applicant complies with the provision of this Ordinance in relation to a spectrum licence, the Commission may, on such terms and conditions as it thinks fit, grant the licence to the applicant.</p> <p>(3) A spectrum licence shall continue in force for the period specified in the licence, unless previously revoked under this Ordinance or under a condition contained in the licence.</p> <p>(4) A licensee shall comply with the conditions of the licence and with all applicable rules, orders, decisions of the Commission and regulations made pursuant to this Ordinance.</p>	<p>Grant of spectrum licence</p> <p>35. (3) A spectrum licence shall continue in force for the period specified in the licence, which for network or service licensee shall not exceed ten (10) years duration or the in force period of any network or service license issued to a licensee and for non-network or service licensee shall not exceed five (5) years duration, unless previously revoked under this Ordinance or under a condition contained in the licence.</p>	<ul style="list-style-type: none"> • Subsection (3) amendment is required to set a maximum license in force period for spectrum licenses. • It is also required to separate spectrum license in force period into two categories with different durations, one for network licensees' spectrum license and the other for non-network licensees' spectrum licenses. 	<p>Section 35. Grant of spectrum licence</p> <ul style="list-style-type: none"> • Subsection 3 sets the duration of a network or service licensee spectrum license duration to match that of the network or service license. • Subsection 3 also sets non-network or service licensee spectrum license duration to five years. This will allow the Commission to better regulate the broadcasting radio stations spectrum as this area is more fluid and less financial stable than the network or service area. • This will preclude the Commission from issuing 10 years in force license period for low value spectrum license such as radio broadcasting. • It will also allow for better management of these small licensees in regard to fee payment.
<p>PART VII INVESTIGATION, APPEALS AND ENFORCEMENT</p>			
<p>Suspension and revocation of licence</p> <p>53. (1) Where the Commission has reason to believe that a licensee has</p>	<p>Suspension and revocation of licence</p> <p>53. (1) Where the Commission has reason to believe that a licensee has</p>		<p>Section 53. Suspension and revocation of licence</p>

