



TURKS AND CAICOS ISLANDS

CHAPTER 14.02
TELECOMMUNICATIONS ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 March 2021

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance.

This edition contains a consolidation of the following laws—

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* Enabled under the Wireless Telegraphy Ordinance 2 of 1903, Cap 111, 1998, Revised Edition (*now Repealed*) and continued in force as if made under section 65 of this Ordinance, by virtue of section 66 of this Ordinance.

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CHAPTER 14.02

TELECOMMUNICATIONS ORDINANCE

(Ordinances 12 of 2004, 10 of 2009 and 13 of 2012)

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF A TELECOMMUNICATIONS COMMISSION; TO PROVIDE FOR THE FUNCTIONS OF THE COMMISSION; AND FOR CONNECTED PURPOSES.

Commencement

[20 August 2004]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Telecommunications Ordinance.

Interpretation

2. In this Ordinance—

“affiliate”, for the purposes of Part III, includes in relation to another company, a company which directly or indirectly controls, is controlled by or is under common control with, another company;

“broadcasting”, for the purposes of Part IV, means the transmission of programmes whether or not encrypted, by any means of telecommunications, for reception by the public, including sound, radio, television and other types of transmissions, such as those on a point to multipoint basis; *(Rectified by L.N. 16/2017)*

“bypass” means the commercial use or supply of—

- (a) the passing of an international voice service, including the carriage of reconstructable voice channel within a data or mixed voice/data service, without passing through the international gateway facilities of licensed telecommunications network operator;
- (b) the termination of international voice services over the domestic switched telecommunications network by a person who does not originate the call or possess a valid interconnection agreement with that domestic network operator with respect to international voice services; or
- (c) international simple resale, meaning the provision of international public telecommunications services to any person, with or without compensation, using a private line facility or service connected to the public telecommunications network without a

licence to provide an international public telecommunications service;

“carrier” means a person who has been granted a licence under this Ordinance to own and operate a telecommunications network;

“Chief Auditor” means the Chief Auditor appointed by the Governor under section 45 of the Finance and Audit Ordinance;

“Commission” means the Telecommunications Commission of the Turks and Caicos Islands established under section 3;

“confidential information” means information which is a trade secret or information which is financial, commercial, scientific or technical information that is treated consistently in a confidential manner by the person who submitted it; or information the disclosure of which could reasonably be expected to—

- (a) result in material financial loss or gain to any person;
- (b) prejudice significantly the competitive position of any person; or
- (c) affect contractual or other liabilities of any person;

“customer premises equipment” means telecommunications equipment and inside wiring located at a customer’s premises and connected to a public telecommunications network termination point;

“Director General” means the Director General of Telecommunications appointed under section 6;

“dominant”, for the purposes of Part III of this Ordinance, in relation to a licensee, 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 services;

“Governor” means Governor in Cabinet;

“interconnection” means the physical linking of public telecommunications networks to allow users of one licensed carrier to communicate with users of another licensed carrier;

“international service” means a telecommunications service between points in the Islands and points outside the Islands, or is passing in transit through the Islands and from or to ships at sea and small vessels in territorial waters;

“Islander” has the same meaning as in the Turks and Caicos Islander Status Ordinance;

“licensee” means a person who has been granted a licence under this Ordinance;

“message” means data, laser signal, sound, speech, video, visual image or writing or a combination of them;

“Minister” means the Minister responsible for Communications;

- “network termination point” means the network interface device designated by a carrier for connection by a customer of equipment to that carrier’s network;
- “public telecommunications network” means a network owned and operated by a carrier for the provision of public telecommunications services;
- “public telecommunications service” means a telecommunications service which is available to the public or to any part thereof, or to such classes of users as to be effectively available to the public including services provided to or managed by user groups which directly or indirectly share or access telecommunications services or network;
- “radio-communications” means the emitting or receiving, over paths which are not provided by a material substance and which are constructed or arranged for that purpose, of electromagnetic energy of a frequency which—
- (a) conveys messages whether or not received;
 - (b) actuates or controls machinery or apparatus; or
 - (c) is used in connection with the determination of position, bearing or distance or for the gaining of information as to the presence, absence, position or motion of an object or of a class of objects;
- “radio-communications apparatus” means apparatus for emitting or receiving radio-communications including apparatus in an aircraft, beacon, buoy, hovercraft, vehicle or vessel;
- “rate” means an amount of money or other consideration and includes a charge, fare, price, rental, toll or other compensation payable to a licensee for the use of his services;
- “regulated service” means a service designated by the Commission as a service of which the Commission approves the rates of the service;
- “service provider” means a person who has been granted a licence under this Ordinance to provide telecommunications services to the public;
- “spectrum” means the continuous range of electromagnetic wave frequencies from zero to infinity;
- “spectrum licence” means a licence granted under section 35;
- “subscriber” means a person who has entered into a contract with a telecommunications service provider for the use of a telecommunications service;
- “telecommunications” means any form of transmission, emission, or reception of signs, text, images and sounds or other intelligence of any nature by wire, radio, optical or other electromagnetic means;
- “telecommunications apparatus” means apparatus designed or adapted for use in conveying, emitting, receiving, switching or transmitting messages over a telecommunications network;

“telecommunications network” means any wire, radio, optical, or other electromagnetic system used to route, switch, or transmit telecommunications;

“telecommunications service” means a service consisting of—

- (a) conveying, emitting, receiving, switching or transmitting messages or having messages conveyed, emitted, received, switched or transmitted, by means of a telecommunications system; and
- (b) installing, maintaining, adjusting, repairing, altering, moving, removing or replacing telecommunications equipment which may be connected to a telecommunications system;

“universal service” means the services set out in section 30.

PART II

TELECOMMUNICATIONS COMMISSION AND DIRECTOR GENERAL OF TELECOMMUNICATIONS

Telecommunications Commission

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.

(2) The members of the Commission shall be—

- (a) the Permanent Secretary, Communications or representative *ex officio*;
- (b) an Attorney-at-law;
- (c) an Accountant or Economist;
- (d) a technical person who has experience of, and shown capacity in telecommunications matters; and
- (e) two other persons.

(Amended by Ord. 10 of 2009)

(3) The Minister, acting with the approval of Cabinet shall appoint a chairman of the Commission from among the members of the Commission.

(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.

(5) A member of the Commission shall be eligible for reappointment.

(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.

(7) The Commission shall be a body corporate having perpetual succession, a common seal and power to acquire, hold and dispose of land and other property.

(8) The Minister, acting with the approval of the Cabinet, shall set—

- (a) the payments for the members of the Commission; and
- (b) the travel expenses to be paid to members.

(9) Schedule 1 shall have effect with respect to the meetings and proceedings of the Commission.

(10) Schedule 2 shall have effect with respect to the operations, staff and finances of the Commission.

Functions of Commission

4. (1) The functions of the Commission are—

- (a) to carry out the functions conferred on it by this Ordinance;
- (b) to advise the Minister on telecommunications;
- (c) to regulate telecommunications in the Islands in accordance with the policy guidelines published in the *Gazette* from time to time and in accordance with the principle of technological neutrality;
- (d) to facilitate, maintain and promote effective and sustainable competition in telecommunications;
- (e) to set standards for the quality of telecommunications services to be delivered to the public;
- (f) to promote the interests of consumers and to encourage licensees to operate efficiently;
- (g) to publish information, reports or other documents;
- (h) to carry out investigations and hold enquiries with respect to any matter in relation to its functions or duties under this Ordinance;
- (i) to give advice and directions to a licensee with respect to anti-competitive practice or behaviour;
- (j) to prescribe standards for the protection of consumers and the public;
- (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;

- (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
 - (m) to carry out such other functions as may be necessary for the purpose of discharging its functions under this Ordinance.
- (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—
- (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;
 - (b) may determine the manner in which such material shall be received and what persons or class of persons shall be permitted or required to give evidence;
 - (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;
 - (d) may summon any person, in the prescribed form and manner, to attend to give evidence or to produce any article or document;
 - (e) may administer oaths and affirmations;
 - (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;
 - (g) may reimburse any private individual (which for the avoidance of doubt shall not include any commercial parties) attending before the 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;
 - (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;
 - (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;
 - (j) shall observe the principles of procedural fairness and natural justice; and

(k) shall publish in a local newspaper circulating in the Islands the procedure to be followed when making applications for licences under this Ordinance including any applicable licensing criteria.

(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.

(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.

(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.

(6) The Commission shall in the performance of its functions act in a fair and an impartial manner.

Conduct of inquiry

5. Without derogating from the generality of the power conferred under section 4(1)(i), the Commission may—

- (a) order the manner in which any person shall give his oral evidence and may specify that this shall be by way of cross-examination without examination-in-chief; and
- (b) determine who may address the Commission, on what matters and in what order.

Director General

6. (1) The Minister, acting with the approval of the Cabinet, shall appoint a Director General of Telecommunications.

(2) The functions of the Director General are—

- (a) to act as secretary to the Commission;
- (b) to report to the Commission the findings of any research conducted by him;
- (c) to take part in the deliberations of the Commission but without a right to vote;
- (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;
- (e) to carry out such duties as may be conferred on him by the Commission; and
- (f) to carry out such other duties as may be required by this Ordinance.

(3) The Director General may have such staff as the Commission may specify.

Confidentiality

7. (1) This section shall apply to every person having any official duty or being employed in the administration of this Ordinance while holding that office or being so employed, whether or not the person has ceased to hold that office or be so employed.

(2) For the purposes of this section, “document” includes a copy of or extract from a document or information in an electronic or magnetic form.

(3) A person to whom this section applies who, by reason of his capacity or office, has by any means access to the confidential information, shall not, while his employment in or, as the case may be, his professional relationship with the Commission continues or after the termination thereof, communicate any confidential information to any person.

(4) Subsection (3) shall not apply where—

(a) the confidential information is disclosed—

(i) with the consent in writing of a licensee or an applicant for a licence;

(ii) on the written directions of the Commission to the police who require such disclosure for purposes of the investigation of a criminal offence; or

(iii) to the Minister or the Commission;

(b) subject to paragraph (a)(ii) to any person who is authorised by the police to receive it;

(c) in the opinion of the Commission, disclosure is necessary in the public interest, in which case, before such disclosure is made, the Commission shall give not less than fourteen days’ notice of the proposed disclosure to the applicant or licensee concerned who shall, upon receipt of that notice, be entitled to apply to a Judge in Chambers for an order prohibiting the disclosure on the ground that it would be harmful to the interest of the applicant or licensee;

(d) where the disclosure proposed pursuant to paragraph (a)(ii) is of information that is confidential information of a third party, before such disclosure is made, the Commission shall give notice to the third party and shall provide an opportunity for representations by such third party; or

(e) subject to subsection (5), in pursuance of a court order.

(5) Where an application is made to a court for disclosure of confidential information, the party claiming confidentiality has a right to require that the information be first disclosed only to the Judge for the purpose of determining the extent of and the necessity for the disclosure.

(6) A person who contravenes subsection (3) commits an offence and is liable—

- (a) on summary conviction to a fine of \$10,000 or in the case of an individual to imprisonment for a term of six months, or to both; or
- (b) on conviction on indictment to a fine of \$50,000 or in the case of an individual to imprisonment for a term of three years, or to both.

PART III

TELECOMMUNICATIONS NETWORK AND SERVICES

Licensing of telecommunications providers

8. (1) No person shall—

- (a) establish, own or operate a telecommunications network without a carrier licence issued in accordance with this Part;
- (b) provide public telecommunications services, whether or not for compensation, to the public without a service provider licence issued in accordance with this Part.

(2) Subsection (1) shall not be contravened by—

- (a) the operation of a telecommunications network or service in which messages are conveyed by light in a manner capable of being received or perceived by the eye alone;
- (b) the non-commercial operation of telecommunications network or service by the Royal Turks and Caicos Islands Police Force or the Civil Aviation Department or any Department of Government, provided that such telecommunications network or service is used exclusively for the purposes of the Force or the Department and not used as a public telecommunications; or
- (c) the operation of a telecommunication network or service used in a single household for its own purposes.

(3) Nothing in this section shall discharge a person from having to obtain a licence or additional licence under Part IV where the person establishes, operates or uses a radio-communications station or installs, operates or uses radio-communications apparatus.

(4) This section shall not apply to a person who was legally authorised to provide a public telecommunications service, on or before the coming into force of this Ordinance unless and until that person has been granted a licence under section 13.

(5) For the avoidance of doubt, no person shall engage in bypass operations.

Islander control

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.

(2) For the purposes of subsection (1), a person is owned or controlled by Islanders if in the case of a company—

- (a) not less than fifty-one per cent of the members of its board of directors are individual Islanders;
- (b) otherwise than by way of security only, not less than fifty-one per cent of the company's voting shares issued and outstanding are owned by Islanders; and
- (c) the company is not otherwise controlled by persons that are not Islanders.

(3) The Minister may exempt any person from subsection (1).

(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 network, on or before the coming into force of this Ordinance.

(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.
(Rectified by L.N. 16/2017)

Licences

10. A licence granted under section 13 shall specify the type of telecommunications network which may be established, operated or maintained or the type of telecommunications service which may be provided by the licensee.

Application for licences

11. (1) An application for a licence under this Part shall be made to the Commission in the prescribed form and be accompanied by the prescribed information and application fee.

(2) An applicant for a licence shall satisfy the Commission—

- (a) that it has the technical capacity to establish, operate and maintain the telecommunications network or service in respect of which application for the licence is being made; and
- (b) with evidence including evidence as to its financial resources, that it can establish, operate and maintain that system or provide that service for the duration of the licence.

(3) The Governor may, with the approval of the Cabinet, prescribe the procedure to be followed for the purpose of making an application for a licence under this Part.

(4) The Governor may, with the approval of the Cabinet, prescribe the procedure to be followed and the fees to be paid for the grant of a licence under this Part.

Fees

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.

(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.

Grant of licence

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.

(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 recommended by the Commission, may grant the licence to the applicant.

(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.

(4) A licensee shall commence business not later than the end of the period specified for commencement by the Minister in the licence.

(5) A licensee shall comply with the terms and conditions of the licence and all applicable rules, orders, regulations or decisions of the Commission.

(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.

Conditions in a licence

14. (1) A licence granted under section 13 shall include conditions—

(a) which appear to the Commission to be appropriate;

(b) to prevent anti-competitive behaviour in telecommunications markets including—

(i) engaging in anti-competitive cross-subsidisation; and

(ii) not making available timeously to other licensees technical information about essential facilities and commercially relevant information which are necessary for them to provide telecommunication services;

(c) that, not later than the end of the period of three months beginning with the day after the end of its financial year, the licensee shall send each year to the Commission a report in such form and

containing such matters as the Commission may prescribe during that financial year;

- (d) regarding the provision of a universal service or making a prescribed financial contribution to the cost of a universal service;
- (e) relating to the quality and availability of a telecommunications service or telecommunications network;
- (f) relating to the surrender, suspension or revocation of the licence;
- (g) relating to providing the Commission with copies of the licensee's audited accounts; and
- (h) relating to the annual date of payment of licence fees and the date licence fees become due.

(2) Where a licence is granted after the date set for payment of the licence fee, the fee payable thereon shall be in the proportion to the period of the year remaining in which the licence will be in force.

Messages

15. (1) A licensee shall treat as confidential, the contents and circumstances of messages sent by telecommunications network and unsuccessful attempts to send messages.

(2) A licensee shall not, except where necessary to provide telecommunications service to a customer—

- (a) disclose to any other person, information relating to messages sent by telecommunications network or give any other person an opportunity to do so; and
 - (b) without the expressed or implied permission of the users involved in the sending and receipt of messages—
 - (i) monitor, intercept or record or permit the monitoring, interception or recording of messages sent by telecommunications network; or
 - (ii) send or permit the sending of information relating to these messages by persons other than the users.
- (3) Subsection (2)(b)(i) shall not apply to—
- (a) the recording and tracing of calls by organisations providing emergency services in the course of accepting emergency calls or identifying malicious or obscene calls; and
 - (b) the monitoring, interception, or interruption of messages being transmitted over a licensee's telecommunications network for the purposes of—
 - (i) preventing the illegal or fraudulent use of the telecommunications network or telecommunications services of the licensee; or

- (ii) preserving the technical integrity of the telecommunications services of the licensee.

(4) Where the Royal Turks and Caicos Islands Police Force wish to have subsection (2) disappplied in relation to a user who is suspected of a criminal offence or charged with a criminal offence they shall apply to the court for a disapplication and the court may order that subsection (2) shall not apply subject to such conditions as the court may specify.

Dominant Licence

Dominant licensee

16. (1) The Commission may make a determination that a licensee is dominant in relation to the establishment, operation or maintenance of a telecommunications network or service.

(2) Before making a determination under subsection (1), the Commission shall—

- (a) hold a meeting to consider the status of the licensee under this section;
- (b) provide reasonable notice of the meeting to the licensee;
- (c) provide the licensee with the opportunity to make submissions to the Commission regarding its status under this section; and
- (d) provide the licensee with the reasons for any determination made with respect to that licensee under subsection (1).

(3) Where a licensee has been declared dominant by the Commission under subsection (1), the licensee may subsequently apply to the Commission to be classified as not dominant.

Conditions in dominant licensee's licence

17. Where the Commission decides in accordance with section 16 that a licensee is dominant in relation to the provision of telecommunications service or the establishment, operation or maintenance of a telecommunications network, the Commission may include in the licence conditions—

- (a) regulating the operations of the licensee;
- (b) regulating the rates which may be charged by that licensee for telecommunications services or a telecommunications network in accordance with section 28;
- (c) requiring the licensee to publish its rates for telecommunications services or in relation to a telecommunications network, in the market in which the licensee is dominant;
- (d) that rates for services, or in relation to a telecommunications network provided, to all users shall not be discriminatory; and

- (e) with respect to the provision of international services and the settling of accounts with respect to those services.

Modifications, transfer and renewal of licences

Modification of conditions of licence

18. (1) The Commission may modify the conditions of any licence granted under this Ordinance.

(2) Before modifying the conditions of any licence, the Commission shall give notice to the licensee who is affected and where substantially similar licences have been issued to more than one person to all licensees who are affected; and may publish the notice in a newspaper circulating in the Islands or on the Commission's website—

- (a) stating that the Commission proposes to make the modifications and setting out their effect;
- (b) stating the date of publication to the licensees, if the notice is being published;
- (c) giving the reasons why the Commission proposes to make the modifications, including whether the modifications are required in the public interest; and
- (d) specifying a period not less than the end of the period of twenty-eight days beginning with the day after the date on which notice is given to the licensee or of publication, whichever is later, within which representations on the proposed modifications may be made by the licensee.

(3) The Commission shall consider representations which are made by the licensee and not withdrawn.

(4) Licences may only be modified—

- (a) with the written consent of the licensee; and
- (b) where substantially similar licences have been issued to more than one person, with the written consent of the licensees who between them account, according to estimates by the Commission based on available market information, for at least seventy-five per cent of the total telecommunications revenue of all licensees carrying on business under the licences.

(5) Where consent under subsection (4) is not forthcoming or is impracticable to obtain, the Commission may, after considering representations of the licensee under subsection (3) modify the conditions of licence to include the modifications, if the Commission considers that the modifications are in the interest of national security or the public interest.

Registers of licences

19. The Commission shall maintain public registers of licences granted under this Ordinance, and the registers shall include information relating to the name and address of the licensee, the telecommunications network or telecommunications service in respect of which the licensee was licensed and the conditions applicable to the licence.

Transfer of licence

20. (1) Where a licensee wishes to assign its licence or any rights thereunder or transfer control of operations, the licensee shall apply in writing to the Commission for prior approval.

(2) The Commission shall have regard to the following matters when deciding on a request for approval of assignment or transfer—

- (a) the circumstances of each transfer or assignment so as to ensure that licensees are not unduly restricted in the management of their commercial affairs;
- (b) whether or not the assignee or transferee satisfies the criteria for the grant of a licence;
- (c) where the assignment is from one or more individuals to a body corporate owned or controlled by the same individual or individuals; the extent to which the assignment achieves a change in their relative interest;
- (d) where the assignment is from a body corporate to its shareholders, the extent to which there is a change in the assignor's interest;
- (e) where the assignment or transfer is the result of a corporate reorganisation, the extent to which there is a change in beneficial ownership.

(3) Notwithstanding subsection (2), the Commission shall not withhold approval where the assignment or transfer achieves no material change in the relative interests of the assignee and assignor, or where the assignment or transfer is to a wholly owned subsidiary of the assignor, or from a body corporate to its parent company, or between wholly owned subsidiaries, or results from a corporate reorganisation that involves no change in the beneficial ownership or management of the assignor.

Renewal of licence

21. (1) The Commission shall automatically renew licences granted under this Ordinance for a period equivalent to the first licence granted unless—

- (a) the licensee failed to operate within the terms of the first licence;
- (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;

- (c) the licensee failed to comply materially with any lawful direction of the Commission; or
- (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.

(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 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.

Interconnection

Interconnection

22. (1) Where the Commission, under section 16, decides that a licence is dominant, the licensee shall provide an interconnection timeously to another licensee who requests the interconnection.

(2) A dominant licensee to whom a request for interconnection is made may refuse to provide such interconnection on grounds to be determined by the Commission for the protection of—

- (a) the safety of a person;
- (b) the security of a network; or
- (c) the integrity of the network.

Instructions on interconnection

23. (1) In the implementation of section 22, the Commission may issue instructions to the dominant licensee, and without prejudice to that generality may issue instructions to the licensee—

- (a) to make its procedures for interconnection publicly available;
- (b) to make the terms, conditions and rates of either its standard interconnection agreement or its interconnection offer, publicly available;
- (c) to provide interconnection—
 - (i) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided by the licensee for its own like services or for like services of non-affiliated

- service suppliers or for the licensees subsidiaries or other affiliates;
- (ii) in a timely fashion on terms and conditions (including technical standards and specifications cost-oriented rates) that are transparent, reasonable, having regard to economic feasibility;
 - (iii) sufficiently unbundled so that the licensee requesting interconnection does not pay for telecommunications systems components that it does not require for the service to be provided; and
 - (iv) at all technically feasible points;
- (d) to impose time limits for completion of the interconnection;
 - (e) on an optimal point for interconnection and on the technical characteristics of the point of interconnection;
 - (f) in respect of collocation as may be prescribed by regulations;
 - (g) in respect of rates for interconnection;
 - (h) in respect of the accounting standards to be used;
 - (i) to ensure that high standards of service are maintained; and
 - (j) in respect of services to be provided in connection with or ancillary to the interconnection.
- (2) The terms, conditions and rates referred to in subsection (1)—
- (a) in the case of a licensee's standard interconnection agreement or interconnection offer, shall not be discriminatory and shall be at a quality which is no less favourable than those provided in relation to the dominant licensee's own and an affiliate's services;
 - (b) shall be transparent and cost-oriented having regard to economic feasibility; and
 - (c) shall provide interconnection in such a manner that the licensee requesting interconnection does not pay for telecommunications network components which it does not require.

(3) This section shall not apply to an interconnection agreement or arrangement that contains rates, terms or conditions which are different from those established by the Commission pursuant to this section:

Provided that all parties to such agreement or arrangement have agreed to be bound by the terms of such agreement or arrangement.

Disputes

24. (1) The Commission may on its own motion or at the request of an interested party instruct licensees involved in an interconnection dispute to refer the dispute to it.

(2) The Commission shall take such measures as it deems fit to resolve disputes referred to it under subsection (1) and may issue instructions about the interconnection terms which shall apply.

(3) In carrying out its duties under this section the Commission may consider the difficult or costly technical and engineering nature of the interconnection.

Interconnection costs

25. (1) The costs of interconnection shall be borne equally by the licensee who is requesting interconnection and the provider; and for the avoidance of doubt, equal bearing of costs shall relate only to ongoing costs of interoperability.

(2) Non-recurring costs shall be recovered through non-recurring charges and recurring costs shall be recovered through recurring charges.

(3) Costs that do not vary with usage should be recovered through non-usage sensitive charges and costs that vary with usage shall be recovered through usage-sensitive charges.

(4) For calling, party pays calls between networks, the terminating network shall receive a cost-oriented usage based rate based upon costs of the licensee providing interconnection services.

Access deficit charge

26. (1) The Commission may prescribe a charge to be known as the “access deficit charge” to be paid by carriers and service providers as the Commission sees fit.

(2) The Commission shall publish guidelines, following consultation for determining the amount of the access deficit.

Numbering

Numbering

27. (1) The Commission shall have a scheme for—

- (a) the numbering of telecommunications services; and
- (b) the allocation and use of numbers in connection with these services.

(2) A numbering scheme shall, so far as possible—

- (a) address market expectations and licensee needs for allocation of numbers;
- (b) promote efficient use of numbers;
- (c) preserve the numbering allocations that are in existence immediately before the commencement of this Ordinance.

(3) The Commission may administer the scheme and issue instructions to licensees in respect of the scheme in accordance with the North American Numbering Plan.

(4) The Governor may make regulations with respect to—

- (a) numbers available for use;
- (b) the demand and likely future demand for numbers;
- (c) the need to promote efficient use of the numbers and competition in the provision of telecommunications services; and
- (d) the likely economic benefits available for users of the numbers concerned.

Rates

Rates

28. (1) Rates for telecommunications services, except those regulated by the Commission in accordance with this section, shall be determined by providers in accordance with the principles of supply and demand in the market.

(2) The Commission may establish rates regulation regimes, which may be prescribed and which may include setting, reviewing and approving rates in any case where—

- (a) there is only one licensee operating a telecommunications network or providing telecommunication service, or where one or more licensees have been determined to have a dominant position in the relevant market in accordance with section 16;
- (b) a sole or dominant licensee operating a telecommunications system, network or providing a telecommunications service cross-subsidises another telecommunications service provided by such licensee; or
- (c) the Commission is satisfied that there is evidence of anti-competitive pricing or acts of unfair competition.

(3) Where the Commission finds that a provider of a regulated service is dominant in a relevant market in accordance with the procedure prescribed in this Ordinance, the Commission shall establish a mechanism for the setting of rates to be charged by the provider of a regulated service; and the Commission shall use an incentive-based rated setting mechanism to establish the rates to be charged by such a provider of a regulated service.

(4) The incentive-based rate setting mechanism referred to under subsection (3) shall be established by the Commission in the manner prescribed and the Commission shall monitor and ensure compliance with the mechanism.

(5) In approving, disallowing or amending any regulated rate or tariff filed by the licensee, the aim of the Commission shall be to facilitate the policy of market liberalisation and competitive pricing.