<p>contravened any provision of this Ordinance or the conditions of the licence, the Commission shall give to the licensee notice in writing—</p> <p>(a) specifying particulars of such contravention;</p> <p>(b) requiring the licensee to justify its actions to the Commission or otherwise take such remedial action as may be specified in the notice.</p> <p>(2) Before the Commission issues any notice under subsection (1) the Commission shall first send a copy of the notice to the Minister for his decision.</p> <p>(3) Where a licensee fails to comply with any requirements of a notice under subsection (1), the Commission may—</p> <p>(a) on the first occasion of such failure suspend the licence for a period not exceeding three months; or</p> <p>(b) if the failure occurs on any second or subsequent occasion, suspend the licence for such period as the Commission considers</p>	<p>contravened any provision of this Ordinance or the conditions of the licence, the Commission shall give to the licensee notice in writing—</p> <p>(a) specifying particulars of such contravention;</p> <p>(b) requiring the licensee within 30 days to justify its actions to the Commission or otherwise take such remedial action as may be specified in the notice.</p> <p>2) Repealed. <i>[If the Cabinet desires subsection 2 reinstated then section 2 should be worded in this or similar manner: “Before the Commission issues any notice under subsection (1) to licensees whose network licence, service licence, or spectrum licence in aggregate exceeds \$10,000 in value, the Commission shall first send a copy of the notice to the Minister for his decision.”]</i></p>	<ul style="list-style-type: none"> • Subsection (1)(b) amendment is required to set a time frame in which a licensee is required to respond to a notice given under this section. • Subsection (2) amendment is required to repeal sub-s (2) or to amend it to grant the Commission the ability to suspend or revoke low value licenses without notifying the Minister before doing so. 	<ul style="list-style-type: none"> • Subsection (1)(b) will allow for a 30 days’ notice to licensees before suspension of spectrum license under subsection 3, similar to the Business Licensing Ordinance CAP. 17.02 (2018) section 12(2). • This will remove the technicality of determining what is a reasonable time to allow for the notice. • The original sub-s (2) is repealed to allow the Commission to manage smaller licensees accounts with aggregate license value of \$10,000 or less more efficiently. Additional text is included as a proposed amendment to the original sub-s (2) text should Cabinet want to reinstate the original sub-s (2). • Reduces the number of notices being sent to the Minister. • Eliminate the response wait time. • Removes the Minister from the management of small licensee accounts, thereby freeing up his/her time. • New sub-s (3)(b) makes it clear the Commission can act after the 30 days period has elapsed. • Subsection (4)(g) makes it clear that a licensee license can be suspended or
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<p>appropriate, or revoke the licence.</p> <p>(4) Before suspending or revoking a licence under subsection (3), the Commission shall notify the licensee accordingly and shall afford the licensee an opportunity to show cause why the licence should not be suspended or revoked.</p> <p>(5) Subject to subsection (4), the Commission may suspend or revoke a licence, as the case may be, if, on its own initiative or on representations made by any other person, the Commission is satisfied that the licensee has—</p> <p>(a) knowingly made any false statement in an application for a licence or in any statement made to the Commission;</p> <p>(b) knowingly failed to provide information or evidence that would have resulted in refusal to grant a licence;</p> <p>(c) wilfully failed to comply with the terms and conditions of its licence;</p> <p>(d) wilfully contravened any provision of this Ordinance or any rules or</p>	<p>(2) Where a licensee fails to comply with any requirements of a notice under subsection (1), the Commission may—</p> <p>(a) on the first occasion of such failure suspend the licence for a period not exceeding three months; or</p> <p>(b) if the failure occurs on any second or subsequent occasion, suspend the licence for such period as the Commission considers appropriate, or revoke the licence.</p> <p>(3) Before suspending or revoking a licence under subsection (2), the Commission shall notify the licensee accordingly and—</p> <p>(a) shall afford the licensee an opportunity to show cause why the licence should not be suspended or revoked.</p> <p>(b) the licensee shall have 30 days from the date of the notice to respond, failure of which will result in the Commission suspending or revoking the licence.</p>	<ul style="list-style-type: none"> • Subsection (3) amendment is required to change the subsection reference to subsection (2). • New sub-s (3)(b) is required to set a duration of time after which the Commission can suspend or revoke a 	<p>revoked for failing to make payments in a timely manner for network license fees and spectrum license fees.</p>
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<p>regulations made thereunder;</p> <p>(e) provided services not authorised by its licence;</p> <p>(f) operated a telecommunications network without a carrier licence;</p> <p>(g) failed to make payments in a timely manner in connection with the provision of universal service obligation or in respect of the regulator fees imposed pursuant to section 47.</p> <p>(6) Before taking action under subsection (5) the Commission shall carry out such investigations as may be necessary and afford the licensee concerned an opportunity to be heard.</p> <p>(7) For the purpose of this section, the Commission may—</p> <p>(a) summon and examine witnesses;</p> <p>(b) call for and examine documents;</p> <p>(c) require that any document submitted be verified by affidavit;</p> <p>(d) adjourn any investigation from time to time.</p>	<p>(4) Subject to subsection (3), the Commission may suspend or revoke a licence, as the case may be, if, on its own initiative or on representations made by any other person, the Commission is satisfied that the licensee has—</p> <p>(a) knowingly made any false statement in an application for a licence or in any statement made to the Commission;</p> <p>(b) knowingly failed to provide information or evidence that would have resulted in refusal to grant a licence;</p> <p>(c) wilfully failed to comply with the terms and conditions of its licence;</p> <p>(d) wilfully contravened any provision of this Ordinance or any rules or regulations made thereunder;</p> <p>(e) provided services not authorised by its licence;</p> <p>(f) operated a telecommunications network without a carrier licence;</p> <p>(g) failed to make payments in a timely manner in connection with the</p>	<p>license under this section.</p> <ul style="list-style-type: none"> • Subsection (4) amendment is required to change the subsection reference to subsection (3). • Subsection (4)(g) amendment is required to add the 	
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<p>(8) If a person fails or refuses without reasonable cause, to furnish information to the Commission when required to do so, the Commission may apply to the Court for an order to compel the person to furnish the information to the Commission.</p>	<p>provision of universal service obligation, network licence fees, service licence fees, spectrum licence fees or in respect of the regulator fees imposed pursuant to section 47.</p> <p>(5) Before taking action under subsection (4) the Commission shall carry out such investigations as may be necessary and afford the licensee concerned an opportunity to be heard.</p> <p>(6) For the purpose of this section, the Commission may—</p> <p>(a) summon and examine witnesses;</p> <p>(b) call for and examine documents;</p> <p>(c) require that any document submitted be verified by affidavit;</p> <p>(d) adjourn any investigation from time to time.</p> <p>(7) If a person fails or refuses without reasonable cause, to furnish information to the Commission when required to do so, the Commission may apply to the Court for an order to compel the person to furnish the information to the Commission.</p>	<p>words “network licence fees, service licence fees and spectrum licence fees”.</p> <ul style="list-style-type: none"> • Subsection (5) amendment is required to change the subsection reference to subsection (4). 	
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<p>Appeals</p> <p>55. (1) The Minister, acting with the approval of the Cabinet, shall appoint a Telecommunication Tribunal to hear appeals under this Ordinance.</p> <p>(2) The Telecommunications Tribunal shall consist of a President who shall be a Judge of any Commonwealth country or a person qualified for appointment as a judge, and two other members, one of whom must have experience in telecommunications.</p> <p>(3) A member of the Tribunal may be appointed for a period of not less than five years; but may be removed by the Minister acting with the approval of the Cabinet, if there is reasonable evidence that the member has misconducted himself or is incompetent.</p> <p>(4) A member of the Tribunal shall be eligible for re appointment.</p> <p>(5) The Governor acting with the approval of the Cabinet shall set the payments and allowances for members of the Tribunal.</p> <p>(6) An appeal lies to the Telecommunication Tribunal from any decision made by the Minister or the Commission, including any decision</p>	<p>Appeals</p> <p>55. (2) The Telecommunications Tribunal shall consist of a President who shall be an Attorney-at-law of at least seven years standing, and two other members, one of whom must have experience in telecommunications.</p>	<ul style="list-style-type: none"> • Subsection (2) amendment is required to remove the requirement for the Telecommunications Tribunal to be staffed by a Judge as President and instead allow it to be staffed with an Attorney as President. 	<p>Section 55. Appeals</p> <ul style="list-style-type: none"> • Subsection (2) Allows the tribunal to be staffed with an Attorney-at law and two other members one of whom must have telecommunications related experience. • By replacing the Judge requirement with an Attorney-at law with seven years standing will allow the tribunal to be staffed locally. • Subsection (2) changes were taken from the Attorney General’s Chambers 9th December 2013 Telecommunications (Amendment) bill 2013. • Commissioner Capron has indicated that having a judge will provide more experience on the tribunal and perhaps, the Telecommunications Tribunal can convene on an ad hoc basis to hear appeals as required instead of being staff full time to reduce cost.
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made with respect to the revocation, suspension, or modification of a licence or any term or condition of a licence granted under this Ordinance.