(6) Subject to subsection (5) which shall govern rate of tariff increase, in approving, disallowing or amending any regulated rate or tariff filed by the licensee, the Commission shall reply in writing to a request by the licensee within twenty-eight days of receipt of the tariff filing, failing which, such filing shall be deemed approved by the Commission.

(7) In considering a rate or tariff decrease filed by the licensee, the Commission shall reply in writing to a request within seven working days of receipt of the filing stating whether the filing is approved by the Commission as filed or whether it is conditionally approved.

(8) Conditional approval under subsection (7) means that the rate or tariff decrease is approved so that the licensee may immediately implement the decrease and the Commission may then take up to one hundred and eighty days after the introduction of the rate or tariff decrease to assess whether the rates or tariff are anti-competitive through a determination of whether they are above an incremental cost price floor.

(9) If the Commission fails to reply to the request within seven working days, the filing shall be deemed approved by the Commission as filed.

(10) The Commission shall keep confidential the fact that a filing has been made under this section and the contents of the rate or tariff decrease filing shall be confidential.

(11) Where the Commission determines that a service is a regulated service under this section, the rates for that service shall then only be subject to the rate regulation determined under this section.

(12) A service provider shall publish the rates, terms and conditions for its telecommunications services at such times and in such manner as the Commission shall specify and such rates, terms and conditions shall thereafter, subject to this Ordinance and the conditions of any licence, be the lawful rates, terms and conditions for such services.

Forbearance by Commission

29. (1) The Commission may make a determination to refrain in whole or in part and conditionally or unconditionally, from the exercise of any power or the performance of any duty under this Part to a telecommunications service provided by a licensee, where the Commission finds as a question of fact that to refrain would be consistent with the telecommunications policy objectives of the Islands.

(2) Where the Commission finds as a question of fact that a telecommunications service provided by a licensee is or will be subject to competition sufficient to protect the interest of users, the Commission shall make a determination to refrain, to the extent that it considers appropriate, conditionally or unconditionally, from the exercise of any power or the performance of any duty under this Part in relation to the service.

(3) The Commission shall not make a determination to refrain under this section in relation to a telecommunications service if the Commission finds as a

question of fact that to refrain would be likely to impair unduly the establishment or continuance of a competitive market for that service.

(4) The Commission shall declare that any provision of this Part does not apply to a licensee to the extent that the provision is inconsistent with a determination of the Commission under this section.

Universal Service

Universal service

30. (1) In accordance with the telecommunication policy established by the Government, the Commission shall determine the telecommunications services in respect of which the requirement of universal service shall apply, taking into account the needs of the public, affordability of the service and advances in technologies.

(2) The telecommunications services referred to in subsection (1) shall comprise—

- (a) affordable access to basic telecommunications services for all people in the Islands, which is the ability to access a dial tone in order to make telephone calls to other end-users;
- (b) the maintenance of public payphones;
- (c) free internet access for public libraries and public schools; and
- (d) access to emergency numbers free of charge.

(3) The Governor, acting with the approval of the Cabinet, may make regulations to amend subsection (2) on the recommendation of the Commission and in accordance with the telecommunications policy, after consultation with the universal service provider.

(4) In accordance with the telecommunications policy the Commission shall periodically determine the manner in which telecommunications service shall be provided.

(5) Subject to the universal service provider establishing that there is a net avoidable cost pursuant to subsection (9), there may be established a fund to be known as the Universal Service Fund contributed to by carriers and service providers for the purpose of funding the universal service.

(6) The Universal Service Fund shall be administered by a person designated by the Commission in accordance with regulations made for the purpose by the Governor acting on the advice of the Cabinet.

(7) The obligation to provide and contribute to the funding of the service referred to in subsections (1) and (2) and shall be applied on a transparent and non-discriminatory basis as between all similarly situated providers of telecommunications services and users and shall not place unreasonable burden on the universal service provider or any person required to contribute to the provision of the service.

(8) The net avoidable cost of the universal providers shall be recovered by means of payments by licensees to the universal service provider under the supervision of the person designated under subsection (6) to administer the Universal Service Fund.

(9) The universal service provider shall be permitted to recover the net avoidable costs that result from fulfilling the universal service obligation where net avoidable cost means all costs incurred by the universal service provider in connection with the fulfilment of the universal service obligation less any revenues derived from the provision of universal service.

(10) For the purpose of subsection (9), “all costs incurred by the universal service provider in connection with the fulfilment of the universal service obligation” shall include, but not be limited to—

- (a) all costs incurred by a universal service provider in meeting the universal service obligation;
- (b) all costs incurred by a universal service provider in administering and collecting levies associated with fulfilling the universal service obligation and obtaining reimbursement;
- (c) the universal service provider’s cost of capital on the relevant assets; and
- (d) an interest component calculated from the date each cost is incurred from the date when payment is due and at a rate in accordance with principles applied to commercial transactions.

(11) For the purpose of subsection (9), “less any revenues derived from the provision of universal service” means any revenue derived from the provision of such telecommunications service as may be determined by the Commission.

(12) Prior to terminating the general offering to the public of telecommunications service in respect to which the requirement of universal service applies, a licensee shall obtain written approval from the Commission.

PART IV

SPECTRUM MANAGEMENT

Regulation and monitoring of spectrum

31. (1) The Commission shall, so far as it considers it necessary or desirable, regulate the use for any purpose, of the spectrum within the Islands or between the Islands and elsewhere.

(2) For the purposes of subsection (1), the Commission shall—

- (a) allocate the spectrum for specified services within the Islands;
- (b) subdivide the allocation into allotments; and
- (c) determine methods for assignment of the spectrum.

(3) The Commission may monitor the use of the spectrum including the inspection and evaluation of the efficiency of that use.

Licensing of person

32. (1) A person shall not establish, operate or use a radio-communications apparatus or install, operate or use radio-communications apparatus unless it is authorised to do so by a spectrum licence.

(2) Subsection (1) shall not be contravened by—

- (a) the installation or use of radio-communications apparatus for receiving and not for emitting publicly available television and radio broadcasting; and
- (b) the operation by the Royal Turks and Caicos Islands Police Force, the Civil Aviation Department or any Department of Government, of radio-communications used exclusively for their purposes.

(3) Nothing in this section shall discharge a person from having to obtain a licence or additional licence under Part III where the person in addition to establishing, operating or using a radio-communications apparatus or installing, operating or using radio-communications apparatus, establishes, operates or maintains a telecommunications network or provides a telecommunication service.

Application for spectrum licence

33. (1) An application for a spectrum licence shall be made to the Commission in the prescribed form and be accompanied by the prescribed information and application fee.

(2) The Governor, acting in accordance with the advice of the Cabinet, may prescribe—

- (a) the procedure for an application for the grant or renewal of spectrum licences;
- (b) the fees and the manner of payment of the fees for the grant or renewal of a spectrum licence;
- (c) requirements regarding the maintenance of competition which are consistent with this Ordinance.

(3) Subsection (2) shall not apply to any person that was lawfully authorised to establish, operate or use a radio-communications apparatus on or before the coming into force of this Ordinance, unless and until that person has been granted a licence under section 13.

(4) The Commission shall make publicly available the procedures to be followed for the grant of a licence for the establishment, operation or use of the spectrum.

Recover cost

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.

(2) The prescribed fees under section 33 may enable the Commission to recover an amount in excess of the amounts under subsection (1) to reflect the market value of the licence granted.

(3) In making regulations under section 33 the Governor may have regard to—

- (a) the extent of the part of the spectrum available for use under the licences granted;
- (b) the demand and likely future demand for use of that part of the spectrum;
- (c) the need to promote efficient use of the spectrum and competition in the provision of spectrum based services; and
- (d) the likely economic benefits available to licensees.

Grant of spectrum licence

35. (1) In considering whether to grant a spectrum licence the Commission shall have regard to the spectrum plan under section 40.

(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.

(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.

(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.

Conditions in spectrum licence

36. A spectrum licence shall include conditions—

- (a) which are consistent with the Government's policy on telecommunications;
- (b) setting out the purposes for which, the circumstances in which and the persons by whom the radio-communications station may be operated or used and the apparatus which may be installed, operated or used in the station;
- (c) containing limitations on the apparatus which may be installed, operated or used, and the places where, the purposes for which, the circumstances in which and the persons by whom, the apparatus may be operated or used;

- (d) that not later than the end of the period of three months beginning with the day after the end of its financial year, the licensee shall send each year to the Commission a report on its activities during that financial year;
- (e) relating to the surrender, suspension or revocation of the licence;
- (f) requiring the licensee or the person who is in possession or control of a radio-communications apparatus to give access to facilitate the protection of the radio-communications station or apparatus;
- (g) requiring the licensee or the person who is in possession or control of a radio-communications station or radio-communications apparatus to give access to and facilitate the inspection of, such person as may be authorised by the Commission the radio-communications station or apparatus;
- (h) about the condition in which the radio-communications station or apparatus is to be kept; and
- (i) requiring the licensee to exhibit at the radio-communications station notices specified in instructions given under section 37(e).

Instructions by Commission

37. The Commission may issue instructions to holders of spectrum licences—

- (a) about what is to be done or not to be done in relation to the use of a radio-communications station or radio-communications apparatus;
- (b) requiring the use of a radio-communications station or radio-communications apparatus to cease;
- (c) requiring the licensee or the person who is in possession or control of a radio-communications station or radio-communications apparatus to give access to and facilitate the inspection of, such person as may be authorised by the Commission the radio-communications station or apparatus;
- (d) about the condition in which the radio-communications station or apparatus is to be kept; and
- (e) requiring the licensee to exhibit at the station notices specified in the instructions.

Licensing of person as spectrum licensee

38. (1) A person shall not use a portion of the spectrum unless the person is authorised to do so by a spectrum licence or special licence granted by the Commission under this Part.

(2) Subsection (1) shall not apply to a person who was legally authorised to use spectrum on or before the coming into force of this Ordinance.

*Special licence***Special licence**

39. (1) A person who is not the holder of a spectrum licence under this Part who wishes to carry out any experiment in relation to radio-communications or who wishes to cover any emergency or special event approved by the Commission shall not carry out such experiment or cover such emergency or event unless it has been authorised to do so by a special licence granted under this Part.

(2) An application for the grant of a special licence under this Part shall be made to the Commission in the prescribed form and be accompanied by the prescribed information and application fee.

(3) The prescribed fee payable under subsection (2) shall be in respect of the year commencing on the date on which the licence comes into force.

(4) Where the Commission is satisfied that the applicant for a special licence complies with the provisions of this Part in relation to the licence, the Commission may grant the licence to the applicant on such terms and conditions it thinks fit and on the payment of such fee as may be prescribed.

(5) The Governor acting with the approval of Cabinet, may make regulations for the purpose of giving effect to this section and without prejudice to the generality of the forgoing, such regulations may—

- (a) provide for the duration of the licence;
- (b) provide for terms and conditions of the licence;
- (c) make provision with respect to the capacity or technical requirements of an applicant for a special licence;
- (d) fees with respect to special licences; and
- (e) provide for such other matters as may be necessary or required for purposes of a special licence.

Spectrum planning

40. (1) The Commission shall make, amend or revoke a plan to achieve a balanced, efficient and effective management and use of the spectrum.

(2) A plan shall—

- (a) address market expectations and user requirements for allocation, allotment and assignments of the spectrum;
- (b) promote efficient spectrum use;
- (c) minimise risks of interference;
- (d) maximise economic benefit and sustainable competition; and
- (e) conform, as necessary, to relevant spectrum plans in the region.

(3) The Commission may delegate any of its functions under this section to another person.

Register of licences under this Part

41. The Commission shall maintain a public register of spectrum licences granted under this Part which shall include the name and address of the licensee, the radio-communications station or radio-communications apparatus or portion of the spectrum in respect of which the licensee was licensed and the conditions applicable to the licence granted.

PART V

TECHNICAL REGULATION

Technical standards

42. The Commission may prescribe standards for customer premises equipment, radio-communications apparatus, submarine cables, and telecommunications network and services—

- (a) to protect the integrity of radio-communications, apparatus, submarine cables and telecommunications network and equipment;
- (b) to protect the health and safety of persons;
- (c) to ensure the interoperability of a combination of customer premises equipment, radio-communications apparatus, submarine cable, telecommunications equipment and telecommunications network including the interoperability of one kind of equipment, apparatus or network with the same kind of equipment, apparatus or network;
- (d) to achieve or assist in achieving, the plan made under section 40; and
- (e) to prevent interference so far as practicable.

Testing and verification

43. The Commission may by instructions specify the procedures for testing customer premises equipment, radio-communications apparatus, submarine cables, telecommunications equipment and telecommunications network to verify that they comply with the prescribed standards.

Approval of installers

44. The Commission may by instructions specify procedures for approving persons to install customer premises equipment, radio-communications apparatus, submarine cables or telecommunications equipment.

Marking requirements

45. The Commission may by instructions specify the markings to be affixed to customer premises equipment, radio-communications apparatus or telecommunications equipment indicating—

- (a) the date on which they were tested;
- (b) the person by whom they were installed; and
- (c) the date of installation.

Register of apparatus, equipment and systems

46. (1) The Commission shall maintain a public register of the prescribed standards, the apparatus, cables, equipment and networks tested, the installers approved and the markings affixed under sections 42 to 45 respectively.

(2) The register shall contain—

- (a) a copy of the prescribed standards and the date on which they came into force;
- (b) the name and address of the manufacturer of radio-communications apparatus, submarine cables and telecommunications equipment, the date on which the apparatus, cables, equipment and network were tested and verified and a copy of the Commission's testing and verification documentation;
- (c) the name and address of the approved installer, the date of approval and the types of customer premises equipment, radio-communications apparatus, submarine cables or telecommunications equipment which he may install; and
- (d) a description of the markings to be affixed.

PART VI**REGULATOR FEES, EXAMINATION AND AUDIT****Regulator fee**

47. (1) Every licensee holding a licence granted under this Ordinance, shall pay to the Commission for every year during the subsistence of the licence such annual regulator fee as may be prescribed by Regulations.

(2) The regulator fee under subsection (1) shall be such amounts as shall recover from licensees on an equitable basis the amounts required to defray cost incurred or anticipated by the Commission in the exercise of its functions in respect of telecommunications.

(3) The Commission shall specify on the licence the date of payment each year of the regulator fee.

(4) The Commission may revoke any licence granted under this Ordinance where the licensee fails to pay the regulator fee under subsection (1) on the date specified in the licence.

(5) The Governor, acting on the advice of the Cabinet, shall make regulations specifying conditions under which a licensee may be exempted by the Commission from the provisions of this section.

Examination

48. The Commission may from time to time appoint one or more qualified persons to make examination, under conditions of secrecy, of the books and affairs of any licensee under this Ordinance.

Production of books, etc.

49. (1) Every licensee of which an examination has been ordered under section 48, on service of an examination notice (the "Examination Notice") from the Commission specifying—

- (a) the relevant books, accounts and documents required by the Commission for examination; and
- (b) the date on which such books, accounts and documents are required, such date to provide the licensee with a reasonable period in which to gather the required information,

shall produce to the person or persons under the provisions of that section, at such times and in such places on the date specified in the Examination Notice as such persons or persons may specify (being times and places which, in the opinion of such person or persons, would not be detrimental to the conduct of the normal daily business of the licensee) all books, accounts and documents in the possession or custody relating to its business as may be specified in the Examination Notice.

(2) If any book, account, document or information is not produced in accordance with subsection (1), the licensee commits an offence and is liable on summary conviction to a fine of \$50,000 in respect of every day during which the offence continues; and if any book, account, document or information specified in subsection (1) is false in any material particular, the licensee concerned commits an offence and is liable on summary conviction to a fine of \$500,000.

(3) As soon as may be after the conclusion of an examination under section 48, the person or persons appointed under the said section 48 shall submit a full report on such examination to the Commission.

Power after examination

50. If in the opinion of the Commission an examination under this Part shows that the licensee concerned is carrying on its business in a manner contravening any of the provisions of this Ordinance, or any condition of the licence, the Commission may require by notice that the licensee within such time as stated in the notice, not less than fourteen days, to implement such measures as the

Commission may consider necessary in relation to its business, and if the licensee fails to implement the said measures, the licensee commits an offence and is liable on summary conviction to a fine of \$500,000.

PART VII

INVESTIGATION, APPEALS AND ENFORCEMENT

Definition

51. For the purposes of this Part—

- (a) a person is in charge of premises if he is the owner or occupier of the premises or has or assists in, the management or control of the premises; and
- (b) “premises” includes a place, aircraft, vehicle, vessel, structure or other object whether movable or otherwise and whether on land or otherwise.

Securing compliance

52. (1) Where the Commission is satisfied that a licensee is not complying or has not complied, with a condition or term of a licence, an instruction issued by the Commission or a provision of this Ordinance or its subordinate legislation, the Commission may issue to the licensee such directions as it considers necessary to bring the contravention to an end or ensure that the contravention is not repeated and make arrangements for the publication of the directions.

(2) A licensee to whom directions are issued by the Commission shall comply with the directions.

(3) Before issuing directions under this section, the Commission shall give notice to the licensee to whom the directions will be issued—

- (a) stating that it proposes to issue directions and setting out their effect;
- (b) stating the condition or term of the licence, instruction, requirement, specification, or provision of the Ordinance or subordinate legislation with which, in the opinion of the Commission the licensee is not complying or has not complied; and
- (c) stating that the licensee or any other person may make representations not later than the end of the period of seven days beginning with the day after the date of issuing the notice.

(4) At the end of that period of seven days the Commission having had regard to representations made and not withdrawn may issue the directions.

(5) If after issuing directions a licensee fails to comply with a requirement of the directions, the Commission, after hearing the licensee, may—

- (a) censure the licensee publicly;
- (b) impose a penalty not exceeding \$300,000 and a further penalty not exceeding \$10,000 for each day on which the contravention continues; and
- (c) enforce a remedy available to the Commission under the licence of the licensee including any remedy of suspension or revocation.

(6) Where the Commission imposes a penalty under subsection (5) the penalty shall be recoverable in the same manner as a fine imposed by the Magistrate's Court.

Suspension and Revocation

Suspension and revocation of licence

53. (1) Where the Commission has reason to believe that a licensee has contravened any provision of this Ordinance or the conditions of the licence, the Commission shall give to the licensee notice in writing—

- (a) specifying particulars of such contravention;
- (b) requiring the licensee to justify its actions to the Commission or otherwise take such remedial action as may be specified in the notice.

(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.

(3) Where a licensee fails to comply with any requirements of a notice under subsection (1), the Commission may—

- (a) on the first occasion of such failure suspend the licence for a period not exceeding three months; or
- (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.

(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.

(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—

- (a) knowingly made any false statement in an application for a licence or in any statement made to the Commission;
- (b) knowingly failed to provide information or evidence that would have resulted in refusal to grant a licence;

- (c) wilfully failed to comply with the terms and conditions of its licence;
- (d) wilfully contravened any provision of this Ordinance or any rules or regulations made thereunder;
- (e) provided services not authorised by its licence;
- (f) operated a telecommunications network without a carrier licence;
- (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.

(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.

(7) For the purpose of this section, the Commission may—

- (a) summon and examine witnesses;
- (b) call for and examine documents;
- (c) require that any document submitted be verified by affidavit;
- (d) adjourn any investigation from time to time.

(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.

Review

Review of decisions

54. (1) The Commission may on application or on its own motion, review, revoke, cancel or vary, in whole or in part, any decision made by it, or may rehear any matter before the Commission.

(2) The Commission may make Rules for the purposes of subsection (1) and such Rules shall be published in the *Gazette*.

Appeals

Appeals

55. (1) The Minister, acting with the approval of the Cabinet, shall appoint a Telecommunication Tribunal to hear appeals under this Ordinance.

(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.

(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.

(4) A member of the Tribunal shall be eligible for re appointment.

(5) The Governor acting with the approval of the Cabinet shall set the payments and allowances for members of the Tribunal.

(6) An appeal lies to the Telecommunication Tribunal from any decision made by the Minister or the Commission, including any decision 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.

Offences

Offences in respect of telecommunications

56. (1) A person who establishes, operates or maintains a telecommunications network or provides a telecommunications service without a licence granted under this Ordinance commits an offence and is liable on summary conviction to a fine of \$1,000,000.

(2) A person who knows or having reason to believe that a telecommunications network is established or maintained or in operation, or a telecommunications service is being provided without a licence granted under this Ordinance—

(a) wilfully and with intention of assisting the person referred to in subsection (1) sends or receives a message by using the telecommunications network or telecommunications service; or

- (b) performs a service incidental to the establishment, operation or maintenance of the telecommunications network or provision of the telecommunications service,

commits an offence and is liable on summary conviction to a fine of \$1,000,000.

(3) A person who—

- (a) participates in the management, financing or operation of a telecommunications network or telecommunications service knowing or having reasonable cause to believe, that the person who established or is operating or maintaining the network or providing the service, is not licensed;
- (b) supplies or installs a telecommunications network or part of a network or repairs or maintains a telecommunications network, telecommunications equipment or other item knowing or having reasonable cause to believe, that—
 - (i) the network will be or is, operated by a person who is not licensed;
 - (ii) the equipment or other item will be or is, used for the purpose of facilitating the operation of a telecommunications network by a person who is, not licensed; or
 - (iii) in either case the telecommunications network will be or is used for the provision of a telecommunications service by a person who will be or is, not licensed; or
- (c) wilfully and with intent to defraud renders any other service to a person knowing, or having reasonable cause to believe, that the rendering of that service to the person will facilitate the operation of a telecommunications network or the provision of a telecommunications service, by a person who will be or is, not licensed,

commits an offence and is liable on summary conviction to a fine of \$50,000.

(4) A person who installs customer premises equipment, radio-communications apparatus, submarine cables, telecommunications equipment or a telecommunications network—

- (a) which has not been tested and verified under section 43; or
- (b) which is directly or indirectly connected to a telecommunications network not tested and verified under section 43,

commits an offence and is liable on summary conviction to a fine of \$50,000.

(5) A person who wilfully sends, by means of a telecommunications network, an offensive, obscene, threatening or abusive message to another person commits an offence and is liable on summary conviction to a fine of \$1,000.

(6) A person who is a licensee under this Ordinance or is employed by or engaged in any capacity by a licensee and—

(a) prevents or obstructs the sending, conveying or delivery of a message; or

(b) contravenes or causes a licensee to contravene section 32,

commits an offence and is liable on summary conviction to a fine of \$5,000.

Offences in respect of spectrum

57. (1) For the purposes of this section “unlawful use of the spectrum” is use of the spectrum in contravention of section 32.

(2) A person who—

(a) establishes, operates or uses a radio-communications station or installs, operates or uses radio-communications apparatus or uses a portion of the spectrum; or

(b) knows, or has reasonable cause to believe, that another person intends to do so,

without a licence granted under section 35 commits an offence and is liable on summary conviction to a fine of \$250,000.

(3) A person in charge of premises who—

(a) knowingly causes or permits the premises to be used for unlawful use of the spectrum or to operate or control apparatus used for unlawful use of the spectrum from another place; or

(b) having reasonable cause to believe that the premises are being so used, fails to take reasonable steps to prevent the premises from being so used,

commits an offence and is liable on summary conviction to a fine of \$250,000.

(4) A person who—

(a) participates in the management, financing or operation of a radio-communications station or use of the spectrum knowing or having reasonable cause to believe, that unlawful use of the spectrum is being made;

(b) supplies, installs, repairs or maintains radio-communications apparatus or spectrum apparatus or another item knowing or having reasonable cause to believe, that the apparatus or other item is to be or is, used for the purpose of facilitating the operation of unlawful use of the spectrum; or

(c) renders another service to a person knowing or having reasonable cause to believe, that the rendering of the service will facilitate the operation of unlawful use of the spectrum,

commits an offence and is liable on summary conviction to a fine of \$250,000.

(5) A person who, by means of radio-communications or spectrum apparatus sends or attempts to send, a message which he knows is false or misleading and likely to prejudice the efficiency of a safety of life service or

endanger the safety of a person, aircraft, vessel or vehicle commits an offence and is liable—

- (a) on summary conviction to a fine of \$500,000 or to imprisonment for a term of five years; or
- (b) on conviction on indictment to a fine of \$1,000,000 or to imprisonment for a term of ten years, or to both.

(6) A person who is knowingly using apparatus for the purpose of interfering with other apparatus whether or not the apparatus being used is radio-communications or spectrum apparatus commits an offence and is liable on summary conviction to a fine of 250,000.

Offence in respect of special licence

58. A person who carries out any experiment with respect to spectrum in contravention of section 39(1) commits an offence and is liable on summary conviction to a fine of \$250, 000.

Power of entry and search

59. (1) Where on information provided by the Commission, the Director General or other person, the court has reason to believe that a person is not complying with a condition of a licence, or instructions issued by the Commission or a provision of this Ordinance, the Court may issue a search warrant to a police officer to search the premises of that person.

(2) A warrant issued under this section shall authorise a police officer accompanied by a representative of the Commission—

- (a) to enter the premises specified in the warrant;
- (b) to search the premises and take possession of any apparatus, documents or equipment in accordance with the terms of the warrant or take in relation to such apparatus, documents or equipment, any other steps which appear necessary for their preservation or preventing interference with them;
- (c) to take copies of or extracts from the documents or test the apparatus or equipment in accordance with the terms of the warrant; and
- (d) to use reasonable force.

(3) Where under this section a police officer and representative of the Commission may take possession of apparatus, documents or equipment or take copies of or extracts from documents or test apparatus or equipment on premises, a person who is on or in charge of the premises shall give them such assistance as they may require in taking possession or extracts or copies or in the testing.

(4) In this section “court” means Magistrate’s Court established under section 3 of the Magistrate’s Court Ordinance.

Offence by body corporate

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.

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.

Agreement

62. The Commission in the discharge of its functions under this Ordinance shall in relation to Cable and Wireless (West Indies) Limited act in accordance with the Agreement made between the Government and Cable and Wireless, (West Indies) Limited the date of which shall be published in the *Gazette* and Cable and Wireless (West Indies) Limited shall carry out its obligations, and duties under the said agreement.

Transitional provisions

63. (1) Any licence or other enabling instrument issued to any person to provide any aspect of telecommunication services or networks in the Islands and which is valid immediately before the commencement of this Ordinance shall continue to remain in full force and effect and shall authorise the continued ownership and operation of the telecommunication service and network provided under such licence or enabling instrument until 31 December 2004 or such later date as the Governor acting on the advice of the Cabinet may specify by notice published in the *Gazette*.