(7) Notice of appeal shall be given to the Commission or the Minister as the case may be and the Telecommunications Tribunal within fourteen of the making of the decision complained of and the Tribunal shall set down the appeal for hearing within twenty-one days after receiving the notice of appeal.

(8) On the hearing of an appeal, the appellant and his representative and a representative of the Commission or the Minister as the case may be are entitled to appear and be heard and to make written submissions and also to be represented by an Attorney-at-law.

(9) Subject to this section, the Telecommunications Tribunal may regulate the procedure at the hearing of an appeal and shall make its decision in writing.

(10) Any person who is dissatisfied with any decision of the Telecommunications Tribunal under this section may apply to the Supreme Court for leave to review the decision of the Tribunal.

<p>Offence by body corporate</p> <p>60. Where an offence under this Ordinance is committed by a body corporate and it is proved that the offence has been committed with the consent or connivance of or is attributable to neglect by, a director, manager, secretary or other officer of the body corporate or a person purporting to act in such capacity, the officer or person as well as the body corporate shall be liable to be proceeded against and punished accordingly.</p>	<p>Offence by body corporate</p> <p>60. (2) For the purposes of this section, a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.</p>	<ul style="list-style-type: none"> • New sub-s (2) is required to clarify the definition of a director. 	<p>Section 60. Offence by body corporate</p> <ul style="list-style-type: none"> • This new sub-s (2) will capture individuals who are acting as shadow directors or at who's bidding the directors are acting from claiming they were not a director of the company. • It will also bring the Telecommunications Ordinance in line with the other legislation containing such a subsection. • The new sub-s (2) was taken from the Telecommunication Taxation Ordinance CAP. 14.03 (2018), section 13(2).
	<p>Making false statements, furnishing false information</p> <p>61. A person who, in connection with any application for a licence, knowingly makes any false or misleading statement or knowingly furnishes false or misleading information, commits an offence and is liable on summary conviction to a fine of \$5,000 or to imprisonment for 12 months or to both.</p>	<ul style="list-style-type: none"> • New section 61 is required to make provision for deterring persons from knowingly making or furnishing false or misleading statements or information to the Commission. 	<p>Proposed new section 61. Making false statements, furnishing false information</p> <ul style="list-style-type: none"> • This new section 61 will discourage persons from submitting misleading or false information to the Commission in connection with an application. • It will also bring the Telecommunications Ordinance in line with other legislation containing such a section.

			<ul style="list-style-type: none"> • Taken from the Business Licensing Ordinance CAP. 17.02 (2018) section 19 with modification.
PART VIII SUPPLEMENTARY			
Minister 61. (1) The Minister in carrying out his functions under this Ordinance may conduct inquiries. (2) All licences granted by the Commission under this Ordinance shall contain the signature of the Minister and the date of issuance.	Minister 62. (2) Repealed.	<ul style="list-style-type: none"> • Subsection (2) amendment is required to allow the Chairman of the Board to sign a network or service license instead of the Minister. 	Section 62. Minister <ul style="list-style-type: none"> • Subsection (2) repeal will remove the need for the Minister to sign each license certificate issued thus freeing up the Minister's time. • It will reduce the time needed to process each license certificate. • Much has changed since the 2004 Ordinance came into force and there are now many more licenses required to be sign. Having the Chairman sign the licenses will make for a smoother and more efficient process. • This will not relieve the Minister of the duty to authorize granting of the license under s 13.
	Fees Payable 67. (1) The Licensee under each licence issued under this Ordinance	<ul style="list-style-type: none"> • New section 67 is required to establish that prescribed fees are required to be paid and the 	New Section 67. Fees Payable <ul style="list-style-type: none"> • The Telecommunications Ordinance should clearly state that

	<p>shall pay to the Commission for the benefit of its revenues and the revenues of the Islands the fees prescribed upon the granting of the licence and on the 1st day of April in each and every year during the subsistence of the licence, the prescribed annual renewal fee.</p> <p>(2) The Licensee under each licence issued under this Ordinance shall pay to the Commission for the benefit of its revenues any prescribed regulatory fees as they become due.</p> <p>(3) Without prejudice to the power of the Commission to revoke a licence under this Ordinance, any licensee who fail to pay any fee payable under this section commits an offence and is liable on summary conviction to a fine of \$250 for network or service provider license holder(s) and \$50 for spectrum license holder(s) for each day during which such fee remains unpaid.</p>	<p>consequences for not paying the fees.</p>	<p>license fees are payable and the consequents of not paying such fees. By incorporating this new section, the Telecommunications Ordinance will be doing so.</p> <ul style="list-style-type: none"> • The Commission has experienced late or no payments in several cases and adding a section to address the collection of fees through court action explicitly should hopefully help to alleviate this problem. • This new section 67 was taken from the Banking Ordinance CAP. 16.02 (2018) section 32 with some modifications.
	<p>Fees Payment not to be withheld by Licensee</p>		<p>New Section 68. Fees Payment not to be withheld by licensee</p>