(2) The Minister may, where the Commission has not been established at the date of commencement of this Ordinance issue any licence which the Commission is empowered by this Ordinance to issue and the Governor acting on the advice of the Cabinet shall, for such period of time as shall determine, appoint such persons as he considers necessary to assist the Minister in carrying out such functions.

(3) Any fees or charges relating to any licence, granted pursuant to any law repealed by this Ordinance and owed to the Government in accordance with

any such repealed law shall be deemed a debt owed to the Government and shall remain recoverable after the coming into force of this law.

(4) Notwithstanding subsection (1), the Governor acting in accordance with the advice of the Cabinet shall specify by notice published in the *Gazette*, the termination date of the agreement between the Government and Cable and Wireless (West Indies) Limited for the exclusive provision of national and international telecommunications systems and services to the Islands, effected on the 12 June 1990 under the provision of the Public Telecommunications Ordinance.

Further transitional provisions

64. The Governor acting with the approval of the Cabinet may by regulations make such provision including amending any legislation, as he considers necessary, convenient or expedient for savings, transitory or transitional purposes in connection with the coming into operation of any provision of this Ordinance.

Regulations

65. (1) The Governor, acting with the approval of Cabinet, may make regulations for giving effect to the provisions of this Ordinance.

(2) Without derogating from the generality of the power conferred by subsection (1), such regulations may provide for—

- (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;
- (b) forms to be used for any purpose of this Ordinance;
- (c) fees payable under this Ordinance;
- (d) the application of any rule of the International Telecommunications Convention to any provision of this Ordinance;
- (e) procedures to be followed under the Ordinance;
- (f) interconnection agreements and dispute resolution process in relation to interconnection;
- (g) specifying rights of subscribers including access by subscribers to information or data in relation to subscribers telephone bills;
- (h) amending any Schedule of this Ordinance;
- (i) the licensing of persons to distribute, lease, offer for sale, sell or import for sale any telecommunications apparatus or radio-communications apparatus;
- (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;
- (k) fees payable with respect to numbers;

- (l) terms, conditions and all matters in relation to interconnection costs and access deficit charge; and
- (m) any purpose which may be necessary or expedient for giving full effect to the provision of this Ordinance.

Validation of regulator fees

66. The imposition and collection of regulator fees by the Telecommunications Commission in respect of individual license under the purported authority of the Telecommunications Fee Structure is validated and is deemed to have been lawfully imposed and collected. (*Ord. 13 of 2012 consolidated with this Ordinance by the Law Revision 2014*)

SCHEDULE 1

(Section 3(8))

MEETINGS AND PROCEEDINGS OF COMMISSION

Quorum

1. A majority of the members shall constitute a quorum of the Commission.

Chairman

2. The chairman of the Commission shall have supervision over and direction of, the work of the Commission and shall preside at meetings of the Commission and when so presiding shall have an original and casting vote.
3. The Commission shall meet at least twelve times in every calendar year.

Special meeting

4. The Chairman may at any time call a special meeting of the Commission and shall call a special meeting to be held not later than the end of the period of seven days beginning with the day after the date of receipt of a written request for that purpose addressed to him by a member of the Commission.

Procedure

5. The Commission may make Rules regulating its procedure at meetings.

Conflict of interest

6. (1) An assessor attached to the Commission who has an interest in a company or undertaking which is an interested party in a matter under consideration by the Commission shall declare to the Commission the fact and nature of his interest and shall not take part in the deliberations or decisions of the Commission relating to the matter.

(2) A declaration under subparagraph (1) and a declaration to the same effect by a member shall be recorded in the records of the Commission.

SCHEDULE 2*(Section 4(9))***STAFF AND FINANCES OF COMMISSION****Salaries and assessors of Commission**

1. The Commission may engage experts, persons having technical or special knowledge or assessors necessary for the purpose of assisting the Commission to carry out its functions under this Ordinance on such terms and conditions as it thinks fit.

Budget

2. (1) Each year the Commission shall prepare a budget.

(2) The budget shall be subject to the approval of the Minister and the Minister may take into account the overall level of the budget and the apportionment among the functions of the Commission under this Ordinance.

(3) Any money standing to the credit of the Commission and not required for current purposes ("surplus funds") may, with the consent of the Minister, be carried to a reserve fund. The Commission shall pay 80% of the surplus funds into the Consolidated Fund and to the licensees in the appropriate manner.

(4) The Commission may manage any reserve fund.

Commission funds

3. The funds of the Commission shall consist of such moneys as may from time to time be placed at its disposal for the purposes of this Ordinance by the House of Assembly and such other moneys as may be paid to the Commission under this Ordinance.

Accounts

4. (1) The Commission shall keep proper accounts and other records of its business and shall prepare annually a statement of accounts in accordance with international accounting standards.

(2) The accounts of the Commission shall be audited by an auditor appointed annually by the Commission and approved by the Minister.

(3) Not later than the end of the period of three months beginning with the day after the end of each financial year, the Commission shall send the statement of its accounts to the Minister, together with a copy of any report made by the auditor on the statement or accounts.

(4) The Chief Auditor shall on the direction of the Minister examine the accounts and other records in relation to the business of the Commission.

(5) The Minister shall cause a copy of every account or report submitted to him pursuant to this Schedule to be laid before the House of Assembly.

Annual report

5. The Commission shall, not later than the end of the period of three months beginning with the day after the end of each financial year, send to the Governor and the Minister a report dealing with the activities of the Commission during that financial year.

Immunity from liability

6. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against a member of the Commission in respect of any act done *bona fide* in execution or intended execution of this Ordinance.

(2) Where a member of the Commission is exempt from liability by reason only of this paragraph, the Commission shall be liable to the extent that it would be if the member was an employee or agent of the Commission.

SCHEDULE 3

(Section 9(5))

CABLE AND WIRELESS (WEST INDIES) LIMITED

TELECOMMUNICATIONS (FREQUENCY MANAGEMENT) REGULATIONS
ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
 2. Interpretation
 3. Public interest in frequency management
 4. Spectrum Plan and allocations of bands
 5. Spectrum licences
 6. Monitoring and harmful interference
 7. Re-allocation of frequencies
-

TELECOMMUNICATIONS (FREQUENCY MANAGEMENT) REGULATIONS – SECTION 64
(Legal Notice 33/2005)

Commencement
[1 January 2006]

Citation

1. These Regulations may be cited as the Telecommunications (Frequency Management) Regulations.

Interpretation

2. In these Regulations—

“Channelling Plan” means a plan for the division of spectrum within a particular band among potential users;

“Government” means the Government of the Turks and Caicos Islands;

“Ordinance” means the Telecommunications Ordinance;

“Radio Regulations” means the Radio Regulations of the International Telecommunication Union, as they may be revised from time to time at any Regional Administrative Radio Conference or World Administrative Radio Conference;

“Spectrum Plan” means the table of radio frequency allocations and band plan for spectrum in the Turks and Caicos Islands.

Public interest in frequency management

3. In making all decisions regarding spectrum allocation, frequency assignments, and other matters under these Regulations, the Commission shall take into account the following considerations—

- (a) the objects of the Ordinance;
- (b) the likely effects on existing and future availability and uses of spectrum;

- (c) the efficient use of spectrum;
- (d) any regional agreements, standards and arrangements applicable to the allocation and use of spectrum in the Turks and Caicos Islands;
- (e) any applicable international standards, the treaties of the International Telecommunication Union, the Radio Regulations and other agreements; and
- (f) the overriding public interest in efficient utilisation of the spectrum for various public and private telecommunications purposes.

Spectrum Plan and allocation of bands

4. (1) The Commission shall within eight (8) months of the commencement date, produce and make available an interim Spectrum Plan, based on the Spectrum Plan of the Turks and Caicos Islands.

(2) The Commission shall—

- (a) publish in the *Gazette* a notice announcing that the interim Spectrum Plan has been produced;
- (b) thereafter initiate a public consultation within the Turks and Caicos Islands, and regionally and internationally; and
- (c) give due consideration to any comments it receives.

(3) Following the public consultation described in subregulation (2), the Commission shall adopt and publish the final Spectrum Plan.

(4) The interim Spectrum Plan and the final Spectrum Plan each shall, taking into account section 40 of the Ordinance, specify—

- (a) which services may be provided within each frequency band within the Turks and Caicos Islands, based on the Radio Regulations, regional arrangements and national requirements and priorities;
- (b) which uses shall require a spectrum licence or shall be exempt from such a requirement;
- (c) which bands shall be available for shared use, and which may be licensed on an exclusive basis;
- (d) arrangements for visitors to the Turks and Caicos Islands using radio transmitting devices;
- (e) the policy on the length of term for spectrum licences and for termination of spectrum licences and reassignment of bands;
- (f) the bands reserved for use by the Government or for use by agencies of the United Kingdom of Great Britain;
- (g) the procedures to be followed by the Commission when granting a spectrum licence; and
- (h) whether or not any fees are to be paid to the Government pursuant to section 34(2) of the Ordinance on the award of spectrum licences in addition to any fees payable to the Commission.

(5) The Commission may amend the Spectrum Plan from time to time, including for the purpose of re-allocating spectrum for uses other than as provided in the existing Spectrum Plan.

(6) Where the Commission considers it useful or appropriate to do so, it may adopt a Channelling Plan for any band of spectrum.

(7) The Commission—

- (a) may monitor trends and developments, and use in the Turks and Caicos Islands, of the spectrum;
- (b) may, from time to time and with due regard to the considerations set forth in regulation 2, propose changes to the Spectrum Plan;
- (c) publish in the *Gazette* a notice announcing any changes proposed pursuant to paragraph (b);
- (d) thereafter initiate a public consultation with regard to such changes; and
- (e) give due consideration to any comments it receives.

(8) The Commission shall cause the interim and final Spectrum Plan to be available on its web site and otherwise as it may determine.

Spectrum licences

5. (1) Subject to the Ordinance, applications for spectrum licences shall be made in accordance with the Telecommunications (Telecommunications and Frequency Licensing) Regulations.

(2) The Commission shall determine the level of fees to be paid by holders of spectrum licences in accordance with the Telecommunications (Fee Structure) Regulations, as specified in the Spectrum Plan and as otherwise established by the Commission in connection with the assignment of frequency bands.

Monitoring and harmful interference

6. (1) The Commission shall monitor uses of the spectrum in the Turks and Caicos Islands for the purpose of ensuring that only the holders of spectrum licences are using spectrum assigned to such licensees.

(2) The Commission may choose the time and location of its monitoring activities.

(3) The Commission may respond to complaints of interference or other difficulties resulting from actual or alleged misuse of the spectrum by taking such measures as it deems necessary, including directly monitoring such misuses.

(4) Where, as a result of its frequency monitoring activities, or in response to any report of unlawful or harmful use of the spectrum, the Commission has reason to believe that a person is—

- (a) operating any radio-communications apparatus or other equipment in a manner that is causing or is likely to cause harmful interference; or
- (b) using any frequency band outside the scope of its spectrum licence, or is in breach of any condition of any award or is using any frequency band in an unlawful or unauthorised manner,

the Commission may, in addition to any of its powers under the Ordinance or any spectrum licence, require the person concerned forthwith, or within any time period specified by the Commission, to provide full details, orally or in writing, of his radio-communications transmitting and receiving activities, and of the equipment used and its technical specifications, both at the time of the request and at any other relevant time.

(5) In order to perform its functions under sections 52, 57 and 58 of the Ordinance, the Commission may, on reasonable notice and at reasonable times, having first obtained a warrant pursuant to section 59 of the Ordinance, make such entry and inspect any equipment or article used by the person concerned for or in connection with the alleged unlawful or harmful activities.

Re-allocation of frequencies

7. (1) Where the Commission has determined that frequencies are to be re-allocated, the Commission shall cause to be published a public notice containing—

- (a) details of the frequencies to be re-allocated; and
- (b) a requirement that all parties to be affected submit to the Commission by a specified date in the format of a sworn statutory declaration the details of the estimate of their cost of migration as a result of the re-allocation.

(2) The Commission shall determine whether any party shall be compensated for a re-allocation of frequencies and, if it determines that compensation should be paid, whether such compensation shall be paid by the new users of the frequencies or by the Government.

(3) The Commission may retain an expert to verify the estimates provided under subregulation (1) and such report of the expert shall be binding.

TELECOMMUNICATIONS (NUMBERING) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

REGULATION

1. Citation
2. Interpretation
3. Scope
4. National Numbering Plan

PART II

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5. Assignment of Ordinary Numbers
6. Disclosure of information
7. Applications for Primary Assignments
8. Terms and conditions for use of Primary Assignments
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12. Reservation of Ordinary Numbers
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PART III

SHORT CODES AND OTHER NUMBERS

17. Designation of Short Codes, Carrier Identification Codes and other codes
18. Fees and charges for Primary Assignments of other than Ordinary Numbers

TELECOMMUNICATIONS (NUMBERING) REGULATIONS – SECTION 65

(Legal Notice 34/2005)

Commencement

[1 January 2006]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Telecommunications (Numbering) Regulations.

Interpretation

2. In these Regulations—

“Allocation” means the broad definition of categories of telephone numbers and codes, to be determined by in the National Numbering Plan, according various classifications of services, Resource Users, and applications to which different numbering groups shall be applied;

“Annual Numbering Report” means the report submitted pursuant to regulation 15;

“Carrier Identification Codes” mean numeric codes allocated to classes of carriers or telecommunications services that enable the routing and billing of telecommunications traffic, the identification of end users, and the transmission of traffic across multiple networks;

“NANP” means the North American Numbering Plan;

“National Numbering Plan” means the numbering plan of the Turks and Caicos Islands, as amended by the Commission from time to time;

“Ordinary Numbers” mean numbers of the type described in Part 2, and which are intended to be assigned to end users of fixed or mobile telecommunications services;

“Primary Assignment” means the grant by the Commission to particular Resource Users of designated blocks of numbers within an Allocation;

“Resource Users” mean licensees that are eligible to be assigned numbers or codes under these Regulations, as well as certain third-party resellers of numbering-related services, as determined by the Commission;

“Secondary Assignment” means the distribution of numbers by a Resource User to providers of telecommunications services and to end users;

“Short Codes” mean access codes in the format x11 [or lxx] used to access emergency and inquiry services in the Turks and Caicos Islands.

Scope

3. The numbering scheme for public telecommunications networks and public telecommunications services in the Turks and Caicos Islands shall conform to the NANP, except to the extent modified by the Numbering Plan and these Regulations.

National Numbering Plan

4. (1) The Commission shall issue the National Numbering Plan.

(2) The National Numbering Plan shall identify the framework for allocation of blocks of Ordinary Numbers, exchange codes, Short Codes, and other unique numbering resources to different classes of Resource Users and applications.

(3) The Commission shall administer the definition, allocation, and assignment of numbering resources in a competitively neutral, non-discriminatory fashion.

PART II**ADMINISTRATION OF ORDINARY NUMBERS****Assignment of Ordinary Numbers**

5. (1) The Commission shall be responsible for Primary Assignment of blocks of Ordinary Numbers to Resource Users, in accordance with the allocation identified in the National Numbering Plan.

(2) The Commission shall assign Ordinary Numbers in proportion to the needs of the applicant and in a transparent and equitable fashion, with priority in the Primary Assignment of available Ordinary Numbers being given on the basis of the order of arrival of applications.

Disclosure of information

6. (1) Subject to section 7 of the Ordinance, the Commission shall publish information concerning—

- (a) the Ordinary Numbers allocated by the Commission, the recipients of such Ordinary Numbers and the conditions for use of such Ordinary Numbers; and
- (b) the status of each Ordinary Number, indicating whether it is free, reserved, assigned or unavailable and the period of unavailability.

(2) The Commission shall update the information published pursuant to subregulation (1) at least every six (6) months.

Applications for Primary Assignments

7. (1) The Commission shall determine which persons shall be permitted to apply for and obtain Primary Assignments of Ordinary Numbers.

(2) In making the determination specified in subregulation (1), the Commission shall give priority to licensees in proportion to their demonstrated needs.

(3) The Commission may assign designated commercially valuable numbering blocks to third-party distributors for purposes of resale or packaging of such numbers in conjunction with

telecommunications services, subject to reasonable limitations on the quantity of numbers or blocks of numbers that any one entity or group can be assigned.

(4) The Commission shall establish application procedures and criteria for Primary Assignments of Ordinary Numbers.

Terms and conditions for use of Primary Assignments

8. (1) The Commission shall use the following procedures in making Primary Assignments of Ordinary Numbers—

- (a) the Commission may determine, on a case-by-case basis, the quantity of number assignments which are required for particular Resource Users, based upon demonstrated end user demand;
- (b) as far as practicable, numbers in any opened block shall be assigned prior to numbers in any subsequent, unopened block;
- (c) notwithstanding paragraph (b), the Commission may make a Primary Assignment of separate blocks to individual Resource Users upon request, if it determines that such Primary Assignment would enhance market competition and not unduly diminish the availability of Ordinary Numbers.

(2) Each Resource User shall use Ordinary Numbers assigned to it solely for the purpose specified in the application it submitted pursuant to regulation 7.

(3) The Commission may rescind Primary Assignments, or impose other sanctions, for any misuse, hoarding or other illicit use of Ordinary Numbers.

(4) Each Resource User shall maintain a record of the percentage of Ordinary Numbers in use and reserved and shall, on request, provide the Commission with timely information about any substantial alteration that occurs in relation to its use of Ordinary Numbers.

(5) Ordinary Numbers assigned pursuant to a Primary Assignment shall remain under the control of the Resource User to which the Primary Assignment was made, subject to regulation 13.

(6) Notwithstanding subregulation (5), a Resource User is permitted to make a sub-assignment to another person of Ordinary Numbers as follows—

- (a) a sub-assignment must be of Ordinary Numbers within the block of number designated in the Primary Assignment to the Resource User;
- (b) the sub-assignment must be for the same use specified in the Primary Assignment and be otherwise consistent with these Regulations;
- (c) where a Resource User has paid a fee for the Primary Assignment, it may charge an equivalent fee for any sub-assignment;
- (d) the Resource User shall report each sub-assignment to the Commission.

(7) At the time of a Primary Assignment, or at any time thereafter, the Commission may, where it considers it necessary or reasonable to do so, apply additional specific conditions to the use of Ordinary Numbers, to the extent consistent with the National Numbering Plan, these Regulations and as needed to use and manage the assigned Ordinary Numbers.

Fees and charges for Primary Assignments

9. The Commission shall determine the appropriate levels of fees, if any, that Resource Users shall be required to pay for Primary Assignments of Ordinary Numbers, taking into account the factors in section 27(4) of the Ordinance.

Terms and conditions for Secondary Assignments

10. (1) Resource Users may make Secondary Assignments of Ordinary Numbers to providers of telecommunications services and end users.

(2) Any Secondary Assignment must be in accordance with the National Numbering Plan and these Regulations.

(3) Subject to regulation 13, the assignee of an Ordinary Number assigned through a Secondary Assignment may continue to enjoy the use of that number without hindrance to the extent that such assignee provides or uses a telecommunications service for which the Ordinary Number has been assigned.

(4) An assignee of an Ordinary Number assigned pursuant to this regulation may not transfer or sell any such Ordinary Number.

(5) Upon termination of the provision, subscription or use of the telecommunications service for which an Ordinary Number has been assigned pursuant to a Secondary Assignment, control of such Ordinary Number shall revert to the Resource User making the Secondary Assignment, subject to regulation 13.

(6) An Ordinary Number that an end user has relinquished due to cancellation of the telecommunications service for which the Secondary Assignment to such end user was made shall not be reassigned to any other end user for a period of at least six (6) months.

Application procedure

11. (1) An applicant for a Primary Assignment or to reserve Ordinary Numbers resources pursuant to regulations 5 and 11 shall provide the following information—

- (a) name, postal address and telephone numbers, and the name of a contact person;
- (b) details of entitlement to an assignment or reservation of numbers;
- (c) information about characteristics of the telecommunications network and/or telecommunications services provided, including, when applicable, the forms of interconnection with other telecommunications networks;
- (d) statement of the use for which the requested Ordinary Numbers are intended, including whether they are intended for use in connection with fixed, mobile or pre-paid mobile services;
- (e) the date on which the applicant expects to start the telecommunications service for which the Primary Assignment is requested;
- (f) in the case of Ordinary Numbers intended for use in connection with fixed services, any designated exchange service area for which the numbers are requested;

- (g) in the case of numbers intended for resale on a commercial basis, a statement demonstrating the intended market for such numbers, and the affiliation of the applicant with the telecommunications service provider(s);
- (h) a statement that the numbers will be used in accordance with the Numbering Plan and these Regulations;
- (i) a forecast of expected utilization of the Ordinary Numbers over a period of at least three years;
- (j) any preference for particular Ordinary Numbers;
- (k) the date on which the telecommunications service for which the Ordinary Numbers are requested will cease operation, or the date by which use of the Ordinary Numbers will be relinquished, if applicable;
- (l) details of use made of any prior Primary Assignments, including the volume of Ordinary Numbers that were assigned, by Secondary Assignments, and the volume of Ordinary Numbers in service and not in service; and
- (m) any other information considered necessary by the Commission in relation to the application made.

(2) An application for a Primary Assignment shall not be made more than six months prior to the date on which the applicant intends to commence the telecommunications service for which the application is made, except with the approval of the Commission.

(3) Prior to the opening of new blocks of Ordinary Numbers, exchange codes, or other significant numbering resources under the terms of the National Numbering Plan, the Commission shall—

- (a) publish a notification and specify a date for initial receipt of applications from all qualified persons for Primary Assignments for such blocks; and
- (b) not accept any applications for such blocks prior to the date specified pursuant to paragraph (a).

(4) The Commission shall respond to an application for a Primary Assignment of Ordinary Numbers resources within a period of fifteen days from receipt of an application containing all the information required pursuant to subregulation (1), unless such application requires further review or raises issues that cannot reasonably be addressed within that period.

(5) Where the Commission considers that an exception to the period specified in subregulation (4) is required, then it shall inform the applicant in writing of the reasons for the exception and of the extended period.

(6) The Commission may refuse an application for a Primary Assignment of Ordinary Numbers resources if it considers that the applicant has used previous assignments of numbers ineffectively or inefficiently or for other sufficient and demonstrated cause, or may not grant the application in full, or may attach specific conditions to the Primary Assignment pursuant to regulation 7(7) and these Regulations.

(7) Where the Commission acts pursuant to subregulation (6), then—

- (a) the Commission shall inform the applicant in writing of its reasons and may, following consultation with the applicant, make an alternative Primary Assignment;

- (b) the applicant may write to the Commission disputing the reasons given by the Commission for its decision and may include further information regarding its application; and
- (c) where an applicant writes to the Commission pursuant to paragraph (b), the Commission shall consider the information provided by the applicant and respond within thirty days thereafter.

Reservation of Ordinary Numbers

12. (1) An applicant may apply to the Commission to reserve Ordinary Numbers where—
- (a) it is awaiting the award of a licence;
 - (b) the applicant does not wish to be identified at the time of application;
 - (c) the reason for the application is commercially sensitive at the time of application; or
 - (d) a route for migrating numbers from another block or code needs to be identified.
- (2) Once the Commission has granted the application for a reservation, for the period of the reservation, the Ordinary Numbers so reserved shall be unavailable for Primary Assignment to any person except for the purpose for which, and to the person by which, the application for reservation was made.
- (3) The submission of an application to reserve Ordinary Numbers does not guarantee that the Commission will make a corresponding Primary Assignment pursuant to regulation 10.
- (4) The Commission shall respond to an application for a reservation in the same periods as specified in regulation 10(4) and (7).
- (5) When granting an application to reserve Ordinary Numbers, the Commission—
- (a) shall have regard to these Regulations and the National Numbering Plan, relevant conditions in the licence of a licensee and any other matters that it regards as relevant; and
 - (b) may choose to publish the application in the *Gazette* and undertake public consultations.
- (6) Except as the Commission determines, the period of any reservation for fixed and mobile ranges of Ordinary Numbers is six months, which period may be renewed on request to the Commission and at its discretion.
- (7) The Commission may terminate a reservation granted to a person who has applied for a licence if such person does not meet the criteria for a Primary Assignment within a time period determined by the Commission.

Notification of bringing into use

13. (1) Each Resource User must notify the Commission, other carriers and service providers and all institutions involved in the administration of the NANP of the dates on which assigned Ordinary Numbers and codes are activated within the time frames agreed with such other carriers or service providers, or specified by those institutions.

(2) Each Resource User shall provide to the Commission information with respect to persons to be notified of the dates for activation of the Ordinary Numbers and codes assigned to other carriers or service providers.

(3) The Commission will maintain a list of the persons identified pursuant to subregulation (2), which list shall be made available on request.

Number portability

14. (1) If the Commission intends to introduce number portability, it shall initiate a proceeding to consult with service providers and the public to determine the technical feasibility, timing, costs, and market impacts of introducing various options for number portability.

(2) Any consultation initiated pursuant to subregulation (1) shall address, among others, the following issues—

- (a) the most appropriate technical and service arrangements for providing number portability by various types of service providers;
- (b) the costs associated with introducing and maintaining number portability, and how such costs should be recovered;
- (c) how quickly service providers can introduce both interim and permanent number portability;
- (d) whether portability should be required between mobile and fixed services, or only between fixed-to-fixed and mobile-to-mobile services, and the technical and economic questions raised by these options;
- (e) the anticipated market impact, in terms of competitive opportunity, customer choice, pricing, and other considerations, of various portability options;
- (f) what adjustments, if any, should be made to the National Numbering Plan and/or to these Regulations to accommodate the requirements of number portability; and
- (g) any other issues that the Commission or interested parties deem important to consider in devising a national policy and regulations on number portability.

Withdrawal of numbers

15. (1) The Commission may cancel a Primary Assignment or otherwise withdraw Ordinary Numbers that are the subject of a Primary Assignment only if—

- (a) there is an overriding national interest in doing so; and
- (b) it has the right to do so pursuant to these Regulations.

(2) Before acting pursuant to subregulation (1), the Commission must consult with any affected or interested parties, including the Resource User and any assignee of an Ordinary Number affected by the cancellation or withdrawal.

Annual Numbering Report

16. (1) Each Resource User shall submit to the Commission an Annual Numbering Report within one month after the end of the calendar year.

(2) Each Annual Numbering Report shall include the following information for each Primary Assignment of Ordinary Numbers—

- (a) for the calendar year just ended, the use of Ordinary Numbers within each such Primary Assignment;
- (b) the percentage of Ordinary Numbers that have been assigned through a Secondary Assignment or otherwise are, for any reason, unavailable for further assignment, in which case the reasons for unavailability should be specified; and
- (c) any sub-assignment of blocks of numbers to any person for purposes other than end use.

(3) The Annual Numbering Report shall also provide, in a format specified by the Commission—

- (a) the Resource User's forecast of future demand for Ordinary Numbers;
- (b) where Ordinary Numbers have been reserved, the Resource User's justification for continuing the reservation thereof; and
- (c) any other information reasonably requested of the Resource User by the Commission.

(4) The Commission may summarize data collected from the Annual Numbering Reports submitted pursuant to this regulation and publish such data in an Annual Report.

PART III

SHORT CODES AND OTHER NUMBERS

Designation of Short Codes, Carrier Identification Codes and other codes

17. (1) The Commission, in accordance with the National Numbering Plan, may prescribe Short Codes that must be used by all or any classes of Resource Users in order to access emergency or inquiry services.

(2) A Resource User may apply to the Commission for a unique Allocation of one or more additional Short Codes within the National Numbering Plan.

(3) Any application submitted pursuant to subregulation (2) shall include—

- (a) the information required under regulation 10(1), to the extent applicable to the Short Code concerned;
- (b) an assessment of the impact of use of such Short Code on users; and
- (c) an assessment of the level of awareness of users about the Short Code proposed to be used and the services that are to be supplied using the Short Code.

(4) The National Numbering Plan shall include allocations of ranges of Carrier Identification Codes to be associated with various types of carrier and telecommunications services (e.g., fixed, mobile, international), in a format consistent with NANP requirements.

(5) A Resource User may apply to the Commission for particular Carrier Identification Code(s) within the appropriate range that it wishes to be assigned.

(6) Upon receipt of an application received pursuant to subregulation (5), the Commission may, after notifying the applicant and affording it an opportunity to respond, assign a different code if the Commission determines that making the Primary Assignment of the Carrier Identification Code as requested by the applicant would—

- (a) violate the National Numbering Plan;
- (b) not be consistent with these Regulations;
- (c) unduly erode, or lead to underutilization of numbers;
- (d) be liable to cause any type of interference; or
- (e) result in significant and unfair competitive advantage to any person.

(7) Where the Commission assigns a different Carrier Identification Code pursuant to subregulation (6)—

- (a) the Commission shall inform the applicant in writing of its reasons and may consult with the applicant;
- (b) the applicant may write to the Commission disputing the reasons given by the Commission for its decision and may include further information regarding its application; and
- (c) where an applicant writes to the Commission pursuant to paragraph (b), the Commission shall consider the information provided by the applicant and respond within thirty days thereafter.

(8) In the case where more than one carrier has applied for a particular Carrier Identification Code, the Commission shall organise a transparent and equitable method for determining which carrier should be awarded such code.

(9) Following discussions with the Independent Numbering Committee of North America, and a public consultation, the Commission may prescribe toll-free numbers in the 8xx xxx xxxx range that may be used only for toll-free calls to destinations in the Turks and Caicos Islands.

(10) Where numbers in the 8xx xxx xxxx range other than those prescribed pursuant to subregulation (9) do not allow users of public telecommunications services in the Turks and Caicos Islands to access the destination number toll-free, the Commission may require the service provider to provide a message, free of charge to the end user, warning the end user that he will be charged if he continues with the call.

(11) Any Resource User and any other authorised third-party may apply to the Commission for the Primary Assignment of any other special codes or blocks of numbers as may be designated in the National Numbering Plan.

(12) Any application submitted pursuant to subregulation (11) shall include—

- (a) the information required under regulation 10(1), to the extent applicable to the special codes or blocks of numbers concerned;
- (b) an assessment of the impact of use of such codes or blocks on users;
- (c) an assessment of the level of awareness of users about the codes or blocks proposed to be used and the services to be supplied using the codes or blocks.

Fees and charges for Primary Assignments of other than Ordinary Numbers

18. (1) The Commission shall establish the appropriate levels of fees for Primary Assignments of Short Codes and other commercially valuable codes and number blocks.

(2) The fees established pursuant to subregulation (1) shall be consistent with the market value of the numbering resources, recognizing their scarce and public nature of such resources.

(3) The Commission should set the level of the fees established pursuant to subregulation (1) to encourage the development of competitive and innovative telecommunications networks and telecommunications services in the Turks and Caicos Islands, taking into account the factors in section 27(4) of the Ordinance.

TELECOMMUNICATIONS (PRICING) REGULATIONS

ARRANGEMENT OF REGULATIONS

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 3. Application of Regulations
 4. Pricing constraint
 5. Price Control Baskets
 6. Changes to prices of Price Cap Services
 7. Price Control Formula for Price Cap Services
 8. Publication of rates, terms and conditions
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TELECOMMUNICATIONS (PRICING) REGULATIONS – SECTION 65 *(Legal Notice 35/2005)*

Commencement

[1 January 2006]

Citation

1. These Regulations may be cited as the Telecommunications (Pricing) Regulations.

Interpretation

2. In these Regulations—

“Designated Licensee” means any service provider designated by the Commission as being dominant with respect to a telecommunications service in accordance with section 16 of the Ordinance;

“Ordinance” means the Telecommunications Ordinance;

“Price Cap Regime” means the regime for price cap regulation prescribed by these Regulations;

“Price Cap Regime Period” means a period of three to five Price Cap Years during which the Price Cap Regime is in force for any Designated Licensee;

“Price Cap Services” means telecommunications services subject to the Price Cap Regime;

“Price Cap Year” means the initial year and each subsequent year in which the Price Cap Regime shall be in force for any Designated Licensee;

“Price Control Basket” means a basket (grouping) of Price Cap Services as determined by the Commission pursuant to regulation 4;

“Price Control Formula” means the formula provided for in regulation 7.

Application of Regulations

3. (1) These Regulations are promulgated pursuant to, and constitute the incentive-based rate setting mechanism referred to in, section 28(4) of the Ordinance.

(2) These Regulations shall apply to a Designated Licensee in relation to its provision of any Price Cap Service, where and for so long as the Commission determines, under section 16 of the Ordinance, that such Designated Licensee is dominant in relation to the provision of such Price Cap Service.

(3) The Commission may, at any time, issue a determination terminating the application of these Regulations in relation to any Price Cap Service if the Commission determines that the Designated Licensee is no longer dominant pursuant to section 16(3) of the Ordinance.

(4) Compliance with these Regulations is required without prejudice to all other obligations imposed on the Designated Licensee under the Ordinance or under any licence issued by the Commission.

Pricing constraint

4. Each Designated Licensee shall ensure, at all times, that charges for the Price Cap Services that it provides conform to these Regulations, and that such charges shall be set, and may be changed, and charged to users only as provided in these Regulations.

Price Control Baskets

5. (1) The Commission shall determine, for each Designated Licensee, which telecommunications services shall be Price Cap Services and included in one or more Price Control Baskets for purposes of applying the Price Control Formula.

(2) The Commission shall publish in the *Gazette* for public comment its initial determination of a Designated Licensee's Price Control Baskets.

(3) The Commission shall determine, in establishing and subsequently reviewing the Price Control Baskets, the weightings to be given to each service component for purposes of calculating the average price levels of the Price Control Basket for a given Price Cap Regime Period.

(4) The Commission shall review the Price Cap Services included in each Price Control Basket at the end of each Price Cap Regime Period.

(5) A review undertaken pursuant to subregulation (4) shall include a public consultation in such manner as the Commission may determine.

(6) If, after a consultation undertaken pursuant to subregulation (5), the Commission determines, pursuant to section 16(3) of the Ordinance, that the Designated Licensee is no longer dominant in relation to one or more Price Cap Services included within a Price Control Basket, then such service shall no longer be a Price Cap Service and shall be thereafter excluded from the relevant Price Control Basket.

(7) When a Designated Licensee introduces a new telecommunications service, the Commission shall review the nature, terms and market position of such service to determine whether it shall be included within a Price Control Basket, and to determine the weighting to apply to revenues from such service in the calculation of the Price Cap Formula for the next Price Cap Year.

(8) A Designated Licensee may offer packages of bundled Price Cap Services, subject to the terms of its licence, although it must offer each such Price Cap Service individually.

Changes to prices of Price Cap Services

6. (1) Designated Licensees subject to the Price Cap Regime may freely adjust the prices for Price Cap Services, subject to these Regulations.

(2) Before implementing any changes in prices of Price Cap Services, a Designated Licensee shall provide notice of at least twenty-eight days for price increases, and seven working days for price decreases to users and to the Commission, of such proposed change.

(3) The Commission may review any proposed price changes notified to it and, if it determines there is reasonable cause, may notify the Designated Licensee in writing that it is suspending the effectiveness of such changes pending a formal investigation of whether they are consistent with the Price Cap Regime.

(4) With respect to price decreases, within the seven working days-period specified in subregulation (2), the Commission may notify the Designated Licensee that the rate is conditionally approved, after which the Designated Licensee may immediately implement the decrease, subject to a determination by the Commission, by no later than one hundred and eighty days after the effective date of such decrease, that such rate is anti-competitive or will have such effect.

(5) If the Commission does not order a suspension of notified price changes within the twenty-eight days or seven working days' notice period, then the new rates shall take effect.

(6) Notwithstanding subregulation (5), the Commission may at any time review any prior rate changes according to these Regulations.

(7) Each Designated Licensee shall take all reasonable steps to ensure that, during any Price Cap Year, any changes in the prices of Price Cap Services comply with the requirements of the Price Cap Regime, specifically, that the weighted average overall prices for each designated Price Control Basket shall not exceed the price level for the Price Control Basket for the given Price Cap Year, as calculated in accordance with regulation 7.

(8) Within three months after the end of each Price Cap Year, the Designated Licensee shall file with the Commission evidence demonstrating compliance with the Price Cap Regime for such Price Cap Year.

(9) If the Commission determines, based on prior problems, or reasonably anticipated problems (based on the Designated Licensee's pricing of the Price Cap Services), with the Designated Licensee's demonstrating compliance, the Commission may, as appropriate, require that the Designated Licensee demonstrate compliance more frequently than as provided in subregulation (8).

(10) If, upon review of price changes implemented by a Designated Licensee during a given Price Cap Year, the Commission determines that such changes have caused the price level for a Price Control Basket to exceed the limitations determined by the Price Control Formula, the Commission may—

- (a) order the immediate reduction of prices for one or more Price Cap Services within the Price Control Basket, together with retroactive refunds to customers of such Price Cap Services;

- (b) allow the price changes to remain in place, but impose further limitations or a moratorium on future price changes until such time as the Commission determines that customers of the Services in question have been properly compensated for the prior excess prices; and/or
- (c) impose such other sanctions, penalties, and remedies upon the Designated Licensee as it deems appropriate to respond to the violation of these Regulations, consistent with the provisions of the Ordinance.

(11) Notwithstanding the price level changes permitted under the Price Control Formula, the Commission may establish further limitations on changes to prices of Price Cap Services during any given Price Cap Year.

(12) The limitations referred to in subsection (11) may take the form of either—

- (a) restrictions on the maximum overall percentage by which any prices for any Price Cap Service or Price Control Basket may increase within a given Price Cap Year; or
- (b) restrictions on the number and frequency of separate price increases to be allowed.

(13) The Commission shall establish any limitations referred to in this regulation in establishing and subsequently reviewing the Price Cap Regime at the beginning of each Price Cap Regime Period.

(14) The Commission shall also establish a mechanism, as part of the initial establishment of the Price Cap Regime, to allow for Designated Licensees to carry over from one Price Cap Year to the next changes that were permitted (but not made) in the prices of any Price Cap Services.

Price Control Formula for Price Cap Services

7. (1) The Commission shall establish, following public consultation, the Price Control Formula to apply to Price Control Baskets provided by Designated Licensees.

(2) The Price Control Formula shall calculate the maximum weighted average prices allowed for Price Cap Services within each Price Control Basket during a given Price Cap Year.

(3) Weightings for services within each Price Control Basket shall be based upon relative revenues.

(4) The Price Control Formula shall be based on the following formula and in accordance with this regulation—

$$[P(t)=P(o)[RPI-X+/-Z]$$

Where—

P(t) is the current price level at the beginning of Price Cap Year *t*;

P(o) is the price level at the beginning of the previous Price Cap Year;

RPI is the relative percentage change in the United States Consumer Price Index;

- X is a Commission-determined productivity or efficiency factor; and*
- Z is a factor to represent exogenous cost changes (i.e., changes in costs to the firm, up or down, that are not captured by changes in conventional inputs (labor, capital, and raw materials) and that are beyond the firm's control).*

(5) The “X” factor in the Price Control Formula shall be determined by the Commission following public consultation, and shall be based upon a formula that evaluates the expected and appropriate level of productivity improvement by a Designated Licensee over time. This formula may take into account the following factors—

- (a) existing and projected-revenues, financial and operating expenses, depreciation charges and capital employed;
- (b) projected volume growth for Price Cap Services within the Price Control Basket(s) or sub-basket(s);
- (c) cost/volume and asset/volume relationships;
- (d) projected unit input cost changes;
- (e) projected tax liabilities;
- (f) weighted average cost of capital (WACC) in the Turks and Caicos Islands; and/or
- (g) such other economic and business considerations as the Commission determines may appropriately reflect the real productivity gains to be expected from the regulated firm.

(6) For purposes of implementing these Regulations, the Commission shall determine all components of the Price Cap Regime that shall apply to each Designated Licensee through an initial public consultation and proceeding.

(7) Within one hundred and eighty (180) days of the adoption of these Regulations, the Commission shall commence such proceeding to establish the initial Price Cap Regime for any Designated Licensee determined to exhibit economic strength with respect to any telecommunications services.

(8) Upon conclusion of such proceeding, the Price Cap Regime shall come into force for a Designated Licensee, and the initial Price Cap Year shall begin, with each subsequent Price Cap Year commencing on the anniversary date of the beginning of such initial Price Cap Year.

(9) The Commission shall determine the following elements of the Price Cap Regime through such proceeding—

- (a) which services shall be designated as Price Cap Services, based on a determination of economic strength of the Designated Licensee with respect to such services;
- (b) the composition of Price Control Baskets for all Price Cap Services;
- (c) the initial prices of the Price Cap Services within each Price Control Basket;
- (d) the precise Price Control Formula to apply to each Price Control Basket, including initial values and future means of calculating the “X” and “Z” factors;

- (e) all other provisions and requirements of the Price Cap Regime, as deemed appropriate by the Commission in conformity with these Regulations.

(10) For each Designated Licensee, the Commission shall determine the Price Cap Regime Period.

Publication of rates, terms and conditions

8. Every service provider shall publish a schedule of the rates, terms and conditions applicable to all the telecommunications services it provides at least annually and upon any increases and decreases, in such form and manner as set forth in its licence and as the Commission may otherwise prescribe from time to time.

**TELECOMMUNICATIONS (INTERCONNECTION AND ACCESS TO
TELECOMMUNICATIONS FACILITIES) REGULATIONS**

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**TELECOMMUNICATIONS (INTERCONNECTION AND ACCESS TO
TELECOMMUNICATIONS FACILITIES) REGULATIONS – SECTION 65**

(Legal Notices 36/2005 and 50/2021)

Commencement

[1 January 2006]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations.

Interpretation

2. In these Regulations—

“interconnection agreement” means an agreement between two licensees setting forth their respective rights and obligations with respect to providing direct interconnection between their telecommunications networks and telecommunications services;

“Ordinance” means the Telecommunications Ordinance;

“telecommunications facility” means a physical component of a telecommunications network, other than terminal equipment, including wires, lines, terrestrial and submarine cables, wave guides, optics or other equipment or object connected therewith, used for the purpose of telecommunications and includes any post, pole, tower, standard, bracket, stay, strut, insulator, pipe, conduit, or similar thing used for carrying, suspending, supporting or protecting the structure.

General principles

3. (1) Carriers and service providers are required to co-operate with each other in accordance with these Regulations, in order to enable them to provide integrated public telecommunications services throughout the Turks and Caicos Islands and to allow each end user of a public telecommunications network and public telecommunications service to communicate with any other end user of another public telecommunications network or public telecommunications service.

(2) Interconnection shall be established and provided in accordance with interconnection agreements negotiated and agreed between the parties, and submitted to the Commission, pursuant to the Ordinance and these Regulations.

Functions of the Commission

4. (1) The Commission shall, consistent with the Ordinance and these Regulations, encourage and, where appropriate, ensure, the adequacy of interconnection between public telecommunications networks and public telecommunications services in such a way as to—

(a) promote efficiency;

- (b) promote sustainable competition;
 - (c) give maximum benefit to end users; and
 - (d) provide that carriers and service providers are compensated for interconnection services.
- (2) The Commission may, to the extent necessary to ensure end-to-end connectivity—
- (a) impose the obligations on carriers and service providers as set forth in these Regulations, including, in justified cases, the obligation to interconnect their networks;
 - (b) establish technical or operational conditions to be met by carriers or service providers;
 - (c) resolve disputes with respect to the establishment of interconnection agreements and disputes regarding the interpretation and implementation of such agreements; and
 - (d) act on its own initiative or at the request of either of the parties involved in order to carry out the objectives of the Ordinance and ensure compliance with the Ordinance and these Regulations.

PART II

OBLIGATIONS OF CARRIERS AND SERVICE PROVIDERS

Duty to interconnect

5. (1) Every carrier and service provider has a duty to interconnect with other carriers and service providers.

(2) For purposes of subregulation (1), interconnection may either be direct or indirect, through the public telecommunications networks or public telecommunications services of other licensees.

(3) The duty to interconnect specified in subregulation (1) obligates carriers and service providers to refrain from refusing, obstructing or in any way impeding, other than for the grounds set forth in section 22(2) of the Ordinance, as the Commission may determine, and justified in writing, the interconnection of another carrier or service provider entitled to obtain such interconnection.

(4) The duty to interconnect specified in subregulation (1) includes the requirement that every carrier or service provider provide for the transmission and routing of the services of other carriers and service providers at any and all technically feasible points and that the facilities of the licensee requesting interconnection may be collocated with the facilities of the carrier or service provider required to offer interconnection, except to the extent that the Commission may otherwise determine.

(5) If both the carrier or service provider offering interconnection and the carrier or service provider seeking interconnection are not dominant in any market (including in voice termination), the licensees may agree to interconnect, with respect to networks or services in such

market, on any mutually agreeable terms consistent with their obligations under the Ordinance, these Regulations and their respective licences.

(6) Any agreement governing direct interconnection between licensees shall be embodied in a written interconnection agreement.

(7) The Commission may require that a carrier or service provider, in fulfilling its duty to interconnect, undertake specific obligations to ensure that the interconnection provided by such carrier or service provider is fair, reasonable and timely, including the following—

- (a) each carrier or service provider that directly interconnects with another carrier or service provider shall take reasonable measures to ensure that the interconnection does not cause physical or technical harm to the other carrier's or service provider's telecommunications network;
- (b) each carrier or service provider must provide to another carrier or service provider with which it interconnects information within its possession that is necessary to allow such other carrier or service provider to provide accurate and timely billing services to itself, its affiliates or other carrier or service providers;
- (c) each carrier must make publicly available any protocols, key technologies or physical and logical interfaces of its network necessary to allow the development and interoperability of telecommunications services and, not less than six months prior to deployment, any changes in logical or physical interfaces that could materially affect existing interconnection arrangements, unless otherwise exempted by the Commission;
- (d) each carrier or service provider must provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks;
- (e) each carrier or service provider must, as determined by the Commission, provide access to operational support systems or similar software systems that are required to ensure interoperability of and fair competition in the provision of telecommunications services; and
- (f) parties to interconnection agreements shall have a duty to co-operate in good faith and in a commercially reasonable manner in implementing the terms thereof.

Non-discrimination obligation

6. (1) Every carrier and service provider must offer to provide and provide interconnection, and the elements thereof, to other carriers and service providers on the basis of terms and conditions that are non-discriminatory, including with respect to rates and quality of service.

(2) At a minimum, the obligation set forth in subregulation (1) requires that interconnection and the elements thereof be provided in a manner that is at least equal in both rates and quality to that provided by the carrier or service provider to its own business units or to any subsidiary or affiliate, or to any other party to which interconnection is offered or provided.

(3) Every carrier and service provider must offer to provide and provide interconnection on a timely basis not to exceed ninety days subject to regulation 8, after requested by another licensee, and on the basis of terms and conditions that are transparent and reasonable, having regard to economic feasibility.

(4) Interconnection must be provided without regard to the types of users to be served or the types of services to be provided by the carrier or service provider requesting interconnection.

(5) Once a carrier or service provider concludes an interconnection agreement, or is subject to an interconnection agreement required or determined by the Commission pursuant to regulation 10, it must—

- (a) offer the terms and conditions of such an agreement to any other carrier or service provider requesting interconnection; and
- (b) offer the terms and conditions of such an agreement, upon request, to any carrier or service provider with which it has an existing interconnection agreement, except to the extent that it can demonstrate to the Commission that subregulations (1) and (2) would not be violated by a refusal to offer such terms and conditions to such carrier or service provider.

Confidentiality obligations

7. (1) Except as permitted under the terms of an applicable interconnection agreement, every carrier and service provider must protect from disclosure any confidential, proprietary or competitive information (including, but not limited to, customer orders, market forecasts, plans for development of new services, network plans, current or proposed business plans, and new customers) provided by another carrier or service provider received in the course of negotiating or implementing an interconnection agreement.

(2) All information disclosed pursuant to subregulation (1) must be kept in confidence by the receiving party and may, subject to such commercial conditions and exceptions as are set out in a non-disclosure or interconnection agreement between the parties, be used by such party, and shared with its (and any of its affiliates') employees, agents and contractors, only for the provision of the specific services related to interconnection that have been requested.

(3) Every carrier and service provider receiving confidential or proprietary information pursuant to subregulation (1) shall take appropriate measures to ensure that the information is not disclosed to affiliates or third parties, or used for the development or marketing of other telecommunications services or equipment by such carrier or service provider, or by its affiliates or third parties, other than as permitted by subregulation (2).

PART III

REFERENCE INTERCONNECTION OFFER

Requirement to publish a reference interconnection offer

8. (1) Every carrier or service provider requested subject to these Regulations must make publicly available its standard interconnection agreement or a reference interconnection offer and, in any event, shall, at a minimum, provide such offer within thirty days of its receipt of a request for such offer from another licensee.

(2) Notwithstanding subregulation (1), any dominant carrier or dominant service provider shall prepare and publish its reference interconnection offer within thirty days of its grant of licence.

(3) A reference interconnection offer must be consistent with the Ordinance, these Regulations and the offeror's licence and, except as the Commission may instruct or authorise the Commission, shall contain the following information—

- (a) the technically feasible points at which interconnection is permitted at no additional charge and the means by which interconnection will be achieved. Every license will have to permit interconnection at the host switch as part of its basic interconnection service offering.
- (b) the additional charges to the requesting party for interconnection at points other than those set out in paragraph (a);
- (c) the elements of the interconnection service and its constituent elements, including signaling, transport, the transfer of calling line identification information and switching between the point of interconnection and end users;
- (d) rates or pricing formulae for each feature, function or facility that the offeror is required to offer pursuant to the Ordinance, these Regulations and its licence;
- (e) other commercial terms and conditions applicable to the offering of the elements of the interconnection service.

(4) In addition to the information required by subregulation (3), the reference interconnection offer of a dominant carrier or service provider must—

- (a) list and describe the unbundled network elements and services that will be provided to interconnecting parties, as further specified in regulation 16;
- (b) without limiting paragraph (a), unless the Commission, on application of such dominant carrier or service provider, determine to the contrary, offer access to local loops and to non-voice band frequency spectrum of a local loop, in the case of shared access to the local loop;
- (c) include information concerning the locations of physical and logical access sites in specific parts of the network;
- (d) as determined by the Commission, provide technical conditions relating to access and use of local loops, including the technical characteristics of the twisted metallic pair in any local loop;
- (e) describe any operational and technical requirements with which an interconnecting party must comply in order to avoid harm to the offeror's network;
- (f) as determined by the Commission, set out the ordering and provisioning procedures and any usage restrictions with respect to local loops and any other elements of the interconnection service;
- (g) set out the conditions for access to operational support systems, information systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests and billing, unless the Commission, on application of such dominant or service provider, shall determine that such access is not required;
- (h) describe how information will be provided (such as call type, duration and points of origination and termination) to allow the interconnecting party to bill for telecommunications services; and

- (i) provide—
 - (i) the lead times for responding to requests for supply of services and facilities;
 - (ii) service level agreements, including with respect to fault resolution, procedures to return to a normal level of service and quality of service parameters; and
 - (iii) terms with respect to each of the foregoing.

PART IV

INTERCONNECTION AGREEMENTS

Negotiating interconnection agreements

9. (1) Upon receipt of a request for interconnection, a carrier or service provider must provide its reference interconnection offer as provided in regulation 8.

(2) The reference interconnection offer shall be provided without charge to any carrier or service provider requesting interconnection.

(3) The party requesting interconnection shall, simultaneously with such request, notify the Commission of such request and shall provide to the Commission any additional information specified.

(4) The request from the party requesting interconnection shall include—

- (a) reference to the requesting licensee's licence;
- (b) a technical description of the requested services;
- (c) the intended point of interconnection; the date on which interconnection is intended to commence; and
- (d) the projected quantity or volume of services required, based on a forecast of three years or of some other period if the carrier or service provider is unable to provide such three-year forecast.

(5) The party offering interconnection and the party requesting interconnection shall, promptly upon the offeror's receipt of the request, begin exchanging information and negotiating in good faith with the objective of concluding an interconnection agreement.

(6) Good faith negotiations require, at a minimum, adherence by the parties to the following timetables—

- (a) upon receipt of a request for interconnection, a carrier or service provider shall promptly consider and analyze each request and shall acknowledge receipt within ten days;
- (b) if the information provided by the party requesting interconnection is deemed inadequate or insufficient by the offeror, then the offeror shall seek additional information from the requesting party as soon as commercially reasonable;

- (c) unless there are exceptional circumstances, the offeror shall notify the requesting party of the additional information as it requires within twenty days of the receipt of the initial request for interconnection;
- (d) the offeror shall provide a complete response to the request for interconnection within thirty days of the receipt of the later of the date of the initial request or such additional information as the offeror may have requested;
- (e) in exceptional circumstances, the period specified in paragraph (d) may be extended for another thirty days, provided that the offeror shall so notify the Commission;
- (f) if the offeror is unable to respond to the request for interconnection by the end of the sixty-day period, it shall provide, on the date on which that period expires, a written statement as to the reasons therefor to the Commission and to the party requesting interconnection.