	<p>68. (1) If a licensee under this Ordinance is in a dispute with the Commission with respect to payment of any licence annual renewal fee, regulatory fee or any other prescribed fee which may become due, the licensee shall in any event continue to pay such fees as they fall due until the dispute is settled.</p> <p>(2) If such dispute is settled in favour of the licensee, the Commission will extend a credit that is equivalent to any outstanding balance owed to the licensee.</p>	<ul style="list-style-type: none"> • New section 68 is required to establish that licensees are required to pay license fees according to the Regulations even if a fee is disputed. 	<ul style="list-style-type: none"> • This new section 68 makes it clear that fee payments are not to be withheld by a licensee due to a dispute. • This is something that the Commission is still experiencing, and it can lead to a financial burden for a licensee when the dispute is settled in the Commission’s favor, if the licensee did not account for the accumulated payments. • It forces the licensee to try and resolve the issue as quickly as possible instead of avoiding it for as long as possible. • Reduces the chance of the government being asked by a licensee to waiver unpaid outstanding fees.
	<p>Outstanding fees recoverable in civil proceedings</p> <p>69. Without prejudice to any other action, the Attorney General may, on behalf of the Crown or the Commission may, institute civil proceedings in the Magistrate’s Court or Supreme Court against any person for the recovery of any fees and penalty fees payable under this</p>	<ul style="list-style-type: none"> • New section 69 is required to make it clear that the Commission can institute civil proceedings against a licensee to collect unpaid fees. 	<p>New Section 69. Outstanding fees recoverable in civil proceedings</p> <ul style="list-style-type: none"> • This makes it clear that the Attorney General or the Commission can bring proceeding to collect unpaid debt. • Taken from the Business Licensing Ordinance CAP. 17.02 (2018) section 22 with modifications.

	<p>Ordinance as a debt due to the Crown or the Commission.</p>		
<p>Regulations</p> <p>65. (1) The Governor, acting with the approval of Cabinet, may make regulations for giving effect to the provisions of this Ordinance.</p> <p>(2) Without derogating from the generality of the power conferred by subsection (1), such regulations may provide for—</p> <p>(a) the matters which are required or permitted by this Ordinance to be prescribed or which appear to him to be necessary or desirable to be prescribed for the purpose of giving effect to this Ordinance;</p> <p>(b) forms to be used for any purpose of this Ordinance;</p> <p>(c) fees payable under this Ordinance;</p> <p>(d) the application of any rule of the International Telecommunications Convention to any provision of this Ordinance;</p>	<p>Regulations</p> <p>70. (2) Without derogating from the generality of the power conferred by subsection (1), such regulations may provide for—</p> <p>(d) fines and penalty fees payable in respect of any matter or thing done under this Ordinance and penalties for late payment of fees;</p> <p>(e) prescribing offences against the regulations and the penalties respecting the offences;</p>	<ul style="list-style-type: none"> Section 70 new sub-ss (2)(d) and (e) are required to make provision for regulations to prescribe penalty fees and offences against the regulations. 	<p>Section 70. Regulations</p> <ul style="list-style-type: none"> New sub-ss (2)(d) and (e) provides the authority for the Commission to charge Licensees late payment fees. The Commission has experienced late payments in many cases and adding the authority for the Commission to charge interest on late payments should hopefully help to incentivized Licensees to pay on time. Subsections (2)(d) and (e) amendments respectively were taken from the Business Licensing Ordinance CAP. 17.02 (2018) section 24(c) and (d).