Contents of interconnection agreements

10. Pursuant to section 23 of the Ordinance, unless the parties to an interconnection agreement otherwise agree, such an agreement shall address the following matters—

- (a) technical characteristics and location of the point(s) of interconnection;
- (b) capacity levels;
- (c) service levels;
- (d) forecasting;
- (e) ordering and provisioning;
- (f) provision of network information;
- (g) information handling and confidentiality;
- (h) rates;
- (i) payment procedures;
- (j) fault detection and repair;
- (k) provision for breaches;
- (l) amendments; and
- (m) suspension, termination and duration.

Disputes regarding interconnection and interconnection agreements

11. (1) Where one or both of the two parties to the negotiation conclude that a dispute has arisen between themselves with respect to any aspect of interconnection, then, pursuant to section 24 of the Ordinance, either party may request that such dispute be submitted to the Commission, or the Commission may instruct that the parties involved in the dispute refer the dispute to it, for resolution in accordance with the Administrative Procedure Rules or such other procedures as the Commission may adopt specifically for, and given the nature of, the particular dispute.

- (2) A dispute, for purposes of subregulation (1), may include, but is not limited to—
- (a) a party's failure to respond to a request for interconnection or to negotiate in good faith, where a failure to negotiate in good faith includes, but is not limited to, any party taking a position with respect to a term and condition of interconnection that is not consistent with the Ordinance, these Regulations or its licence;
 - (b) any express or implied refusal to provide interconnection (including as specified in regulation 5(3) and regulation 6);
 - (c) a party's inclusion in a standard interconnection agreement or a reference interconnection offer of any terms and conditions that are inconsistent with the Ordinance, these Regulations or its licence;
 - (d) a disagreement with respect to the costs of interconnection, whether charges sought to be recovered in an interconnection agreement relate to ongoing costs of inter-operability, within the meaning of section 25(1) of the Ordinance, whether a cost is a non-recurring or recurring cost or a cost that varies with usage, and what constitutes a cost-oriented usage based rate based upon the licensee's costs of providing interconnection, within the meaning of section 25(4) of the Ordinance;
 - (e) a failure by the parties to conclude promptly an interconnection agreement; and
 - (f) a disagreement with respect to the price or any other technical, commercial or other term and condition for any element of interconnection that the parties have not been able to resolve within a commercially reasonable time.
- (3) In submitting disputes to the Commission, the parties shall adhere to the following timetables—
- (a) the party intending to submit the dispute shall notify the other party of its intention to do so fifteen days prior to the date on which it makes its formal submission to the Commission;
 - (b) at the expiry of the period specified in paragraph (a), the submitting party shall lodge a petition with the Commission to resolve such dispute, with a copy of the petition delivered to the other party to the dispute;
 - (c) the petition to which paragraph (b) refers shall include a statement of facts, a summary of the issues in dispute, each party's position as to such issues in dispute, evidence that the parties have attempted to commercially resolve the dispute between them (including summaries of correspondence, minutes of meetings and other information) and a summary of issues that were previously in dispute but have been resolved, including the resolutions thereto;
 - (d) within fifteen days of receiving one party's written petition and all accompanying evidence in support thereof (which period may be extended by the Commission for good cause shown upon application by the other party), the other party may lodge with the Commission a counter-petition containing arguments in its defense, including its views, if any, on why the Commission should not intervene to resolve the dispute, along with evidence in support thereof;

- (e) the Commission will determine whether and to what extent it is appropriate to resolve the dispute and shall notify the parties whether it will or will not resolve the dispute;
- (f) to facilitate investigation and resolution of the dispute by the Commission, either party may be asked by the Commission to provide additional information or explanations beyond the initial petition and counter-petition and any report or information required from one party by the Commission shall be provided to the other party;
- (g) information in a petition, counter-petition or otherwise submitted to the Commission shall be marked as confidential if the submitting party desires that such information not be disclosed to the other party and shall be subject to section 7 of the Ordinance;
- (h) by no later than thirty days after the receipt of the petition, the Commission shall endeavour to have completed its deliberation and render a Final Order, with the Commission having the discretion to extend such period in light of the complexity of the matter or where additional information is required;
- (i) notwithstanding paragraph (h), where appropriate, the Commission may issue a Preliminary Order setting out its preliminary determination and its decision on how matters in dispute shall be resolved;
- (j) either party to the dispute may, within fifteen days of the issuance of the Preliminary Order, request that the Commission reconsider one or more elements of such Preliminary Order, setting forth its reasons as to why the Commission should modify its Preliminary Order;
- (k) within ten days of a request for reconsideration submitted pursuant to paragraph (j), the other party to the dispute may respond and provide reasons as to why modification of the Preliminary Order is not required;
- (l) the Commission may only modify the Preliminary Order in response to a request for reconsideration submitted pursuant to paragraph (j) if there are compelling reasons to do so;
- (m) the Commission shall endeavour to issue a Final Order by no later than fifty days after its Preliminary Order;
- (n) in issuing a Preliminary Order and a Final Order, the Commission shall consider the information and arguments submitted by the parties, as well as any other matter that the Commission deems relevant;
- (o) where necessary, the Commission may require a party to provide or continue to provide the relevant service(s) under the reference interconnection offer, or the interconnection agreement, as the case may be, pending the issuance of a Final Order;
- (p) the Commission shall publish a notice in the *Gazette* that it has issued a Preliminary Order or a Final Order and that, where the dispute involves a dominant carrier or service provider, such documents are, subject to section 7 of the Ordinance, available for public inspection, free of charge, at the offices of the Commission.

(4) Any decision rendered by the Commission pursuant to this regulation shall be binding on the parties.

(5) The procedures set forth in this regulation are not intended to displace the dispute resolution procedures set forth in an interconnection agreement.

(6) Notwithstanding subregulation (5), if the parties to an interconnection agreement agree to refer a dispute arising under such agreement to the Commission, the Commission may, at its discretion, mediate or render a binding determination with respect to the dispute in accordance with the procedures set forth in subregulation (3), as such may be modified by the Commission or as the Commission may otherwise establish for such purpose.

Submission to the Commission

12. (1) Within twenty-eight days after the parties to a negotiation regarding interconnection have concluded an interconnection agreement, the carrier or service provider that responded to the initial request for interconnection shall submit a copy of such agreement to the Commission.

(2) Where an interconnection agreement submitted pursuant to subregulation (1) includes one party that is dominant, the Commission shall publish a notice in the *Gazette* of such receipt and that the agreement is available for public inspection, free of charge, at the offices of the Commission.

(3) Notwithstanding subregulation (2), the Commission will not disclose information respecting the interconnection agreement for which disclosure is proscribed by section 7 of the Ordinance.

(4) To verify compliance with these Regulations, the Commission will review an interconnection agreement or any modification thereof that is submitted to it pursuant to subregulation (1) or regulation 13 within thirty days of such submission, which period may be extended for good cause.

(5) The Commission shall issue a Preliminary Order within twenty days of submission to it of a notice with respect to one party's unilateral suspension or termination of an interconnection agreement, pursuant to regulation 13, authorising or declining to authorise such suspension or termination, which period may be extended for good cause.

Modification, suspension or termination of interconnection agreements

13. (1) The parties to an interconnection agreement may mutually agree to modify, suspend or terminate such agreement.

(2) Where modifications to an interconnection agreement are material, or where the interconnection agreement is to be suspended or terminated by mutual agreement, the parties shall notify the Commission and shall inform the Commission of the reasons for taking such action.

(3) If the interconnection agreement includes provisions pursuant to which its unilateral suspension or termination by one party would be permitted—

- (a) the party seeking to suspend or terminate the agreement in accordance with such provisions shall so notify both the Commission and the other party no less than twenty days prior to the effective date of such suspension or termination; and
- (b) such suspension or termination will become effective in accordance with such notice unless the other party applies to the Commission for relief prior thereto

and the Commission issues a Preliminary Order preventing such suspension or termination.

PART V

INTERCONNECTION RATES

Interconnection rates

14. (1) Every carrier and service provider shall provide interconnection at rates that are arrived at in a transparent manner subject to the provisions of any interconnection agreement or the Ordinance regarding the confidentiality of costs or other commercial information.

(2) Rates for interconnection established by carriers and service providers that are not dominant shall not be subject to regulation, except as authorised or required by the Ordinance, these Regulations or as otherwise determined by the Commission.

(3) Every dominant carrier and dominant service provider shall provide interconnection at rates that are cost-oriented and, where expressly authorised by the Commission, that may permit the recovery of the costs of providing access.

(4) For purposes of these Regulations and for purposes of sections 23 and 24 of the Ordinance, rates are “cost-oriented” if the carrier’s or service provider’s charges for interconnection do not exceed the stand-alone cost of providing the service and are not lower than the long-run average incremental costs of providing the service, where—

- (a) “stand-alone cost” means the cost of providing a service independently of providing any other service or services; and
- (b) “long-run average incremental costs” means the costs incurred by providing a service in addition to other service or services already provided.

(5) No dominant carrier or service provider shall charge, for any combination of interconnection services, a price that exceeds the stand-alone costs of providing the combination of interconnection services or that falls below the sum of the individual interconnection services’ long-run average incremental costs.

(6) Without regard to regulation 15, until such date as the Commission shall announce, a carrier or service provider that is dominant in the market for interconnection services as of the effective date of these Regulations may use a cost accounting method of its choosing for ensuring that its charges for interconnection are cost-oriented.

(7) Upon request of the Commission, a carrier or service provider shall supply its costs with respect to the network elements specified in and pursuant to regulation 17 for purposes of verifying that its rates for interconnection, and other contributions or charges levied or allowed by the Commission, comply with this regulation.

Interconnection rate methodology

15. (1) Except as provided in regulation 14(6), the Commission shall determine the methodology to be used for determining whether a carrier’s or service provider’s rates are cost-oriented.

(2) The Commission shall apply the following principles in establishing the methodology to which subregulation (1) refers—

- (a) costs shall be borne by the carrier or service provider whose activity caused such costs to be incurred, except that ongoing costs of inter-operability shall be borne equally by both the carrier or service provider offering interconnection and the carrier or service provider seeking interconnection;
- (b) non-recurring costs shall be recovered through non-recurring rates and recurring costs shall be recovered through recurring rates;
- (c) costs that do not vary with usage should be recovered through non-usage sensitive rates and costs that vary with usage shall be recovered through usage-sensitive rates;
- (d) rates shall permit the recovery of a reasonable rate of return for that carrier or service provider on the capital employed, all attributable operating expenditures, depreciation and a proportionate contribution toward such carrier's or service provider's fixed and common costs; and
- (e) the burden of proof that rates are derived from costs shall lie with the carrier or service provider.

PART VI

ADDITIONAL OBLIGATIONS OF DOMINANT CARRIERS AND SERVICE PROVIDERS

Network unbundling obligation

16. (1) Every dominant carrier or service provider shall disaggregate its network or service and, in its reference interconnection offer, offer individual network elements, as specified in regulation 17, and services at rates that are cost-oriented and that are established in accordance with these Regulations and as the Commission may establish from time to time.

(2) Every dominant carrier or service provider shall permit other carriers or service providers to have non-discriminatory access to telephone numbers, operator services, directory assistance and directory listing services without unreasonable delay, and to such other information and services as the Commission may require.

Network elements

17. (1) Every dominant carrier or service provider is required to provide to other carriers or service providers requesting interconnection at least the following individual network elements, as well as other essential elements, as determined by the Commission, in markets in which the carrier or service provider is dominant—

- (a) access lines;
- (b) domestic switching of calls carried by such carrier or service provider;
- (c) domestic transmission of calls carried by such carrier or service provider;
- (d) international switching of calls carried by such carrier or service provider;

- (e) international transmission of calls carried by such carrier or service provider; and
- (f) transiting between domestic carrier and service providers.

(2) The Commission may require a dominant carrier or service provider to supply, subject to section 7 of the Ordinance, its costs with respect to the network elements it is required to provide pursuant to subregulation (1).

Rate offerings

18. Every dominant carrier or dominant service provider shall, at a minimum and as otherwise required by the Commission, offer to third parties unbundled, cost-oriented rates for terminating domestic and international calls on its domestic network, which network includes the elements listed in regulation 17(1)(a) to (c).

Fixed and mobile carrier termination and transit

19. (1) A carrier that is licensed to own and operate a fixed and/or mobile telecommunications network(s) is presumed to be dominant in the market for wholesale voice termination and transit services over such network(s), except insofar as the Commission, upon demonstration by such carrier, determines otherwise.

(2) A carrier described in subregulation (1) shall not charge an interconnecting carrier or service provider—

- (a) a rate for terminating domestic voice telephone calls on such carrier's mobile telecommunications network that exceeds—
 - (i) U.S. \$0.0440 per minute (adjusted pro rata for units of less than a minute) after March 31, 2021;
 - (ii) U.S. \$0.0290 per minute (adjusted pro rata for units of less than a minute) after March 31, 2022; and
 - (iii) U.S. \$0.0130 per minute (adjusted pro rata for units of less than a minute) after March 31, 2023;
- (b) a rate for terminating domestic voice telephone calls on such carrier's fixed telecommunications network that exceeds—
 - (i) U.S. \$0.0120 per minute (adjusted pro rata for units of less than a minute) after March 31, 2021;
 - (ii) U.S. \$0.0080 per minute (adjusted pro rata for units of less than a minute) after March 31, 2022; and
 - (iii) U.S. \$0.0030 per minute (adjusted pro rata for units of less than a minute) after March 31, 2023; or
- (c) an associated transit rate for conveying voice telephone calls on such carrier's fixed telecommunications network that exceeds—
 - (i) U.S. \$0.0060 per minute (adjusted pro rata for units of less than a minute) after March 31, 2021;
 - (ii) U.S. \$0.0040 per minute (adjusted pro rata for units of less than a minute) after March 31, 2022; and

- (iii) U.S. \$0.0020 per minute (adjusted pro rata for units of less than a minute) after March 31, 2023.

(3) In accordance with regulation 14, a carrier described in subregulation (1) shall submit such information, including with respect to such carrier's costs, as the Commission may request demonstrating that any rates that such carrier charges for wholesale mobile or fixed voice termination services over its own mobile or fixed telecommunications network are cost-oriented—

- (a) if and as such carrier has more than a 33% share of the users in the retail mobile voice or fixed services market; and
- (b) whenever the Commission may otherwise request.

(4) Any carrier or service provider that believes that a carrier described in subregulation (1) is charging it a rate for terminating voice telephone calls on such carrier's mobile or fixed telecommunications network that does not comply with regulation 14(3) and that is unable to negotiate a cost-oriented rate with such carrier may submit the dispute to the Commission in accordance with regulation 11.

(5) Notwithstanding any other requirements of the Ordinance or the Regulations, a service provider may, in establishing rates charged to an end user, take into account the costs of payments made directly or indirectly to other carriers or service providers for interconnection services, including the rates charged by such other carriers or service providers for wholesale mobile or fixed voice termination services, and it may vary the rates it charges to an end user to the extent that there are, and in proportion to, differences in the rates that such provider directly or indirectly pays to any carrier described in subregulation (1) for interconnection to such carrier's mobile or fixed telecommunications network.

(Substituted by L.N. 50/2021)

PART VII

ACCESS TO TELECOMMUNICATIONS FACILITIES

Provision of access

20. (1) A carrier shall provide other carriers with access to all telecommunications facilities that it owns or controls on a timely basis, with such access not to be unreasonably withheld, as may be further determined by the Commission.

(2) A carrier may deny access to telecommunications facilities only for reasons of safety, security, reliability or difficulty of a technical or engineering nature.

Negotiating access to telecommunications facilities

21. (1) Pursuant to regulation 20, every carrier must offer to provide and provide access to telecommunications facilities on a non-discriminatory and equitable basis, including with respect to rates, location and other commercial matters.

(2) Prices for access to and use of telecommunications facilities may be priced on an individual basis, but must be non-discriminatory, just, reasonable and based on the costs of the owner of the telecommunications facilities.

(3) Upon receipt of a request for access to telecommunications facilities, a carrier must promptly provide the terms and conditions for such access.

(4) The party offering access and the party requesting access shall, promptly upon the receipt of the request for access, begin exchanging information and negotiating in good faith with the objective of concluding an agreement to provide access to the requested telecommunications facilities.

(5) Where one or both of the two parties to a negotiation for access to telecommunications facilities conclude that a dispute has arisen between themselves, then either party may submit such dispute to the Commission for resolution in accordance with such procedures as the Commission may adopt.

(6) Pending the resolution of any dispute, the Commission may order sharing of telecommunications facilities on an interim basis.

Sharing of telecommunications facilities

22. (1) The Commission may require a carrier to provide collocation or other forms of sharing of telecommunications facilities on the basis of commercially negotiated rates and other terms and conditions.

(2) Where carriers are not able to reach an agreement regarding compensation for the sharing of telecommunications facilities, the Commission will establish rates based on costs, where appropriate.

(3) In resolving disputes pursuant to regulation 20(5) and in considering whether to impose collocation or sharing requirements in accordance with subregulation (1), the Commission shall endeavour to take into account—

- (a) the reasonably anticipated requirements of the carrier;
- (b) any issues relating to safety, security, reliability or difficulty of a technical or engineering nature;
- (c) the technical and economic viability of requiring that the requesting party use or install other telecommunications facilities;
- (d) the initial investment of the owner of the telecommunications facilities;
- (e) the costs of duplicating the telecommunications facilities;
- (f) other public interest considerations, such as the environmental impact of deploying certain types of telecommunications facilities by multiple carriers; and
- (g) the need to promote and safeguard competition.

(4) The Commission may adopt such procedures, including those adapted from the procedures set forth in regulation 11, as it deems appropriate for mediating and resolving disputes regarding rates, terms and conditions of access to telecommunications facilities.

(5) Except as the Commission may determine in accordance with subregulation (3), a dominant carrier must—

- (a) allow another carrier to collocate its facilities in buildings housing any switches at which the carrier is required to permit interconnection in accordance with these Regulations, at any satellite earth station, at any radio tower, at any

telecommunications equipment rooms in commercial or residential buildings or at such other locations as the Commission may determine;

- (b) provide equipment space, power, site maintenance and security (subject to taking reasonable security precautions in connection with affording such other carrier access to its own facilities) at each such site; and
- (c) afford such other carrier access to its collocated facilities on a basis no less favourable than the carrier affords to itself.

(6) A dominant carrier may not restrict the type of facilities collocated in accordance with subregulation (5)(a) so long as it is of a type of telecommunications equipment customarily located in such locations.

(7) In cases where a dominant carrier cannot offer physical collocation for any reason set out in subregulation (3)(a) and (b), such carrier must take reasonable measures to afford the party requesting collocation alternative solutions, including, but not limited to, virtual collocation, conditioning additional equipment space, optimising the use of existing space or finding adjacent space.

(8) A dominant carrier need not offer to construct additional buildings to accommodate requests for collocation or provide collocation for the staff or personnel of another carrier, except as such other carrier may occasionally require, from time to time, to service or repair its collocated equipment.

**TELECOMMUNICATIONS (TELECOMMUNICATIONS AND
FREQUENCY LICENSING) REGULATIONS**

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LICENSING) REGULATIONS – SECTIONS 11, 32, 38 AND 65**
(Legal Notice 37/2005)

Commencement
[1 January 2006]

PART I
PRELIMINARY

Citation

1. These Regulations may be cited as the Telecommunications (Telecommunications and Frequency Licensing) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires “Ordinance” means the Telecommunications Ordinance.

Scope

3. These Regulations apply—
- (a) to carrier licences, for the ownership and operation of telecommunications networks;
 - (b) to service provider licences, for the provision of public telecommunications services;
 - (c) to other licences, for the provision of other telecommunications services; and
 - (d) to special licences and spectrum licences.

PART II
APPLICATIONS FOR LICENCES

Application procedure

4. (1) Any person required to obtain a licence shall apply to the Commission in such form as may be prescribed.

(2) The Commission shall cause to be published in the *Gazette* 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.

(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 licences, or otherwise consult with such persons in good faith.

(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.

(5) The Commission shall forward to the Minister for decision any applications for licences under Part III of the Ordinance.

Applications for spectrum licences

5. (1) Applications for spectrum licences shall be granted or refused in accordance with the Spectrum Plan, as defined in the Telecommunications (Frequency Management) Regulations.

(2) Pursuant to the Spectrum Plan and Part IV of the Ordinance, the Commission shall establish procedures to determine applications for spectrum licences.

(3) Any procedures established by the Commission pursuant to subregulation (2) shall be objective, transparent and non-discriminatory.

(4) Notwithstanding any other provision of the Ordinance or these Regulations, the Commission may establish one or more separate application procedures, or exempt from any of the provisions of these Regulations, applications to use spectrum for personal or similar uses, where the effective and appropriate management of the spectrum would not be adversely affected, or where the risk of causing harmful interference is negligible.

Contents of applications

6. (1) Applicants for licences shall provide such information as the Commission shall specify, which may include—

- (a) applicant details, including name, legal status, business address, the address of its registered office and other applicable contact information;
- (b) details regarding the type of telecommunications networks, telecommunications services or spectrum for which the application is being submitted;
- (c) in the case of the operation of a submarine cable, such details regarding the place of landing, capacity and other matters;
- (d) information regarding the applicant's directors, partners, management, officials and controlling persons sufficient to satisfy any requirement that the applicant is owned or controlled by Islanders;
- (e) information regarding the applicant's background, including its financial resources and evidence that it can establish, operate and maintain the telecommunications networks or telecommunications services for which it is applying, and other licences held by the applicant or any of its affiliates;
- (f) information describing the network or service to be supplied;
- (g) details regarding business plans, including the estimated date of commencement of the relevant activity;
- (h) information regarding the applicant's proposed rates; and
- (i) details, policies, strategies or representations regarding the applicant's intention and ability to comply with the Ordinance, the Regulations or any conditions of the licence.

(2) The Commission shall prescribe the instructions for applicants, the forms of applications for licences and the charges for submitting an application.

(3) The Commission may ask applicants for further information and may refrain from considering or acting upon the application until the information is supplied.

(4) Each applicant will be bound by the terms, commitments, offers, plans and obligations stated in its application.

(5) Any change in the information contained in the application and in any subsequent information provided to the Commission must be immediately notified to the Commission.

Granting of licences

7. (1) The Minister, with respect to a licence under Part III of the Ordinance, and the Commission, with respect to a licence under Part IV of the Ordinance, may refuse to grant any application for a licence where a person is ineligible for such licence or where the information provided under regulation 6 is incomplete or unsatisfactory or where the granting thereof would be inconsistent with applicable policies or Regulations or the written directions of the Governor.

(2) Where an application is refused, the Minister or the Commission, as the case may be, shall notify the applicant in writing, giving the reasons for the refusal upon request by the applicant.

(3) Where a licence is granted, the Minister or the Commission, as the case may be, shall notify the applicant and shall cause to be published in the *Gazette* a notice to that effect.

Confidentiality

8. (1) Information submitted to the Commission on or in connection with an application shall generally not be considered confidential information.

(2) Notwithstanding subregulation (1), the Commission shall consider representations from applicants or other persons submitting information that may be confidential information that such information should not be made available to the public or otherwise be disclosed.

PART III

CONTENTS OF LICENCES

Licences

9. (1) The Commission may, in accordance with the Ordinance, determine—

- (a) the conditions of any licence, the term of the licence (where not prescribed by the Ordinance), the time required for an application for renewal pursuant to section 21 of the Ordinance, the circumstances under which the licence may be suspended, terminated or amended, and technical matters including, in the case of spectrum licences, the spectrum authorised and types of emission power and other technical requirements; and
- (b) the payment of any initial, annual, renewal or other fees payable by any licensee.

(2) The Commission may specify that certain conditions may not apply to certain classes of carriers or service providers.

(3) The Commission may attach special conditions to a licence where to do so would be justified and consistent with the requirements of the Ordinance and these Regulations and Schedule 1.

(4) The Commission may grant an exclusive licence or a limited number of licences where the Commission determines that it would be consistent with the Ordinance and these Regulations to do so.

(5) Unless the Commission, in a written decision, specifically determines to the contrary, where it intends to grant an exclusive licence or a limited number of licences, it shall afford interested parties a specified period during which they may submit written representations thereon or otherwise consult with such persons in good faith.

Class licences

10. (1) The Minister may adopt a class licence for any telecommunications services, in lieu of requiring that an individual licence be granted under the Ordinance.

(2) A class licence gives a person the right to carry on the activities specified therein upon compliance with the licence and such further requirements as the Minister may specify.

(3) A class licence shall specify the telecommunications services it authorises, a person's eligibility for a class licence and the conditions of the class licence, including—

- (a) the scope of the licensed telecommunications services;
- (b) any applicable technical and operational standards or conditions;
- (c) the location in which the authorised services are to be provided;
- (d) the duration of the class licence (where not prescribed by the Ordinance); and
- (e) any other requirements.

(4) To provide a telecommunications service pursuant to a class licence, a person must, before doing so, register with the Minister or the Commission, in the manner specified by the Commission or in such class licence, of his or her intention to provide such service, and submit such information in writing and pay such fee as the Commission may require.

(5) Within such period as may be specified by the Commission, the Commission shall issue to a person who registered with the Minister or the Commission pursuant to subregulation (4) a declaration that such person is authorised to provide the telecommunications service authorised by the class licence.

(6) Where it considers appropriate to do so, the Minister or the Commission may issue the declaration referred to in subregulation (5) automatically upon receipt of the registration pursuant to subregulation (4).

(7) A person licensed under a class licence must notify the Minister or the Commission of any change or inaccuracy in its registration or any change in its operations that would make it ineligible for the class licence.

Licensing of telecommunications services other than public telecommunications services

11. (1) The Minister, upon recommendation of the Commission, may determine that one or more providers of telecommunications services other than public telecommunications services are required to obtain a licence under the Ordinance and these Regulations.

(2) Before making a determination pursuant to subregulation (1), the Minister shall afford interested parties a specified period during which they may submit written representations or otherwise consult with such persons in good faith.

(3) In the absence of a determination pursuant to subregulation (1), providers of telecommunications services, other than public telecommunications services, are not required to obtain a licence under the Ordinance and these Regulations.

(4) For purposes of this regulation, the Minister, on the recommendation of the Commission, may determine which particular type or class of telecommunications service is not a public telecommunications service.

PART IV

TRANSFERS

Assignment of licence or transfer of control

12. (1) Where a licensee wishes to assign its licence or before any transfer of control of the licensee, the licensee shall apply in writing to the Commission for prior approval pursuant to section 20 of the Ordinance.