<p>(e) procedures to be followed under the Ordinance;</p> <p>(f) interconnection agreements and dispute resolution process in relation to interconnection;</p> <p>(g) specifying rights of subscribers including access by subscribers to information or data in relation to subscribers telephone bills;</p> <p>(h) amending any Schedule of this Ordinance;</p> <p>(i) the licensing of persons to distribute, lease, offer for sale, sell or import for sale any telecommunications apparatus or radio-communications apparatus;</p> <p>(j) the alteration and regulation of lines or works of a licensee where this is necessary for the building or widening of any street, road or highway;</p>			
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<p>(k) fees payable with respect to numbers;</p> <p>(l) terms, conditions and all matters in relation to interconnection costs and access deficit charge; and</p> <p>(m) any purpose which may be necessary or expedient for giving full effect to the provision of this Ordinance.</p>			
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ANNEX 2

TURKS AND CAICOS ISLANDS TELECOMMUNICATIONS (FEE STRUCTURE) REGULATIONS 2020

Original Regulations Wording	Proposed amendments	Why the amendments are required	Intend result of amendment
<p>Time for payment of fees</p> <p>7. (1) Any initial fee payable pursuant to these Regulations shall be paid within two weeks of the licensee being informed in writing of the grant of licence.</p> <p>(2) The renewal of licence fee shall be payable in each year following the grant of the licence.</p>	<p>Time for payment of fees</p> <p>7. (2) Where the initial fee is not paid in full within two weeks of the licensee been notified in writing of the grant of licence, the license granted shall be withdrawn and cancelled</p> <p>(3) The renewal of licence(s) pursuant to these Regulations are due annually and shall be payable in each year following the grant of the licence and shall be paid on or within two weeks of 1 April of each year –</p> <p>(a) when any licence is initially granted, the annual fee payable for the initial year of the licence existence shall be the relevant annual fee, pro-rated from the month in which the</p>	<ul style="list-style-type: none"> • New regulation 7(2) is required to withdraw and cancel any license granted to a licensee which was not paid for within the prescribed period. • Regulation 7(3) amendment is required to set the period for when payment of license fees should be paid. • New regulation 7(3)(a) is required to prorate the fees from the date of grant to March 31st of the year following. 	<p>Regulation 7. Time for payment of fees</p> <ul style="list-style-type: none"> • New sub-reg (2) makes it clear an issued license will be withdrawn and cancel if not paid within the prescribed time. • Subregulation (3) will allow for the alignment of a license renewal yearly payment period with the Commission’s and the TCIG financial year and allow for better budget planning. • This change brings it in line with the Ordinance amendment. • New sub-reg (3)(a) sets the pro-rating procedure to align the initial issue of a licence to expire on March 31. • New sub-reg (3)(a) was taken from the Trust Companies (Licensing and Supervision) Ordinance CAP 16.11 (2018), Trust Companies