(2) For purposes of this regulation, a “transfer of control” of a licensee that is a company means a transfer of control of a “significant interest” in such company, where “significant interest” means a holding or an interest in the company or in any holding company of the company held or owned by a person, either alone or with any other person, and whether legally or equitably, that entitles or enables the person, directly or indirectly—

- (a) to control 10 per cent or more of the voting rights of that company at a general meeting of the company;
- (b) to a share of 10 per cent or more in dividends declared and paid by the company; or
- (c) to a share of 10 per cent or more in any distribution of the surplus assets of the company.

(3) Every person who owns or holds a significant interest in a licensee shall apply in writing to the Commission for its approval prior to the sale, transfer, charge or other disposition of his interest in the licensee.

PART V

COMMISSION REGISTER

Register of licensees

13. (1) The Commission shall maintain a register of licensees and such other information as the Commission deems appropriate, other than information the disclosure of which is proscribed by section 7 of the Ordinance.

(2) The register shall be open to public inspection, without charge, at the offices of the Commission.

**TELECOMMUNICATIONS (UNIVERSAL SERVICE AND PUBLIC
TELECOMMUNICATIONS) REGULATIONS**

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**TELECOMMUNICATIONS (UNIVERSAL SERVICE AND
PUBLIC TELECOMMUNICATIONS) REGULATIONS – SECTION 65**
(Legal Notice 38/2005)

Commencement
[1 January 2006]

PART I
PRELIMINARY

Citation and Scope

1. (1) These Regulations may be cited as the Telecommunications (Universal Service and Public Telecommunications) Regulations.

(2) The aim of these Regulations is to ensure the availability throughout the Turks and Caicos Islands of universal services by establishing the obligations of certain service providers and the means of funding those obligations and to establish certain other obligations applicable to service providers.

Interpretation

2. In these Regulations—

“Government” means the Government of the Turks and Caicos Islands;

“Ordinance” means the Telecommunications Ordinance;

“universal service” means each of the services set forth in, or prescribed by the Commission pursuant to, regulation 3 of these Regulations;

“Universal Service Fund” means the fund that may be established pursuant to section 30(5) of the Ordinance and regulation 12 of these Regulations;

“universal service provider” means the service provider designated by the Commission to provide one or more universal services.

PART II
UNIVERSAL SERVICES

Universal services

3. (1) The following services are universal services for purposes of these Regulations—

- (a) access to the public telephone service, as set out in regulation 4;
- (b) the maintenance of public payphones, as set out in regulation 5;
- (c) free internet access for public libraries and public schools, as set out in regulation 6;
- (d) access to emergency numbers free of charge;
- (e) the provision of a free telephone directory, as set out in regulation 7;

- (f) the provision of a directory inquiry service, as set out in regulation 7; and
- (g) the provision of the universal services listed in paragraphs (a), (b), (e) and (f), or such other services as the Commission may add pursuant to subregulation (2), to low income or other special classes of users, as set out in regulation 8.

(2) The Governor, on the recommendation of the Commission may, in accordance with section 30(3) of the Ordinance, add services to the list of services set out in subregulation (1), or modify obligations with respect to any universal service.

Provision of access to public telephone service

4. (1) A universal service provider designated to provide access to a public telephone service shall satisfy an end user's reasonable request to provide, at a physical location, a connection to a public telecommunications network in order to provide, at a minimum, access to a dial tone in order to be able to make voice telephone calls to other end users.

(2) Any connection provided by a universal service provider pursuant to subregulation (1) shall, subject to the universal service provider's licence, be capable of allowing end users to—

- (a) make and receive national and international telephone calls;
- (b) make and receive data communications at data rates that are sufficient to permit functional access to the internet;
- (c) have access to a directory inquiry service, including operator assisted information services, as set forth in regulation 7(1)(b); and
- (d) have access to emergency telecommunications numbers, as set forth in regulation 19, free of charge,

taking into account prevailing technologies used by the majority of subscribers and technological and economic feasibility.

Public payphones

5. (1) The Commission may designate one or more universal service providers to provide public payphones to meet the reasonable needs of the population in terms of geographical coverage, the number of payphones, the accessibility of such payphones to disabled users and the quality of services.

(2) The Commission may specify terms and conditions applicable to the provision of public payphones, for the purpose of ensuring that the requirements specified in subregulation (1) are met.

(3) A universal service provider providing public payphones shall ensure that a user of any such public payphones—

- (a) has access to emergency numbers, as set forth in regulation 19, without the necessity to use coins or cards or any other means of payment; and
- (b) has access to a directory inquiry service, as set forth in regulation 7(1)(b).

Internet access for public libraries and public schools

6. (1) A universal service provider designated to provide internet access for public libraries and public schools shall ensure that end users located in such places may make and receive data communications at data rates that are sufficient to permit functional access to the internet.

(2) The access to the internet required pursuant to subregulation (1) shall be provided free of charge to public libraries, public schools and end users at such locations.

(3) This regulation does not require that a universal service provider construct lines, build facilities or supply internal wiring or terminal equipment (including computers) except as provided in its licence or as otherwise may be determined by the Commission.

Telephone directory and directory inquiry service

7. (1) A universal service provider designated to provide a telephone directory and a directory inquiry service shall provide to its end users and to other service providers, based on data provided to it in accordance with subregulation (3)—

- (a) free of charge, a directory of all subscribers, in a form approved of by the Commission, whether printed or electronic or both, that is updated at least once in each year; and
- (b) a directory inquiry service made available to all end users, including users of public payphones.

(2) A telephone directory or a directory inquiry service referred to in subregulation (1) shall comprise, and make available information regarding, all subscribers of public telephone services in the Turks and Caicos Islands, including those with fixed, mobile and personal numbers, who have not refused to be included in such directories or service and, if the service provider is not otherwise in the possession of such information, who have provided the necessary information.

(3) Notwithstanding subregulation (1), as permitted by the Commission, a universal service provider may provide information about its or other service provider's subscribers who have not refused to be included therein, through means other than the public telephone service.

(4) The universal service provider designated under subregulation (1) shall—

- (a) keep a record of all subscribers of public telephone services in the Turks and Caicos Islands, including those with fixed, mobile and personal numbers, who have not refused to be included in that record;
- (b) allow any other service provider or other person to have access to any information contained in such record in accordance with such terms and conditions as may be specified by it and approved by the Commission; and
- (c) apply the principle of non-discrimination to the treatment of information that has been provided to it by other service providers or which it has in its possession or under its control.

(5) Every service provider, other than the universal service provider designated under subregulation (1), shall pay such universal service provider its fair share of the cost of publication of the directory of subscribers in accordance with an agreed upon formula that is based on the number of such service provider's end users listed and the total number of subscribers listed in such directories.

Low income and other special user schemes

8. (1) The Commission may require that a universal service provider provide rate options or packages of telecommunications services to end users that depart from those provided under normal commercial conditions.

(2) In specifying the requirements pursuant to subregulation (1), the Commission—

- (a) shall ensure that end users on low incomes or having special social needs are not prevented from having access to or using a public telephone service or other universal services;
- (b) may permit the universal service provider to provide service options or packages to such users that vary from the service provided under normal commercial conditions; and
- (c) shall take due account of any existing obligations of the universal service provider to provide such rate options or packages and of the need for the universal service provider to take measures to ensure that such users do not abuse such service options or packages to the detriment of the service provider.

PART III**PROVISION AND TERMINATION OF UNIVERSAL SERVICE****Provision of universal service**

9. (1) The Commission may, in accordance with section 30(4) of the Ordinance, periodically determine the manner in which a universal service shall be provided.

(2) The Commission shall designate one or more service providers to be universal service providers for a universal service.

(3) The designation of a service provider as a universal service provider shall be set out as a condition of such service provider's licence or shall be otherwise specified by such means as the Commission may from time to time determine.

(4) The Commission shall designate one or more universal service providers on a transparent and non-discriminatory basis using such mechanisms or methodologies as it shall specify.

Termination of a universal service

10. (1) A universal service provider that wishes to terminate the general offering to the public of a universal service may do so only by submitting a request to the Commission and after receipt of written approval from the Commission.

(2) No less than ninety days in advance of the date on which the universal service provider wishes to terminate a universal service it shall submit a request to the Commission specifying which universal service it proposes to terminate, the reasons for the termination and the effect of such termination on end users.

(3) The Commission shall publish in the *Gazette* the request submitted pursuant to subregulation (2).

(4) Prior to determining whether to approve or reject the request, the Commission shall review any comments it has received from interested persons regarding the proposed termination of the universal service.

PART IV

UNIVERSAL SERVICE FUNDING

Costing of universal service obligations

11. (1) Where a universal service provider incurs net avoidable costs, as defined in section 30(9) of the Ordinance, in providing a universal service for which it has been designated the universal service provider pursuant to regulation 9, it may seek to recover such costs by submitting to the Commission a written request.

(2) A request under subregulation (1) shall be accompanied by such supporting information, including with respect to such periods of time, as may be reasonably required by the Commission for the purposes of subregulation (3).

(3) The Commission shall, on the basis of such information it considers sufficient to enable a determination under this subregulation to be made, including any information supplied pursuant to subregulation (2), determine whether there is a net avoidable cost incurred by the universal service provider and, if so, whether such net avoidable cost unfairly burdens such provider.

(4) A universal service provider referred to in subregulation (1) shall provide such information as is reasonably required by the Commission for the purposes of subregulation (3).

(5) Where the Commission determines either that there is no net avoidable cost or that such net avoidable cost may not represent an unfair burden on the universal service provider it shall notify the universal service provider concerned of that determination, together with the reasons for the determination as soon as reasonably practicable after the determination is made.

(6) The accuracy of the accounts or other information, or both, that serve as the basis for the calculation of the net avoidable cost may, at the discretion of the Commission, be audited or verified, as appropriate, by the Commission or by a body independent of the universal service provider concerned and approved of by the Commission.

(7) The Commission shall make publicly available the results of the calculations of net avoidable costs and the conclusions of any audit or verification undertaken pursuant to this regulation, except with respect to any information the disclosure of which is proscribed by section 8 of the Ordinance.

Establishing cost-sharing mechanism

12. (1) Where the Commission, on the basis of the net avoidable cost calculation referred to in regulation 11, finds that the net avoidable cost of fulfilling a universal service obligation is material and represents an unfair burden on a universal service provider it shall apportion such net avoidable costs among service providers and any one or more other providers of telecommunications services, or one or more users of such services.

(2) The Commission, in apportioning the net avoidable costs to which subregulation (1) refers, shall establish a mechanism or process, which may include the Universal Service Fund.

(3) If established by the Commission, the Universal Service Fund may be—

- (a) an actual fund, into which contributions made in accordance with regulation 13 shall be deposited and out of which payments made in accordance with regulation 14 shall be made; or
- (b) an electronic clearing mechanism by which payments are made to apportion the net avoidable costs of fulfilling the obligations to provide one or more universal service in accordance with subregulation (1).

(4) The Universal Service Fund shall be administered by a person designated by the Commission, which person shall be under the supervision of the Commission but be independent from carriers and providers of telecommunications services.

(5) The person designated by the Commission pursuant to subregulation (4) shall be compensated by the Universal Service Fund in such manner and at such times as the Commission shall specify.

(6) Any apportionment by the Commission of the net avoidable cost of meeting a universal service obligation among service providers, other providers of telecommunications services and users, and the establishment and functioning of the mechanism or process established under subregulation (2), shall respect the principles of transparency, non-discrimination among similarly situated persons and proportionality and shall not place an unreasonable burden on the universal service provider or any other person.

Contributions to cost-sharing mechanism

13. (1) If the Commission establishes the Universal Service Fund or uses another mechanism or process to allocate the net avoidable cost of meeting a universal service obligation, it shall use the following methodology to determine the amount of the contribution to be made by a service provider, and, if the Commission should so determine, any other provider of telecommunications services, that is obligated to share such net avoidable costs—

- (a) by thirty days after the end of the first quarter of each calendar year, the Commission shall calculate the “universal service obligation (“USO”) contribution rate” for purposes of determining contributions to share the net avoidable costs of providing the universal services during the immediately preceding calendar year;
- (b) the USO contribution rate shall be calculated by dividing the annual net avoidable costs of all universal service providers for the immediately preceding calendar year (i.e., the total net avoidable costs of all universal service providers), as determined by the Commission based on the applications made pursuant to regulation 14, by the total annual retail revenues of public telecommunications services provided by all service providers for the immediately preceding calendar year;
- (c) for purposes of the calculation required by paragraph (b), “total annual retail revenues of public telecommunications services”—
 - (i) means and includes all revenues collected in the Turks and Caicos Islands by a service provider (and any affiliated parties) from end users of public

telecommunications services less such provider's out-payments to foreign and domestic service providers (including affiliates), plus in-payments received by such provider from foreign and domestic service providers (including affiliates);

- (ii) excludes any revenue—
 - (A) earned outside of the Turks and Caicos Islands;
 - (B) earned or collected within the Turks and Caicos Islands but solely in connection with services carried out in, or with respect to services originating and terminating in, locations outside of the Turks and Caicos Islands;
 - (C) from providing non-telecommunications services, including the sale, installation, repair or maintenance of terminal equipment, other equipment or any facilities, or from the construction of any facilities;
 - (D) from providing broadcasting services; or
 - (E) that the Commission has determined, upon application from a service provider and after consultation with other service providers, is to be excluded; and
- (iii) may, where a public telecommunications service is bundled with a telecommunications or other service that is not a public telecommunications service, include such portion of the retail revenue from such bundled services as the Commission may require in accordance with such factors as it specifies;
- (d) notwithstanding paragraph (c), upon application, the Commission may, as it deems necessary, make such adjustments in the definition of "total annual retail revenues of public telecommunications services" for and with respect to one or more service providers.

(2) For each service provider obligated to make contributions pursuant to regulation 12, the Commission (or the provider) will, within sixty days after the end of the first quarter of each calendar year, multiply such provider's total annual retail revenues from providing telecommunications services in the Turks and Caicos Islands during the immediately preceding calendar year by the USO contribution rate for such year.

(3) The amount calculated pursuant to subregulation (2), less the provider's own net avoidable costs of meeting its universal service obligations for such year, (as calculated in accordance with regulation 14, shall be the amount of contribution by such provider toward sharing the national net avoidable costs of fulfilling all of the universal service obligations for such immediately preceding calendar year.

(4) If the amount calculated pursuant to subregulation (2) is less than zero, then the amount of the service provider's contribution shall be zero.

- (5) The Commission shall either—
 - (a) notify each service provider that is required to share the net avoidable costs, to which subregulation (1) refers, of its obligation to contribute to such costs, including the amount, manner and timing of payments to be made; or

(b) require that each such provider perform the calculation with respect to such net avoidable costs and inform the Commission thereof, in which case each such provider shall provide such supporting information to the Commission as the Commission shall specify and the amount of such providers' contribution.

(6) A service provider required to contribute an amount in accordance with this regulation 13 shall pay that amount into the Universal Service Fund, or through such other mechanism or process, at such time and in the manner specified by the Commission.

(7) Contributions shall be made by service providers by the end of the second quarter of each calendar year.

(8) Notwithstanding the principles set forth in regulation 12(6), the Commission may choose not to require contributions from—

(a) certain service providers that have an audited national turnover less than such amount as may, from time to time, be specified by the Commission; and

(b) certain other classes of service providers.

(9) If the Commission chooses not to require contributions from service providers pursuant to subregulation (8), the Commission, by such equitable method as it shall determine, shall allocate the expected contributions from such providers to other service providers that are obligated to contribute to the net avoidable costs of meeting universal service obligations.

(10) In cases where a service provider is obligated to share the net avoidable costs of meeting universal service obligations but defaults on, or otherwise fails to meet, such obligation—

(a) the Commission shall pursue such defaulting provider for the contributions, the Government will be a creditor of the defaulting provider and the Government may take such actions against the defaulting provider as are permitted by law;

(b) if the Commission and the Government are unable to recover the amount of the obligation from the defaulting provider pursuant to paragraph (a) after and despite having taken such actions, then the Commission may reallocate the expected contributions from such provider to other service providers that are obligated to contribute to the net avoidable costs of meeting such obligations; and

(c) any reallocation pursuant to paragraph (b) will not relieve the defaulting provider of its obligation.

(11) If, pursuant to regulation 12(1), the Commission determines to apportion the net avoidable costs of the universal service obligations on providers of telecommunications services that are not service providers, or on users—

(a) the Commission shall adjust the USO contribution rate accordingly; and

(b) such providers or users shall be required to make a contribution based on their total annual retail revenues of providing or, in the case of users, using telecommunications services in the Turks and Caicos Islands and be otherwise subject to each provision of this regulation, as modified by the Commission.

Receipt of funds from cost-sharing mechanism

14. (1) Once the Commission has established the Universal Service Fund or other mechanism or process for apportioning the net avoidable costs of meeting the universal service

obligations, any universal service provider may apply to receive funds therefrom to defray such net avoidable costs as it incurs in meeting such obligation.

(2) Any application pursuant to subregulation (1) shall—

- (a) be made by the end of the first quarter after the conclusion of the calendar year in which the universal service provider incurred net avoidable costs; and
- (b) include such supporting information as the Commission may specify.

(3) Any universal service provider applying to receive funds pursuant to subregulation (1) must maintain such records, for review and audit by the Commission on demand, demonstrating the revenues earned by such provider and the costs incurred by it in providing a universal service.

(4) Any disbursement made to a universal service provider pursuant to this regulation 14 shall be made after an offset for such provider's obligations to contribute to the Universal Service Fund or other mechanism, as calculated in accordance with regulation 13(3).

(5) Disbursements made pursuant to this regulation shall be made no later than thirty (30) days after the second quarter after the conclusion of the calendar year in which the universal service provider incurred net avoidable costs in providing a universal service.

(6) At any time after the first year during which the calculations, contributions and disbursements are made pursuant to regulation 13 and this regulation, the Commission—

- (a) may, after consultation with service providers, modify the timetables set forth in such regulations so as to require that that estimated contributions and disbursements toward the universal service obligations be made during or immediately upon the conclusion of the calendar year in which service providers incur net avoidable costs, based on the previously calculated USO contribution rate; and
- (b) in the case of modifications made pursuant to subregulation (1), require contributions and disbursements to be trued up in accordance with the actual net avoidable costs and USO contribution rate calculated in accordance with regulation 13.

Identification of universal service contributions

15. Any charges to providers of telecommunications services or end users arising from or related to the apportioning of the net avoidable costs of providing universal services shall, as such providers determine, be unbundled and identified separately on invoices or bills for telecommunications services.

Transparency of cost-sharing mechanism

16. (1) The Commission shall, except for information the disclosure of which is proscribed by section 7 of the Ordinance, publish an annual report setting out the calculated net avoidable costs of all universal service obligations, identify the contributions made by all the providers of telecommunications services involved and identify any benefits, including intangible benefits, that may have accrued to any provider of universal service.

(2) The Commission shall publish and make publicly available all information in relation to the principles used for the sharing of the net avoidable costs of the universal service

obligations, including the details of the Universal Service Fund or other mechanism or process used.

Alternative means to fund universal service costs

17. Nothing in this Part IV requires that the Commission establish a Universal Service Fund or any other mechanism or process or prevents any other sources of funding, including derived from government subsidy or auction, from being made available to enable the provision of a universal service or to defray any universal service provider's net avoidable costs of providing any universal service.

PART V

PUBLIC TELECOMMUNICATIONS SERVICES

Service provider directory obligations

18. (1) Every service provider providing a public telephone service must provide—

- (a) its own directory inquiry service or make available to its end users the directory inquiry service of the universal service provider designated in regulation 7(1) based on an interconnection agreement or other commercially negotiated agreement between the two service providers; and
- (b) an operator assisted information service that provides information about the service provider's service, including its rates, and that assists end users in making and completing calls.

(2) A service provider providing a public telephone service shall ensure that its subscribers—

- (a) have the right, without any charge additional to the charge for the public telephone service, to have an entry in a telephone directory and be listed in a directory inquiry service, as provided for in regulation 7(1) and (2); and
- (b) have an opportunity to refuse to have an entry in a telephone directory or a listing in a directory inquiry service or in any other listings that the service provider may provide.

(3) A service provider that assigns telephone numbers to subscribers shall provide, on a timely basis, to the universal service provider designated under regulation 7 all information, in an agreed format and without charge, that is needed to maintain the record referred to in regulation 7(4)(a), to provide telephone directories and to provide directory inquiry services.

Emergency telecommunications

19. (1) A service provider providing a public telephone service shall ensure that end users are able to have access to emergency telecommunications, including the ability to call the emergency services free of charge, by using the Turks and Caicos Islands emergency call number "911" and any other national emergency call number that may be specified by the Commission.

(2) A service provider shall, as soon as practicable, make caller location information available to authorities handling emergencies, to the extent technically feasible, for all calls to the Turks and Caicos Islands emergency call number "911" and any national emergency call number that may be specified by the Commission.

Disabled users

20. The Commission may specify obligations applicable to service providers, after consultation with representatives of disabled users and the service providers, for the purpose of ensuring that disabled end users can enjoy access to and affordability of public telephone services, including access to directory inquiry, operator assisted information and emergency services, equivalent to that enjoyed by other end users.

Quality of service

21. (1) A service provider shall, as the Commission may require, both provide to the Commission and publish adequate and current information concerning its performance in relation to the provision of its public telecommunications services.

(2) The information published pursuant to subregulation (1) shall be based on the quality of service criteria and requirements set out in Schedule 1.

(3) The Commission may set performance targets for service providers, after consultation with service providers, in respect of any public telecommunications services as the Commission deems appropriate from time to time.

(4) The Commission may arrange, or require a service provider to which this Regulation refers to arrange, an independent audit or review paid for by the service provider concerned, of the performance data supplied by that service provider to ensure that the service provider is providing public telecommunications services in accordance with any applicable requirements or performance targets.

(5) In the case of persistent failure by a service provider to meet requirements or performance targets established by the Commission pursuant to subregulations (2) and (3), the Commission may issue directions to the service provider concerned for the purpose of ensuring compliance therewith.

Integrity of the network

22. (1) The Commission may specify the obligations of a carrier or a service provider to ensure the integrity of such carrier's telecommunications network or the availability of such service and, in the event of emergency or catastrophe, or in cases of *force majeure*, to ensure the availability of public telecommunications services throughout the Turks and Caicos Islands.

(2) A service provider providing a public telephone service shall take all reasonable steps to ensure uninterrupted access to emergency telecommunications services.

Statements

23. (1) A service provider shall establish rates and other terms and conditions for the provision of any additional services or equipment in such a way that the subscriber is not obliged to pay for services or equipment which are not necessary or not required for the service requested by him.

(2) A service provider shall comply with the requirements of Schedule 2, including with respect to the preparation and delivery of statements, to enable subscribers to monitor charges and other terms and conditions applicable to services that they are provided and to avoid unwarranted disconnection of service.

PART VI

MISCELLANEOUS

Continuation of existing obligations

24. A provider of telecommunications services shall continue to comply with any obligations applicable to it on the date of entry into force of these Regulations relating to retail prices for the provision of a public telephone service.

SCHEDULE 1

(Regulation 21(2))

QUALITY OF SERVICE REQUIREMENTS

	Parameter	Target	
1.	Supply time for initial connection: 1. 95% of orders 2. 99% of orders	Average supply time (number of days from date of order): 1. 6 days 2. 10 days	
2.	Punctuality of delivery of service	Percentage of orders for which service is activated on the day promised: 90% of service activations on day promised	
3.	Fault repair time: 1. 80% of fault reports 2. 95% of fault reports	Average time in access network: 1. 12 hours 2. 16 hours	Average time for other faults: 1. 8 hours 2. 12 hours
4.	Fault rate in the network per access line	Percentage of access lines in service that are out of service at any one time due to fault on service providers' side of network termination point: 1%	
5.	Billing complaints	Number of complaints per year as a percentage of subscribers: 2%	
6.	Call set up time	Average for national calls: 1% Average for international calls: 3%	
7.	Unsuccessful call ratio	Average for national calls: 1% Average for international calls: 1% Average for wireless calls: 2%	
8.	Response time for operator services	Average time (in seconds) for operator to come on line: 3	
9.	Response time for directory inquiry services	Average time (in seconds) for directory inquiry to come on line: 6	
10.	Accessibility percentage for directory inquiry services	Percentage of calls to directory inquiry service that are unanswered: 2	

SCHEDULE 2

(Regulation 23(2))

STATEMENTS FOR PUBLIC TELECOMMUNICATIONS SERVICES

A. Basic Subscriber Statement

(1) A service provider must provide a basic statement to its subscribers free of any additional charge beyond the basic charge for the telecommunications service.

(2) The basic statement must itemise the charges for the telecommunications services provided to the subscriber.

(3) Included in the itemisation on the basic statement must be charges for installation, monthly access, international calls, local calls, operator assisted information and other directory inquiry services (if any), and any other additional telecommunications services (e.g., voicemail) subscribed to or used by the subscriber.

(4) Each individually charged international long distance call must be separately itemised, indicating the applicable rate, charging units (such as minutes) and total charge for such call.

(5) Charges for leases or purchases of equipment, if any, must be stated separately.

(6) Taxes and other charges imposed by the Commission or the Government, including any contributions to pay for the provision of universal services in the Turks and Caicos Islands, must be separately itemised.

(7) The basic statement need not identify calls that are provided free of charge.

B. Additional Detail in Statement

A service provider may offer additional levels of details in its billing statements, beyond the requirements of those set forth in section (A), at no charge or at a reasonable price.

**TELECOMMUNICATIONS
(ADMINISTRATIVE PROCEDURE) REGULATIONS**

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**TELECOMMUNICATIONS (ADMINISTRATIVE PROCEDURE)
REGULATIONS – SECTION 65**

(Legal Notice 25/2008)

Commencement

[4 July 2008]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Telecommunications (Administrative Procedure) Regulations.

Interpretation

2. In these Regulations—

“Director General” means the Director General of Telecommunications;

“interrogatory” means any request in writing for information or particulars made to a party in a proceeding;

“Ordinance” means the Telecommunications Ordinance;

“proceeding” means any inquiry, complaint or other proceeding commenced by an application to the Commission or initiated by the Commission of its own motion by a public notice or order.

Scope of application

3. These Regulations shall apply to all proceedings before the Commission in relation to complaints by users.

PART II

GENERAL

Time

4. Whenever a time limit or deadline calculated under these Regulations falls on a Saturday, Sunday or statutory holiday, the time limit or deadline is extended to the next following working day.