	<p>licence is granted to the following 31 March, counting part of a month as one month for the purpose of calculating the fee.</p> <p>(b) The initial grant of license fee, and for licenses granted on October 1 or later the initial grant of license fee and the first year's annual renewal fee, shall be paid in full as they fall due.</p> <p>(c) when permitted, the second and subsequent years' annual renewal fees are to be paid monthly at the end of each month.</p> <p>(d) all annual renewal fees paid as a percentage of gross revenue shall be adjusted at the financial year end</p>	<ul style="list-style-type: none"> • New regulation 7(3)(b) is a repeat of what is in the Ordinance s 13 and s 34 but is required for completeness of the Fee Structure Regulations. • New regulation 7(3)(c) is required to set the time for payment of monthly fees where allowed. • New regulation 7(3)(d) is required to allow for yearend fee adjustment based on audit reports and to set the date for when such adjustment payments are due. 	<p>Regulations, Schedule 2, paragraph 6 with some modification.</p> <ul style="list-style-type: none"> • New sub-reg (3)(a) sentence partial line 3 and line 4 were taken from the Business Licensing Ordinance CAP. 17.02 (2018), Business Licensing Regulations, Schedule 2, paragraph 2(2). • New sub-reg (3)(c) makes it clear that when licence fees are allowed to be paid in installments the payments are to occur at the end of each monthly period. • Requesting payment in full at the end of each month will exposed the Commission to the risk that a licensee may default due to bankruptcy and not make the payment obligation at the end of the monthly period. However, this proposed payment plan is in line with existing practice where licenses are paid at the end of each monthly period. • It will allow the TCIG to budget for a steady stream of income. • Allowing payments on a monthly period basis although increasing the risk that the TCIG may not
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	<p>based on the audit report of that financial year which is to be provided once the Licensee's accounts have been audited. The adjustment payment or credit is to take place within one month of receipt of the audit report by the Commission.</p> <p>(e) where a license annual renewal fee has not been paid in full or not paid for the agreed period within four (4) weeks pass the due date (1 April in each year or the beginning of the agreed period for installment payments) the fee, or that part of the fee remaining unpaid for the period, shall be increased by two (2) percent simple interest for the time during</p>	<ul style="list-style-type: none"> • New regulation 7(3)(e) is required to charge licensees a late fee on overdue unpaid fees. 	<p>recover the full year payment due in the case of a licensee bankruptcy, will allow the licensees who are obligated to make substantial payments, to spread those payments out thereby making them more manageable.</p> <ul style="list-style-type: none"> • The Commission currently collects network renewal license fees on a monthly basis at the end of the month from network or service Licensees although the Ordinance and Regulations do not make provision for this, (i.e., it is in breach of the Ordinance), and this amendment will simply regularize it. • New sub-reg (3)(e) provides for the charging of a 2% charge on all late payments of fees. • New sub-reg (3)(e) was taken from the Business Licensing Ordinance CAP. 17.02 (2018) Business Licensing Regulations, Schedule 2, paragraph 2(3) with some modification. • The Commission has experienced late payments in many cases and adding a regulation to allow for interest to be charge on late
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	<p>which the fee remains unpaid.</p> <p>(4) The Minister on advice of the Commission may allow for a Licensee to pay its Regulatory fees on a monthly basis based on the Licensee's unaudited financial accounts. Such payments shall be reconciled at the financial year end within one month of receipt of the Licensee's audit financial accounts by the Commission. Such fees shall be paid monthly at the end of each month and is subject to a two (2) percent simple interest late fee charge if paid four (4) weeks or later pass the due date.</p>	<ul style="list-style-type: none"> • New regulation 7(4) is required to allow the payment of regulatory fees on a monthly basis. It also sets the time of payment of the fee and provision for a late fee on overdue unpaid fees. • Note: section 47 of the Ordinance may have to be amended to allow monthly payments under new regulation 7(4). 	<p>payments should hopefully help to incentivized Licensees to pay on time.</p> <ul style="list-style-type: none"> • New sub-reg (4) allows for the payment of a Licensee regulatory fees on a monthly basis instead of at the end of the year as it is currently mandated by the Ordinance and makes provision for a late payment fee. • The Commission currently collects Licensees regulatory fees on a monthly basis at the end of each month from network or service Licensees although the Ordinance and Regulations do not make provision for this, (i.e., it is in breach of the Ordinance), and this amendment will simply regularize it. <p>Note: These fees are not mandatorily applied, the carriers can decide whether to exposed themselves or not to the fees base on their payment behavior.</p>
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ANNEX 3