Form of documents

5. All applications and other documents made or submitted by any party in connection with any proceeding shall, unless special circumstances otherwise require, be on “letter size” paper.

Consultative procedure

6. (1) The Commission shall give to persons who are or who are likely to be affected by a decision of the Commission an opportunity to make submissions to the Commission, or otherwise consult with such persons in good faith.

(2) The opportunity referred to in subregulation (1) shall, unless otherwise determined by the Commission, be provided by putting out to a public consultation any significant substantive or procedural decision of the Commission that may affect persons.

(3) The objectives of public consultation are to—

- (a) obtain input, information and feedback from persons affected by the proposed decision, other stakeholders and the public so as to ensure that consumers have the best telecommunication services possible in terms of choice, quality and value for their money;
- (b) acquire substantive information and knowledge from stakeholders, regulatory and industry professionals and other similar regulatory institutions so as to effect an orderly transition to a freely liberalized and competitive marketplace;
- (c) ensure that the Commission has investigated all aspects of an issue; and
- (d) ensure transparency of decisions of the Commission.

(4) The Commission shall determine the form of the consultative process to take place in respect of any decision proposed to be taken by the Commission depending on the nature of the issue, the number of parties potentially affected by a decision, the impact on the marketplace and the consequences to the consumer. The public consultation may take the form of—

- (a) an invitation to affected persons to submit written submissions;
- (b) individual meetings with one or more interested parties;
- (c) meetings, seminars, and workshops with representative groups and other interested parties;
- (d) issuing draft documents containing the preliminary view of the Commission and soliciting comments from the public at large before a final decision is taken; or
- (e) a public hearing.

(5) Except in case of an emergency, the Commission shall allow respondents at least four weeks in which to respond to any request for information or draft document issued by the Commission in the course of a consultative process.

(6) The Commission shall publish all responses received and allow participants in the process a further opportunity to comment except such information that is confidential information under the Ordinance or these Regulations.

(7) The Commission shall consider all responses and comments received before making a final decision.

(8) In case the Commission decides to hold a public hearing, the Commission shall prescribe and publish the rules for the hearing having regard to such of the factors listed in subregulation (4).

Directions on procedure

7. (1) Where it deems it appropriate in any proceeding, 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.

(2) Any person intending to make an application to the Commission may, prior to filing the application, apply *ex-parte* to the Commission for the issuing of directions on procedure relating thereto.

Service

8. (1) Subject to subregulation (2), service of any notice or other document, including a document originated by the Commission, shall be effected by—

- (a) personal service, in which case service shall be deemed to have been made on the date of delivery;
- (b) facsimile, in which case service shall be deemed to have been made on the date of transmission; or
- (c) mail, in which case service shall be deemed to have been made when the notice or other document is deposited in a post office.

(2) In addition to any conditions contained in these Regulations, any document served by facsimile shall include a cover page stating—

- (a) the name, address and telephone number of the sender;
- (b) the date and time of transmission;
- (c) the total number of pages transmitted, including the cover page;
- (d) the number of the facsimile machine at which documents may be received; and
- (e) the name and telephone number of a person to contact if problems occur in transmission.

(3) Proof of service by affidavit shall, at the request of the Commission, be filed with the Director General in respect of any document required to be served.

Evidence

9. (1) Where under these Regulations evidence may be filed, it shall be by statutory declaration or affidavit.

(2) The Director General may, if he thinks fit, in any particular case, take oral evidence in lieu of or in addition to such evidence and shall allow any witness to be cross-examined on his affidavit or declaration.

Statutory declarations and affidavits

10. (1) Affidavits in proceedings before the Commission shall be filed with the Director General.

(2) Where an affidavit is made as to belief, the grounds on which the belief is based shall be set out in the affidavit.

(3) Any statutory declaration or affidavit filed under the Ordinance or these Regulations shall be made before any officer authorised by law in any part of the Islands to administer an oath for the purpose of any legal proceedings.

(4) Statutory declarations or affidavit made outside the Islands shall be made before a Consul or Notary Public.

Verification

11. (1) The Commission may, at any time, require the whole or any part of any application, answer, intervention or reply or response to an interrogatory to be verified by affidavit by giving a notice to that effect to the party from whom such verification is required.

(2) If a notice given under subregulation (1) is not complied with, the Commission may set aside the application, answer, intervention or reply or response to an interrogatory or strike out any part thereof not verified in accordance with the notice.

Stay of proceeding

12. Where a party to a proceeding has not complied with any requirement of these Regulations or any direction on procedure issued under regulation 7, the Commission may stay the proceeding until satisfied that such requirement has been complied with or take such other steps as it considers just and reasonable.

Formulation of issues

13. If it appears to the Commission at any time that the statements in an application, answer, intervention or reply do not sufficiently raise or disclose the issue of fact in dispute between the parties, the Commission may direct the parties to prepare issues that shall, if not agreed to by the parties, be settled by the Commission.

Questions of law

14. If it appears to the Commission at any time that there is a question or issue of law, of jurisdiction or of practice and procedure that should be decided before a proceeding is continued, the Commission may direct the question or issue to be referred to the Attorney General's Chambers for opinion and the Commission may, pending such decision, order the whole or any part of the proceeding to be stayed.

Conference

15. The Commission may, orally or in writing, direct parties or their solicitor to appear before a member or an officer of the Commission at a specified time and place for a conference or to submit suggestions in writing to the Commission for the purpose of formulating issues and assisting the Commission in the consideration of the simplification of issues, amending an application, answer, intervention or reply for the purpose of clarification or any other matters that may aid in the simplification of the evidence and disposition of the proceedings.

Production of documents

16. (1) Any party to a proceeding may, at any time before the hearing of the proceeding, give notice in writing to any other party in whose application, answer, intervention or reply or response to an interrogatory reference has been made to a document to produce that document for

inspection by the party giving the notice or his solicitor and to permit him or his solicitor to make copies thereof.

(2) Any party who fails to comply with a notice given to him pursuant to subregulation (1) within ten days from the receipt thereof shall not thereafter be at liberty to put the document referred to in the notice in evidence on his behalf in the proceeding, unless he satisfies the Commission that he had sufficient cause for not complying with the notice.

Interrogatories

17. (1) Where in any proceeding the Commission permits interrogatories to be directed to a party, such interrogatories shall be—

- (a) addressed to the party;
- (b) numbered consecutively, but a series of numbers may be used for interrogatories relating to the same subject-matter;
- (c) identified with the name for the party from whom the response is sought, the name in parentheses for the party seeking the response, the date is the date on which the interrogatory was sent, and the number of the particular interrogatory; and
- (d) served within the time limit directed by the Commission.

(2) A copy of any interrogatories directed to a party pursuant to subregulation (1) shall be filed with the Director General.

Responses to interrogatories

18. (1) Subject to subregulation (2), where in any proceeding the Commission permits interrogatories to be directed to a party and interrogatories have been served on the party within the time limit directed by the Commission, the party shall—

- (a) within the time limit directed by the Commission, provide a full and adequate response to each interrogatory on a separate page or pages, headed as indicated in Form 1 of the Schedule; and
- (b) file a copy of the responses with the Director General.

(2) A party who is unable or unwilling to provide a full and adequate response to an interrogatory shall—

- (a) where the party contends that the interrogatory is not relevant, provide a response that sets out reasons in support of that contention;
- (b) where the party contends that the information necessary to provide a response is not available, provide a response that sets out the reasons for the unavailability of such information and provide an alternative available information that the party considers would be of assistance to the person directing the interrogatory;
- (c) where the party contends that the information sought is of an unduly burdensome nature, provide a response that sets out the reasons why the provision of such information is unduly burdensome and not necessary; or

- (d) where the party contends that the information sought is of a confidential nature, provide a response that sets out the reasons therefore as required by regulation 19(2), and file with the Director General a copy of the response provided.

Confidentiality

19. (1) Where a document is filed with the Commission by a party in relation to any proceeding, such document shall generally not be considered confidential information.

(2) Notwithstanding subregulation (1), the Commission shall consider representations from applicants or other persons submitting information that such information should not be made available to the public or otherwise be disclosed.

(3) Any claim for confidentiality made in accordance with subregulation (2) shall be accompanied by the reasons therefor, and, where it is asserted that specific direct harm would be caused to the party claiming confidentiality, sufficient details shall be provided as to the nature and extent of such harm.

(4) A party claiming confidentiality in connection with a document shall file with the Commission an abridged version of the document to be placed on the public record or his reasons for objecting to the filing of an abridged version thereof.

(5) A claim for confidentiality referred to in subregulation (2) shall be placed on the public record and a copy thereof shall be provided on request to any party.

(6) Any party wishing the public disclosure of a document in respect of which there has been a claim for confidentiality may file with the Commission—

- (a) a request for such disclosure setting out the reasons therefor, including the public interest in the disclosure of all information relevant to regulatory responsibilities of the Commission; and
- (b) any material in support of the reasons for public disclosure.

(7) A copy of a request for the public disclosure of a document shall be served on the party claiming confidentiality and that party may, unless the Commission otherwise determines, file a reply with the Commission within ten days after the date of service of the request and shall, where a reply is filed, serve a copy thereof on the party requesting public disclosure.

(8) Where the Commission of its own motion requests that a document be placed on the public record, the party claiming confidentiality shall have ten days to file a reply.

(9) Where the Commission has determined that no specific direct harm would be likely to result from disclosure, or where any such specific direct harm is shown the document shall be placed on the public record.

(10) Where the Commission is of the opinion that, based on all the material before it, the specific direct harm likely to result from public disclosure justifies a claim for confidentiality, the Commission may—

- (a) order that the document not be placed on the public record;
- (b) order disclosure of an abridged version of the document; or
- (c) order that the document be disclosed to parties at a hearing to be conducted *in camera*.

Subpoenas

20. (1) A subpoena shall be sealed by the Director General with the Commission's seal and may be served in any part of the Islands.

(2) A subpoena may be issued in blank, may be completed by the attorney or party on whose behalf it is issued and may contain the names of any number of persons required to appear before the Commission.

Hearing

21. (1) The Commission may, at any time, order that—

- (a) any particular facts be proved by affidavit;
- (b) the affidavit of any witness be read at a hearing on such conditions as the Commission thinks reasonable; and
- (c) any witness be examined before a Commissioner, an officer of the Commission or any other person appointed by it for that purpose.

(2) Where memoranda of evidence have been furnished prior to the commencement of a hearing, the Commission may permit the introduction of those memoranda as evidence in chief by a witness who—

- (a) testifies as to his qualifications; and
- (b) confirms that the memoranda were prepared under his direction or control and are accurate to the best of his knowledge and belief.

Examination

22. The Commission has the authority to administer oaths to any witness ordered to do so by the Commission.

Sittings

23. When a hearing is commenced, it shall proceed, as far as may be practicable in the opinion of the Commission, from day to day.

Argument

24. The Commission may, whenever it deems it advisable to do so, order written briefs to be submitted by the parties in addition to or in lieu of oral argument.

Adjournment

25. The Commission may, at any time, adjourn any proceeding before it.

Defects in form

26. No proceeding shall be defeated by any objections based solely on defects in form.

Amendments

27. The Commission may, on terms or otherwise—

- (a) make or allow any amendments in any proceeding; or

- (b) order to be amended or struck out any matters that, in the opinion of the Commission, may tend to prejudice, embarrass or delay a fair hearing of the proceeding on the merits, and may order any other amendments as may, in the opinion of the Commission, be necessary for the purpose of hearing and determining the real question in issue between the parties.

Dispensing with procedure

28. In respect of any proceeding, the Commission may, where appropriate, dispense with, vary or supplement any of the provisions of these Regulations.

PART III

COMPLAINTS BY USERS

User complaints

29. (1) This Part applies to any application or complaint made by a user or a potential user of a licensee or provider of value added services in connection with—

- (a) quality of service;
- (b) accessibility of service;
- (c) the application of one or more provisions of the company's tariffs to the user;
- (d) disconnection or reconnection of service or facilities; or
- (e) any other matter respecting the relations between the company and the user.

(2) An application or complaint under this Part may be made by mailing or delivering by hand a letter to the Commission identifying the parties concerned, setting out the facts, including relevant correspondence, demonstrating that the applicant or complainant has made a prior attempt to resolve the matter concerned with the licensee or provider of value added services concerned and identifying and requesting the specific relief sought, which letter need not be served on the regulated company.

(3) Where the Commission considers that an application or complaint warrants investigation, it shall forward a copy of the letter received under subregulation (2) or a summary thereof to the regulated company requesting comment, and the company shall reply within twenty days or such longer period as the Commission may specify.

(4) The Commission may deal with the application or the complaint on the basis of the written documentation before it, or may—

- (a) require further information to be furnished by one or more of the parties; or
- (b) issue directions on procedure if the Commission considers an oral hearing or other form of proceeding warranted.

(5) Where an application or complaint under this Part seeks relief on an emergency basis, such application or complaint may be made orally to an officer of the Commission, and the Commission may, where an interim settlement cannot be reached with the regulated company, issue an interim *ex-parte* order authorizing, requiring or forbidding anything to be done that the

Commission would be empowered, on application, notice and hearing, to authorize, require or forbid, but the Commission shall, in such case, require the applicant to file a further application or complaint in written form to be disposed of according to the procedure set out in this Part.

PART IV

MISCELLANEOUS

Withdrawal

30. An applicant or complainant may withdraw a dispute from determination by the Commission before the Commission makes its final determination, provided that it agrees and settles any costs incurred by the Commission, and, if so required by the Commission, by the respondent and which were occasioned by the request.

Determinations of the Commission

31. (1) Determinations of the Commission made under these Regulations, whether preliminary or final, shall be in writing and state the reasons upon which they are based.

(2) Except where otherwise provided by law, the Commission shall make its written determinations available to the public.

(3) Determinations by the Commission are final and no appeal is allowed except where otherwise provided under law.

WIRELESS TELEGRAPHY (VHF LICENCES) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Very high frequency transmitter or receiver licences required
3. Grant and renewal of very high frequency licences
4. Effect of licence granted under regulation 3
5. Delegation of Permanent Secretary, Finance's functions under regulation 3
6. Register of licences, etc.
7. Transfers
8. Licences to be produced
9. Offences
10. Prescribed forms

SCHEDULE: Prescribed Forms

WIRELESS TELEGRAPHY (VHF LICENCES) REGULATIONS – SECTIONS 65 AND 66¹ (*Gazette Notices 127/1983 and 31/1987*)

Commencement

[18 November 1983]

Citation

1. These Regulations may be cited as the Wireless Telegraphy (VHF Licences) Regulations.

Very high frequency transmitter or receiver licences required

2. (1) Subject to subregulation(2) after the expiry of three months after the coming into operation of these Regulations it shall be unlawful for any person to use in the Islands any very high frequency transmitter or receiver unless there is in force in respect of that transmitter or receiver a licence issued under regulation 3.

(2) No licence under regulation 3 shall be required for the use of a very high frequency transmitter or receiver—

- (a) upon a vessel or in a boat;
- (b) in an aircraft;
- (c) in the course of the business of Cable and Wireless (West Indies) Limited;

¹ Enabled under the Wireless Telegraphy Ordinance 2 of 1903, Cap 111, 1998, Revised Edition (*now Repealed*) and continued in force as if made under section 65 of this Ordinance, by virtue of section 66 of this Ordinance.

- (d) by any public officer or police officer in the course of his duty;
- (e) by the armed forces of any country or in the course of the operation of the United States Air Force Base Grand Turk;
- (f) in or in connection with the operation of any diplomatic or consular mission;
- (g) in or in connection with the activities of any regional or world international agency in the Islands;
- (h) by the United States Coast Guard in the course of its duties;
- (i) by any foreign governmental agency in the course of its operations in the Islands undertaken with the consent of the Government;
- (j) for the purpose only of receiving signals broadcast for reception by the general public on any frequency lying between seventy-six megahertz and one hundred and eight megahertz or broadcast as television signals;
- (k) for use in any part or parts of the Islands designated by Notice in the *Gazette* as an area or areas in which the Governor is satisfied that there is not available at reasonable cost a normal telephone service, during such period as is specified by the Governor in the said notice. (*Substituted by G.N. 31/1987*)

(3) In these Regulations, “very high frequency” means any radio frequency of between thirty and three hundred megahertz.

Grant and renewal of very high frequency licences

3. (1) Every person wishing to obtain a licence to use a very high frequency transmitter or receiver shall make application in the prescribed form and send the same with a remittance for the fee of \$100 to the Permanent Secretary, Finance.

(2) Subject only to his being satisfied that the application has been made in accordance with subregulation (1), the Permanent Secretary, Finance, shall issue to the applicant a licence in the prescribed form.

(3) Every licence issued under this regulation shall be valid for a period of twelve months from the date of issue thereof, provided that a licence issued within three months from the date on which these Regulations come into operation shall be valid for a period of twelve months from the date on which these Regulations come into operation.

(4) Every person who holds a licence granted under subregulation (2) shall, not later than one month before the expiry of that licence, make an application in the prescribed form to the Permanent Secretary, Finance, for the grant to him of a further licence and shall at the same time pay to the Permanent Secretary, Finance, a fee of \$100 and the Permanent Secretary, Finance, if he is satisfied that application has been made in accordance with this paragraph shall grant that licence.

Effect of licence granted under regulation 3

4. The grant of any licence under regulation 3 shall not have the effect of rendering lawful any use of a very high frequency transmitter or receiver which would be unlawful under any written law other than these Regulations.

Delegation of Permanent Secretary, Finance's functions under regulation 3

5. (1) The Permanent Secretary, Finance, may by writing under his hand delegate his functions under regulation 3 so far as they relate to Salt Cay or any of the Caicos Islands to the District Commissioner of the Island in question.

(2) The making of any delegation under subregulation (1) shall not operate so as to prevent the Permanent Secretary, Finance, himself issuing, or receiving any application for, any licence to which regulation 4 relates.

Register of licences etc.

6. (1) Whenever any District Commissioner to whom the Permanent Secretary, Finance, has delegated any functions pursuant to regulation 5(1) issues any licence to which the foregoing provisions of these Regulations relate he shall transmit to the Permanent Secretary, Finance, a copy of that licence.

(2) The Permanent Secretary, Finance, shall maintain or cause to be maintained a register of all licences issued under regulation 3 in such form as to disclose on inspection—

- (a) the names of the persons to whom such licences have been issued;
- (b) the apparatus (including serial number and manufacturer thereof) in respect of which any such licence has been issued;
- (c) the date of issue and date of expiry of any such licence; and
- (d) where any such licence has been transferred in accordance with regulation 7, the name of the transferee.

(3) The register maintained under subregulation (2) shall be *prima facie* evidence in any prosecution for an offence under regulation 9 of the facts recorded in such register.

Transfers

7. (1) Whenever a licensee under an unexpired licence granted under regulation 3 sells or otherwise disposes of his interest in any apparatus to which the licence relates to any person in the Islands ("the transferee") other than in circumstances in which he has reasonable cause to believe that the apparatus will immediately be exported from the Islands, he shall assign that licence to the transferee and shall hand that licence to the transferee.

(2) The transferee, unless he immediately exports from the Islands the apparatus to which a licence granted under regulation 3 relates, shall immediately give notice in writing to the Permanent Secretary, Finance, of the assignment to him of any licence assigned to him and to which subregulation (1) relates and until he has done so he shall be deemed not to hold that licence.

Licences to be produced

8. (1) Any person—

- (a) who holds a licence granted under regulation 3; or
- (b) has in his possession any very high frequency transmitter or receiver,

shall on demand by any person authorised in writing by the Permanent Secretary, Finance, to demand production of the same, or on demand by any police officer, produce the same or either of them as may be required.

(2) For the purpose of subregulation (1) every District Commissioner, whether or not any functions have been delegated to him under regulation 5(1), shall be deemed to have been authorised by the Permanent Secretary, Finance, pursuant to subregulation (1) of this regulation.

Offences

9. (1) Subject to subregulation (2) any person who uses any very high frequency transmitter or receiver contrary to regulation 3 commits an offence and is liable on conviction—

(a) in the case of his first conviction under this subregulation to a fine of \$500; and

(b) in the case of a second or subsequent conviction under this subregulation to a fine of \$1,500 or to imprisonment for a term of six months,

and whenever a person is convicted on a second or subsequent occasion of an offence under this subsection, the Magistrate, unless the Magistrate finds special reason to the contrary related to the offence (which special reason the Magistrate shall record in writing), shall order the police to seize the transmitter or receiver in question and forthwith destroy the same.

(2) It shall be a defence in any prosecution for an offence under subregulation (1) of any person other than the owner of the very high frequency transmitter or receiver which is the subject matter of the offence, for the defendant to show that he believed, on reasonable grounds, that a licence under regulation 4 was in force in relation to that transmitter or receiver at the time of the offence.

(3) A person who without reasonable cause fails to produce a very high frequency transmitter or receiver or a licence granted under regulation 4 when required so to do in accordance with regulation 8(1) commits an offence and is liable on summary conviction to a fine of \$100.

(4) A person shall not be convicted in respect of the same event or series of events both of an offence under subregulation (1) and of an offence under subregulation (3).

Prescribed forms

10. The forms set out in the Schedule to these Regulations are prescribed for the purposes of these Regulations.

SCHEDULE

(Regulation 10)

PRESCRIBED FORMS

FORM 1

WIRELESS TELEGRAPHY (VHF LICENCES) REGULATIONS

**APPLICATION FOR GRANT/
RENEWAL OF A VHF TRANSMITTER/RECEIVER LICENCE**

I/WE*of (full address) make application for the grant/renewal* of a licence under the Wireless Telegraphy (VHF Licences) Regulations enabling me/us to use* the VHF Transmitter/Receiver* details of which are given below—

Type of Equipment

Manufacturer's Name

Serial Number

Base Station/Mobile Station*

The equipment will normally be kept at

A remittance for the licence fee of \$100 is enclosed.

Dated.....

.....
(Signature of Applicant)

(*Delete where necessary)

FORM 2

WIRELESS TELEGRAPHY (VHF LICENCES) REGULATIONS

FORM OF LICENCE
VHF TRANSMITTER/RECEIVER

Mr/Mrs/Miss* (Name of Licensee) of..... is hereby licensed for a period of from to use the VHF Transmitter/Receiver* details of which appear below. Attention is drawn to the notes to this Licence.

Details of VHF Transmitter/Receiver

Type of Equipment

Manufacturer's Name

Serial Number

Base Station/Mobile Station*

Number of Licence.....

(* Inapplicable alternative to be struck out)

NOTES

1. If the apparatus to which this Licence relates is sold or disposed of within the Turks and Caicos Islands this Licence must be transferred to the transferee **and** notice must be given by the transferee to the officer who issued this Licence **or** to the Permanent Secretary, Finance.
2. This Licence does not give any authority to operate the equipment/apparatus to which it relates for any purpose other than the Wireless Telegraphy (VHF Licences) Regulations.

Dated 20.....

PERMANENT SECRETARY, FINANCE,/DELEGATE OF
PERMANENT SECRETARY, FINANCE,.

.....

**WIRELESS TELEGRAPHY (AMATEUR RADIO
OPERATOR LICENSING) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Grant and renewal of licence
4. Effect of licence granted under regulation 3
5. Register of licenses etc.
6. Licence to be produced
7. Offences
8. Prescribed forms
9. Turks and Caicos Amateur Radio Society Fee
10. Power Levels
11. Marine Vessels

SCHEDULE 1: Amateur Bands

SCHEDULE 2: Application for Grant/Renewal of an Amateur Radio
Operator Licence

**WIRELESS TELEGRAPHY (AMATEUR RADIO
OPERATOR LICENSING) REGULATIONS – SECTIONS 65 AND 66***
(*Legal Notice 8/2004*)

Commencement

[2 April 2004]

Citation

1. These Regulations may be cited as the Wireless Telegraphy (Amateur Radio Operator Licensing) Regulations.

Interpretation

2. In these Regulations—

“amateur radio operation” means the operation of a radio apparatus within the Islands at the radio frequencies for amateur operators set by the International Telecommunications Union for Region 1 from time to time;

“Minister” means the Minister with responsibility for Communications;

“qualified person” means any person or association certified as such by the Turks and Caicos Amateur Radio Society;

“Turks and Caicos Amateur Radio Society” means the organisation by that name registered in the Turks and Caicos Islands on the 4 December 1979.

Grant and renewal of licence

3. (1) Any qualified person who wishes to operate an amateur radio apparatus may apply to the Minister in the prescribed form after paying a fee of \$15.

(2) Where an application is made in accordance with subregulation (1), the Minister may issue to the applicant a licence in the prescribed form and shall endorse any special conditions or restrictions to the licence as he may deem fit.

(3) Every licence issued under this regulation shall be valid for the calendar year in which it is granted and expires on 31 December in that year.

Effect of licence granted under regulation 3

4. (1) The grant of a licence under regulation 3 shall not have the effect of rendering lawful any operation of an amateur radio apparatus which would be unlawful under any written law other than these Regulations.

(2) The grant of a licence under regulation 3 shall permit the establishment in the Islands of an amateur sending and receiving station for wireless telegraphy for the purposes of—

(a) sending and receiving from other licensed amateur stations as part of the self-training of the licensee in communication by wireless telegraphy—

* Enabled under the Wireless Telegraphy Ordinance 2 of 1903, Cap 111, 1998, Revised Edition (*now Repealed*) and continued in force as if made under section 65 of this Ordinance, by virtue of section 66 of this Ordinance.

- (i) messages in plain language which are remarks about matters of personal nature in which the licensee, or the person with whom he is in communication, has been concerned;
 - (ii) signals (not being in secret code or cypher) which form part of, or relate to, the transmission of such messages;
 - (iii) during disaster relief operations conducted by the Red Cross Society or the Police Force in the Islands, or during any exercise relating to such operations, for the purpose of sending to other licensed amateur stations such messages as the licensee may be requested by the Society, or such police force to send, and of receiving from any other licensed amateur station such messages as the person licensed to use such other licensed amateur station may be requested by the Society, or such Police Force to send; and
 - (iv) during a hurricane or threat of a hurricane where the messages are of an informative nature and to other licensed amateur stations within or outside of the Islands, which messages shall be relayed to the Police Force; and
- (b) sending and receiving transmissions in the Standard Frequency Service, designated for amateur radio operators by the International Telecommunications Union.

Register of licences etc.

5. (1) The Minister shall maintain or cause to be maintained a register, "AMATEUR RADIO OPERATORS REGISTER" of all licences issued under regulation 3 in such form as to disclose on inspection—

- (a) the names of the persons to whom such licences have been issued;
- (b) the apparatus (including serial number and manufacturer thereof) in respect of which any such licence has been issued; and
- (c) the date of issue and date of expiry of any such licence.