TURKS AND CAICOS ISLANDS TELECOMMUNICATIONS (TELECOMMUNICATIONS AND FREQUENCY LICENSING) REGULATIONS 2005

PART II APPLICATIONS FOR LICENCES

Original Regulations Wording	Proposed amendments	Why the amendments are required	Intend result of amendment
<p>Application procedure</p> <p>4. (1) Any person required to obtain a licence shall apply to the Commission in such form as may be prescribed.</p> <p>(2) The Commission shall cause to be published in the <i>Gazette</i> a notice that an application for a licence has been received by the Commission and that it is available for public scrutiny at the offices of the Commission.</p> <p>(3) Except with respect to applications for special licences, the Commission shall afford interested parties a specified period during which they may submit written representations on applications for</p>	<p>Application procedure</p> <p>4. (1) Any person required to obtain a licence under Part III and Part IV of the Ordinance shall apply to the Commission in such form as may be prescribed.</p> <p>(2) An application for a network or service license shall remain valid for a period of one (1) year from the date of the application.</p> <p>(3) An application for a spectrum license shall remain valid for a period of three (3) months from the date of the application.</p> <p>(4) The Commission shall cause to be published in the <i>Gazette</i> a notice that an application for a licence has been received by the Commission and that it is available</p>	<ul style="list-style-type: none"> • Regulation 4(1) amendment is required to accommodate new regulation 9. • New regulations 4(2) and 4(3) are required to set an expiration time for applications. 	<p>Regulation 4. Application procedure</p> <ul style="list-style-type: none"> • Subregulation (1) makes it clear that it pertains to licenses under both Part III and Part IV of the Ordinance. • New sub-regs (2) and (3) sets a validity period for network or service and spectrum application respectively. This is required to eliminate situations where a licensee would submit an application and the licensing process becomes drawn out to over a year with the licensee not accepting the license. There is an instance where years later a licensee relied on a multiple years old application to obtain a license when the application may no longer

<p>licences, or otherwise consult with such persons in good faith.</p> <p>(4) The Commission may make a determination as to which application is required for any particular type or class of telecommunications network or telecommunications service.</p> <p>(5) The Commission shall forward to the Minister for decision any applications for licences under Part III of the Ordinance.</p>	<p>for public scrutiny at the offices of the Commission.</p> <p>(5) Except with respect to applications for special licences, the Commission shall afford interested parties a specified period during which they may submit written representations on applications for licences, or otherwise consult with such persons in good faith.</p> <p>(6) The Commission may make a determination as to which application is required for any particular type or class of telecommunications network or telecommunications service.</p> <p>(7) The Commission shall forward to the Minister for decision any applications for licences under Part III of the Ordinance.</p>		<p>be accurate due to the passage of time and changes in circumstances.</p>
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PART III

RENEWAL OF LICENCES IN FORCE PERIOD

	<p>License in force period renewal</p> <p>9. (1) A licensee shall within six (6) months prior to the expiration of its license in force period under Part</p>	<ul style="list-style-type: none"> • New regulation 9(1) is required to set the time for the submission of a renewal 	<p>New Regulation 9. License in force period renewal</p> <ul style="list-style-type: none"> • New sub-reg (1) provides for a licensee to begin the renewal
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	<p>III and Part IV of the Ordinance apply to the Commission for renewal thereof.</p> <p>(2) A licensee under Part III who fails to obtain a renewal of the in force period of its expired license or who fails to obtain a different category of license six (6) calendar months after the expiration of the most recent license in force period shall be subject to a late renewal fee equal to 2% of its annual license renewal fee for each subsequent calendar month that the licensee operates without a renewed license.</p> <p>(3) A licensee under Part IV who fails to obtain a renewal of the in force period of its expired license thirty (30) days after the expiration of the most recent license in force period shall be subject to a late renewal fee equal to 2% of its annual license renewal fee for each subsequent calendar month that the licensee operates without a renewed license.</p>	<p>application for a license under Part III and Part IV.</p> <ul style="list-style-type: none"> • New regulation 9(2) is required to set the time at which a licensee will be charged a late license renewal fee under Part III. • New regulation 9(3) is required to set the time at which a licensee will be charged a late license renewal fee under Part IV. 	<p>process of a soon to be expired license in force period within the last six (6) months of the existing licence in force period.</p> <ul style="list-style-type: none"> • New sub-regs (2) and (3) provides for a late renewal fee to be charge six months or thirty days respectively after a license renewal date has passed. This will incentivize licensees to renew their expired license in force period in a timely manner.
<p>End of all proposed amendments and comments to the Ordinance & supporting Regulations</p>			