(2) The register maintained under subregulation (1) shall be *prima facie* evidence in any prosecution for an offence under these Regulations of the facts recorded in such register.

Licence to be produced

6. Any person—

- (c) who holds a licence granted under regulation 3; or
- (d) has in his possession any amateur radio apparatus,

shall on demand by any police officer, produce the same or either of them as may be required.

Offences

7. (1) Any person who operates an amateur radio apparatus without a valid licence commits an offence and is liable on conviction—

- (e) in the case of his first conviction under this regulation to a fine of \$50; and

- (f) in the case of a second or subsequent conviction under this regulation to a fine of \$500 or to imprisonment for a term of three months,

and whenever a person is convicted on a second or subsequent occasion of an offence under this regulation, the Magistrate, unless he finds special reason to the contrary related to the offence (which special reason the Magistrate shall record in writing), may order the police to seize the apparatus in question and forthwith dispose of it as the Magistrate deems fit.

(2) It shall be a defence in any prosecution for an offence under subregulation (1) for the defendant to show that he believed, on reasonable grounds, that a licence under regulation 3 was in force in relation to that apparatus at the time of the offence or that the use of the apparatus was required in an emergency.

Prescribed forms

8. The forms set out in Schedule 2 are prescribed for the purposes of these Regulations.

Turks and Caicos Amateur Radio Society Fee

9. The Turks and Caicos Amateur Radio Society may charge a fee to certify a person as qualified for the purposes of these Regulations.

Power Levels

10. Power levels for the operation of an amateur radio apparatus in the Islands shall not exceed the levels set by the International Telecommunications Union from time to time.

Marine Vessels

11. Where a licensee has a licence to operate from a marine vessel, that vessel shall only be a vessel registered in the Islands.

SCHEDULE 1

(Regulation 2)

AMATEUR BANDS

(Based on the International Telecommunications Union Recommendations)

<u>BAND</u>	<u>FREQUENCIES</u>	<u>GROUPS/MODES</u>
160 METERS	1,800 – 2,000 KHz	{E, A, G} – CW, RTTY, DATA, PHONE, IMAGE
80 METERS	3,500 – 4,000 KHz	{N, T+, G, A, E,} – CW, RTTY, DATA, PHONE, IMAGE
40 METERS	7,000 – 7,300 KHz	{N, T+, G, A, E} – CW, RTTY, DATA, PHONE, IMAGE
30 METERS	10,100 – 10,150 KHz	{E, A, G} – CW, RTTY, DATA
20 METERS	14,000 – 14,350 KHz	{G, A, E} – CW, RTTY, DATA, PHONE, IMAGE
17 METERS	18,068 – 18,168 KHz	{E, A, G} – CW, RTTY, DATA, PHONE, IMAGE
15 METERS	21,000 – 21,450 KHz	{N, T+, G, A, E} – CW, RTTY, DATA
12 METERS	24,890 – 24,990 KHz	{E, A, G} – CW, RTTY, DATA, PHONE, IMAGE
10 METERS	28,000- 29, 700 KHz	{N, T+, E, A, G} – CW, RTTY, DATA, SSB, PHONE, IMAGE
6 METERS	50.0 – 54.0 MHz	{E, A, G, T+, T} – CW, RTTY, DATA, MCW, test, PHONE, IMAGE
2 METERS	144.0 – 148.0 MHz	{E, A, G, T+, T} – CW, RTTY, DATA, MCW, test, PHONE, IMAGE
1.25 METERS	222.0 – 225.0 MHz	{E, A, G, T+, T, N} – CW, RTTY, DATA, MCW, test, PHONE, IMAGE
70 CENTIMETERS	420.0 – 450.0MHz	{E, A, G, T+, T} – CW, RTTY, DATA, MCW, test, PHONE,

		IMAGE
33 CENTIMETERS	902.0 – 928.0 MHz	{E, A, G, T+, T} – CW, RTTY, DATA, MCW, test, PHONE, IMAGE
23 CENTIMETE	1,240 – 1,300 MHz	{N, E, A, G, T+,T} – CW, RTTY, DATA, MCW, test, PHONE, IMAGE

Above 23 Centimeters, All licensees except Novices are authorised all modes on the following frequencies: 2300-2310 MHz, 2390-2450 MHz, 3300-3500 MHz, 5650-5925 MHz, 10.0-10.5 GHz, 24.0-24.25 GHz, 47.0-47.2 GHz, 75.5-81.0 GHz, 119.98-120.0 GHz, 142-149 GHz, 241-250 GHz. All above 300 GHz.

E= EXTRA CLASS
T+=TECHNICIAN PLUS

A=ADVANCED
T=TECHNICIAN

G=GENERAL
N=NOVICE

radio teletypewriter (RTTY)

radio teletypewriter (RTTY): A teletypewriter employed in a communication system using radio circuits. Note: Such systems are spoken of as RATT systems.

teletypewriter (TTY): A printing telegraph instrument that has a signal-actuated mechanism for automatically printing received messages. Note 1: A TTY may have a keyboard similar to that of a typewriter for sending messages. Note 2: Radio circuits carrying TTY traffic are called “RTTY circuits” or “RATT circuits.”

continuous wave (cw): A wave of constant amplitude and constant frequency

carrier wave (cw): Continuous wave.

MCW: Modulated continuous wave.

SSB: Single-sideband [transmission]

SSBAM: Single-sideband amplitude modulation

SSB-SC: Single-sideband suppressed carrier [transmission]

SCHEDULE 2

(Regulation 8)

FORM 1

TURKS AND CAICOS ISLANDS

WIRELESS TELEGRAPHY (AMATEUR RADIO
OPERATOR LICENSING) REGULATIONS

**APPLICATION FOR GRANT/RENEWAL*
OF AN AMATEUR RADIO OPERATOR LICENCE**

Notes:

1. The application should be returned to Ministry of Communications (submitted by TACARS).
2. The applicant must hold a valid passport.
3. Every question must be answered even if the answer is in the negative.
4. The prescribed application fee and all necessary documents must accompany this application.
5. If you currently hold a valid licence it must be attached.

**Delete where inapplicable*

1. Name of applicant:
 2. Home address:
 3. Telephone number:
 4. Country of Birth:.....
 5. Citizenship:
 6. Passport Number:
 7. Apparatus Name/Model:
 8. Serial Number:
 9. Base Station/Mobile Station*:
 10. Equipment will be normally kept at (Island):
Address:
 11. Have you paid the licence fee: Receipt No.:
 12. Are you a visitor: Yes No
 13. If a visitor, how long will you need to hold the licence:
 14. Do you currently hold a valid amateur radio licence: Yes No
 15. Person making application, if not the same as applicant:
- Dated: Signature of Applicant:
- Dated: Authorised T.A.C.A.R.S. Examiner:

For a Special Event Licence:

I wish to apply for a **Special Event Licence** to operate during the

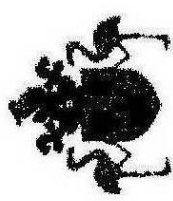
.....

.....

Contest during the period of

FORM 2

FORM OF LICENCE FOR RESIDENT AMATEUR RADIO OPERATOR

TURKS & CAICOS ISLANDS AMATEUR RADIO RESIDENT OPERATOR LICENCE		TURKS & CAICOS ISLANDS GOVERNMENT MINISTRY OF COMMUNICATIONS	
GRANT DATE	EXPIRY DATE	LICENCE NUMBER	OPERATION UNDER THIS LICENCE MUST BE IN ACCORDANCE WITH THE LAWS OF THE TURKS AND CAICOS ISLANDS WIRELESS TELEGRAPHY (AMATEUR RADIO OPERATOR LICENSING) REGULATIONS AND CURRENT INTERNATIONAL RADIO REGULATIONS THIS IS TO CERTIFY THAT THE HOLDER IS HEREBY LICENCED TO OPERATE AMATEUR RADIO APPARATUS. NAME/MODEL: SERIAL : POWER (WATTS): BASE OR MOBILE: SPECIAL CONDITIONS/RESTRICTIONS (IF ANY):
NAME AND ADDRESS			
		MINISTER MINISTRY OF COMMUNICATIONS GOVERNMENT OFFICES, GRAND TURK	
VP5XXX CALL SIGN			

FORM 3

FORM OF LICENCE FOR A SPECIAL EVENT AMATEUR RADIO OPERATOR



TURKS AND CAICOS ISLANDS
Ministry of Communications
SPECIAL EVENT
AMATEUR RADIO LICENCE



Call Sign:

Name(s):

Home Call(s):

is/are authorised to operate an Amateur Radio Station under the call sign:

for the duration of the _____ Competition between _____ Hours on
the _____ Day of _____
and _____ Hours on the _____ Day of **ONLY**.

Operators must abide by the Rules of the Competition.

MINISTER
Ministry of Communications

OPERATION UNDER THIS LICENCE MUST BE IN ACCORDANCE WITH THE LAWS OF THE TURKS AND CAICOS ISLANDS WIRELESS TELEGRAPHY (AMATEUR RADIO OPERATOR LICENSING) REGULATIONS AND CURRENT INTERNATIONAL RADIO REGULATIONS THIS IS TO CERTIFY THAT THE HOLDER IS HEREBY LICENSED TO OPERATE AMATEUR RADIO APPARATUS.

FORM 4

FORM OF LICENCE FOR VISITOR AMATEUR RADIO OPERATOR



TURKS AND CAICOS ISLANDS
Ministry of Communications
VISITOR AMATEUR RADIO LICENCE



Allocated Call Sign: Licence Number: Year:

Name: Home Call:

Home Address:

Island Address:

Licensing Country:

Grant Date: Expiry Date:

APPARATUS:

NAME/MODEL:

SERIAL :

POWER (WATTS):

BASE OR MOBILE:

SPECIAL CONDITIONS/RESTRICTIONS (IF ANY):

MINISTER
Ministry of Communications

OPERATION UNDER THIS LICENCE MUST BE IN ACCORDANCE WITH THE LAWS OF THE TURKS
AND CAICOS ISLANDS WIRELESS TELEGRAPHY (AMATEUR RADIO OPERATOR LICENSING)
REGULATIONS AND CURRENT INTERNATIONAL RADIO REGULATIONS
THIS IS TO CERTIFY THAT THE HOLDER IS HEREBY LICENCED TO OPERATE AMATEUR RADIO
APPARATUS.

TELECOMMUNICATIONS (FEE STRUCTURE) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Application for telecommunications network or service licence
4. Application for spectrum licence
5. Application for special licence
6. Miscellaneous fees
7. Time for payment of fees

SCHEDULE 1: Telecommunications Network or Service

SCHEDULE 2: Spectrum Licence

SCHEDULE 3: Special Licence

SCHEDULE 4: Miscellaneous

TELECOMMUNICATIONS (FEE STRUCTURE) REGULATIONS – SECTION 65
(*Legal Notice 128/ 2020*)

Commencement

[1 December 2019]

Citation

1. These Regulations may be cited as the Telecommunications (Fee Structure) Regulations.

Interpretation

2. In these Regulations—

“fixed public telecommunications network or service” means a network or service that provides users the ability to transmit signals over a distance for the purpose of communications where the end points are fixed;

“full telecommunication network or service” means a network or service that provides users the ability to use all the telecommunication services defined as “telecommunications service” in section 2 of the Ordinance;

“gross revenue” means revenue of reporting year received by, or due to the licensee and its affiliates, from whatever source derived before any deductions for expenses, discounts, returns or offsets of any kind, except domestic interconnection payments;

“internet networks or service” means a network or service that provides users the ability to access the Internet;

“mobile virtual network operator (MVNO)” means a wireless telecommunications network or service provider that does not own the network infrastructure over which the services are provided;

“private telecommunications network or service” means a network or service for the provision of telecommunications by a person for the exclusive use of that person and not for resale, directly or indirectly;

“public mobile telecommunications network or service” means a network or service that provides users the ability to communicate with a mobile device;

“public radio paging network or service” means a network or service that provides users with the ability to send messages to the subscriber over a paging service;

“quadruple play providers” means the grouping together of four of the telecommunications network and services licences, except a full telecommunication network or service licence, in Schedule 1;

“regulatory fee” means the regulatory fee referred to in section 47 of the Ordinance;

“special licence” means a licence for the use of spectrum issued to a person who wishes to carry out an experiment in relation to radiocommunications or to cover an emergency or special event;

“studio to transmitter link (STL)” means a radiocommunications link used for the transmission of broadcast material from a studio to a transmitter;

“submarine cable” is a cable laid beneath the sea to carry telecommunications;

“subscriber television” means a business or organisation that uses a telecommunication system for broadcasting and receiving moving pictures and sound over a distance;

“triple play provider” means the grouping together of three of the telecommunications network and services licences, except a full telecommunication network or service licence, in Schedule 1;

“value added service” means a service added by a person on the network of a telecommunications network or service licensee to provide additional services with separate equipment.

Application for telecommunications network or service licence

3. A person applying for a telecommunications network or service licence shall pay the appropriate fees specified in Schedule 1, as follows—

- (a) on filing of the application, the non-refundable application fee;
- (b) on grant of the licence, the initial licence fee;
- (c) after the first calendar year, the renewal of licence fee, annually;
- (d) the regulatory fee, annually.

Application for spectrum licence

4. A person applying for a spectrum licence shall pay the appropriate fee specified in Schedule 2, as follows—

- (a) on the filing of the application, the non-refundable application fee;
- (b) on grant of the licence, the initial licence fee;
- (c) after the first calendar year, the renewal of licence fee, annually.

Application for special licence

5. A person applying for a special licence shall pay the appropriate fee specified in Schedule 3, as follows—

- (a) on the filing of the application, the non-refundable application fee;
- (b) on grant of the licence, the initial licence fee.

Miscellaneous fees

6. Any fees not covered under regulation 3, 4 or 5 which may be applicable to a licence shall be paid annually by the licensee in accordance with the fees listed in Schedule 4.

Time for payment of fees

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.

(2) The renewal of licence fee shall be payable in each year following the grant of the licence.

SCHEDULE 1

(Regulation 3)

TELECOMMUNICATIONS NETWORK OR SERVICE

CODE	DESCRIPTION	APPLICATION FEE	INITIAL FEE (On grant of licence)	RENEWAL OF LICENCE FEE (annually)	REGULATORY FEE (annually)
FTNS	Full Telecommunication Network or Service	\$25,000	\$2,000,000	\$2,000,000 or 7% of gross revenue whichever is greater	\$75,000 or 1.8% of gross revenue whichever is greater
FPTNS	Fixed Public Telecommunication Network or Service	\$2,500	\$250,000	\$250,000 or 7% of gross revenue whichever is greater	\$75,000 or 1.8% of gross revenue whichever is greater
INS-1	Internet Networks or Service	\$2,500	\$75,000	\$75,000 or 7% of gross revenue whichever is greater	\$25,000 or 1.8% of gross revenue whichever is greater
INS-2	Internet Network or Services (>50<500 subscribers)	\$1,000	\$5,000	\$5,000 or 7% of gross revenue whichever is greater	\$5,000 or 1.8% of gross revenue whichever is greater
INS-3	Internet Network or Services (15<=50 subscribers)	\$1,000	\$1,000	\$1,000 or 7% of gross revenue whichever is greater	\$1,000 or 1.8% of gross revenue whichever is greater

MVNO	Mobile Virtual Network Operator	\$1,000	\$2,000	\$2,000 or 7% of gross revenue whichever is greater	\$2,000 or 1.8% of gross revenue whichever is greater
PMTNS	Public Mobile Telecommunication Network or Service	\$5,000	\$250,000	\$250,000 or 7% of gross revenue whichever is greater	\$75,000 or 1.8% of gross revenue whichever is greater
PRPNS	Public Radio Paging Network or Service	\$1,000	\$2,000	\$2,000 or 7% of gross revenue whichever is greater	\$2,000 or 1.8% of gross revenue whichever is greater
BTV	Broadcasting Television Station	\$1,000	\$1,000	\$1,000 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
SUB	Subscriber Television Nationwide Coverage	\$2,500	\$10,000	\$10,000 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
SUB 2	Subscriber Television Coverage area: A, B or C	\$1,000	\$2,000	\$2,000 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
	Subscriber Television Coverage area: D	\$1,500	\$8,000	\$8,000 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
BAM	Broadcast AM Radio station (Commercial) Nationwide Coverage	\$250	\$250	\$250 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
BFM	Broadcast FM Radio station (Commercial) Nationwide Coverage	\$250	\$500	\$500 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
BAM 2 BFM 2	Broadcast Radio station (Commercial) Nationwide Coverage area: A, B or C	\$250	\$400	\$400 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
	Coverage area: D	\$250	\$450	\$450 or 1.075% of gross revenue whichever is greater	1.8% of gross revenue
SC-1	Submarine Cable (international)	\$2,500	\$50,000	\$50,000 or 7% of gross revenue whichever is greater	\$75,000 or 1.8% of gross revenue whichever is greater

SC-D	Submarine Cable (domestic)	\$1,000	\$5,000	\$5,000 or 7% of gross revenue whichever is greater	\$5,000 or 1.8% of gross revenue whichever is greater
TPL-3	Triple Play	\$15,000	\$1,000,000	\$1,000,000 or 7% of gross revenue whichever is greater	\$75,000 or 1.8% of gross revenue whichever is greater
QUAD-4	Quadruple Play Providers	\$20,000	\$1,500,000	\$1,500,000 or 7% of gross revenue whichever is greater	\$75,000 or 1.8% of gross revenue whichever is greater
VAS	Value Added Services	\$1,000	\$2,000	\$2,000 or 7% of gross revenue whichever is greater	\$1,000 or 1.8% of gross revenue whichever is greater
PNS	Private Network or Service	\$1,000	\$5,000	\$2,000	\$2,000
VSAT	Very Small Aperture Terminal	\$1,000	\$2,000	\$2,000	\$2,000
MM	Maritime mobile Licence (per transceiver)				N/A
MMB	Based Station (fixed)	\$50/unit	\$50/unit	\$50/unit	
MMM	Mobile Station (mobile)	\$50/unit	\$50/unit	\$50/unit	
MMR	Repeater	\$50/unit	\$150/unit	\$150/unit	
MMP	Portable/Handheld	\$50/unit	\$15/unit	\$15/unit	
MMFY	Maritime Mobile Radio (Ferry Boats/Charter)	\$50/unit	\$50/unit	\$50/unit	
MMFH	Maritime Mobile Radio (Fishing Boats)	\$50/unit	\$30/unit	\$30/unit	
MMS	Ship/Cargo Station Licence				N/A
“	Less than 1600 tons	\$150/ship	\$150/ship	\$150/ship	
“	Exceeding 1600 tons	\$300/ship	\$300/ship	\$300/ship	
LM	Land Mobile Licence				\$1,000
LMB	Base Station	\$500	\$100/unit	\$100/unit	
LMR	Repeater	\$500	\$150/unit	\$150/unit	

LMN	Mobile	\$500	\$30/unit	\$30/unit	
LMP	Portable/handheld	\$500	\$15/unit	\$15/unit	
AMA	Aircraft Radio (each aircraft)				N/A
AMA-TC1	Maximum take-off weight (>20,000LBS<60,000 LBS)	\$200	\$200	\$200	\$0
AMA-TC2	Maximum take-off weight (>12,500LBS<20,000 LBS)	\$150	\$150	\$150	\$0
AMA-TC3	Maximum take-off weight (>6,000LBS<12,500LBS)	\$100	\$100	\$100	\$0
AMA-TC4	Maximum take-off weight (>6,000LBS)	\$50	\$50	\$50	\$0
AMA-TC5	Transportable Radio Licence	\$40	\$40	\$40	\$0
AM	Aeronautical mobile Radio				\$1, 000
AMR	Repeater	\$500	\$150/unit	\$150/unit	
AMB	Based/fixed	\$500	\$500	\$100/unit	
AMN	Mobile	\$500	\$30/unit	\$30/unit	
AMP	Portable/handheld	\$500	\$15/unit	\$15/unit	
AR	Amateur Radio Licence				N/A
ARN	Novice class	\$10	\$15	\$15	\$0
ARG	General class	\$10	\$15	\$15	\$0
ARA	Advanced class	\$10	\$15	\$15	\$0
ARF	Temporary Call-Sign	\$15	\$15	\$15	\$0
CBR	Citizen Band Radio	\$25			\$0

Coverage area:

- A Grand Turk and Salt Cay
- B South Caicos, East Caicos and Ambergis Cay

- C Middle Caicos, North Caicos Parrot Cay
- D Providenciales, West Caicos and Pine Cay

Note: AMA=Aircraft Station, TC=Tier Code

SCHEDULE 2

(Regulation 4)

SPECTRUM LICENCE

LICENCE CODE	DESCRIPTION	APPLICATION FEE	INITIAL FEE (On grant of licence)	RENEWAL OF LICENCE FEE (annually)
VST	Very Small Aperture Terminal (channel)	\$1,000		
VST1	Dish <3.8 meter with one 64kbs CH		\$500	\$2,000
VST2	Dish <3.8 Meter with multiple 64kbs CH		\$400/channel	\$400/channel
CMBL	Cellular Microwave Backhaul links	\$1,000		
	<28 MHz Bandwidth		\$5,000/frequency	\$5,000/frequency
	>28 – 56 MHz Bandwidth		\$8,500/frequency	\$8,500/frequency
	>56 MHz Bandwidth		\$15,000/frequency	\$15,000/frequency
MMFH	Maritime Mobile Radio (Fishing Boats)	\$50/unit		
BWA	Broadband Wireless Access	\$1,000		
	<5 MHz Bandwidth		\$5,000/paired	\$5,000/paired
	5-15 MHz Bandwidth		\$5,000/paired	\$10,000/paired

	15-30 MHz Bandwidth		\$30,000/paired	\$30,000/paired
	>30 MHz Bandwidth		\$50,000/paired	\$50,000/paired
FWA	Fixed Wireless Access (Point to point)	\$1,000		
	<5 MHz Bandwidth		\$500/frequency	\$500/frequency
	5-15 MHz Bandwidth		\$800/frequency	\$800/frequency
	15-30 MHz Bandwidth		\$1,500/frequency	\$1,500/frequency
	>30 MHz Bandwidth		\$2,000/frequency	\$2,000/frequency
FWA	Fixed Wireless Access (Multi point to point)	\$1,000		
	<5 MHz Bandwidth		\$600/frequency	\$600/frequency
	5-15 MHz Bandwidth		\$1,500/frequency	\$1,500/frequency
	15-30 MHz Bandwidth		\$2,000/frequency	\$2,000/frequency
	>30 MHz Bandwidth		\$2,500/frequency	\$2,500/frequency
PRP	Public Radio Paging			
PRC	Commercial (25 KHz bandwidth)	\$1,000	\$500/frequency	\$500/frequency
PRN	Non-Commercial (25KHz bandwidth)		\$150/frequency	\$150/frequency
MTF	Public mobile Telecommunica tions Frequency			

PMTF1	Cellular 800 MHz	\$1,000	\$30,000.0/10MHz (paired)	\$30,000/10MHz (paired)
PMTF2	Cellular 900 MHz	\$1,000	\$30,000/10MHz (paired)	\$30,000/10MHz (paired)
PMTF2	Cellular 900 MHz	\$1,000	\$30,000/10MHz (paired)	\$30,000/10MHz (paired)
PMTF3	Cellular 1800 MHz	\$1,000	\$40,000/10MHz (paired)	\$40,000/10MHz (paired)
PMTF4	Cellular 1900 MHz	\$1,000	\$78,000/5MHz (paired)	\$78,000/5MHz (paired)
PFMF5a	Cellular 700 MHz Prime	\$1,000	\$60,000/22MHz (paired)	\$60,000/22MHz (paired)
PFMF5b	Cellular 700 MHz Non-Prime	\$1,000	\$10,000/6MHz (paired)	\$10,000/6MHz (paired)
LTE	2.5GHz (2500MHz-2690MHz)			
	2500-2570MHz/2620-2690MHz	\$1,000	\$30,000/20MHz (paired)	\$30,000/20MHz (paired)
	2575MHz-2620MHz	\$1,000	\$30,000/20MHz (unpaired)	\$30,000/20MHz (unpaired)
SES	Satellite Earth Station			
	SES (>3 meters with multiple channels)	\$1,000	\$4,500/Dish	\$4,500/Dish
LM	Land Mobile			
LMF	Land Mobile radio (12.5 KHz bandwidth)	\$200	\$200/frequency	\$200/frequency

MM	Maritime Mobile			
MMF	Maritime Mobile Radio (12.5 KHz bandwidth)	\$200	\$20,000/frequency	\$200/frequency
MMSR	International/Nation Search and Rescue	Free	Free	Free
AM	Aeronautical Mobile Radio (12.5 KHz bandwidth)	\$200	\$200/frequency	\$200/frequency
BS	Broadcasting Station			
BAM	Broadcast AM Radio station	\$500	\$3,000/frequency	\$3,000/frequency
BFM-1	Broadcast FM Radio station (<100 Watts)	\$500	\$500/frequency	\$500/frequency
BFM-2	Broadcast FM Radio station (250W-500 Watts)	\$500	\$1,000/frequency	\$1,000/frequency
BFM-3	Broadcast FM Radio station (500W-1K Watts)	\$500	\$2,000/frequency	\$2,000/frequency
BTV	Broadcast Television (6 MHz link)	\$1,000	\$3,000/frequency	\$3,000/frequency
STL-1	Television STL Microwave (6MHz link)	\$500	\$1,000/link	\$1,000/link
STL-2	Radio STL Microwave	\$500		
	<(25KHz link)		\$200/link	\$200/link
	<(25KHz link)		\$500/link	\$500/link

SCHEDULE 3

(Regulation 5)

SPECIAL LICENCE

CODE	DESCRIPTION	APPLICATION FEE	LICENCE FEE (On grant of licence)
SLE	Emergencies	Free	
SHT	Short term (<30 days)	\$500	\$2,000
SHT1	Short term (>30<90 days)	\$500	\$5,000

SCHEDULE 4

(Regulation 6)

MISCELLANEOUS

CODE	DESCRIPTION	APPLICATION FEE	LICENCE FEE (On grant of licence)
CPE	Customer Premises Equipment Dealers Registration Fee	\$100	\$250
	Customer Premises Equipment Wiring Registration fee	\$100	\$100
ROL	Radio Operators licence	\$100	\$100
TAC	Type Approval Certification	\$500	\$500
EXM	Examination Fees for Radio Operators	\$30	N/A

