

CONSULTATION ON THE WORK PROGRAMME FOR 2012-2013

TELECOMMUNICATIONS REGULATORY COMMISSION VIRGIN ISLANDS

WORK PROGRAMME FOR 2012-2013

(INCLUDING ESTIMATES OF EXPECTED EXPENDITURE AND
INCOME)

CONSULTATION DOCUMENT

July 18, 2012

Reference Number: C/ 01/2012

The address for responses to this document or enquires regarding this document is:

Consultation on the Work Programme for 2012-2013
Telecommunications Regulatory Commission
P.O. Box 4401 or 27 Fish Lock Road, 3rd Floor
Road Town, Tortola, British Virgin Islands VG 1110
Fax: (284) 494 6786; E-mail: consultations@trc.vg

The deadline for responses is **August 17, 2012**



CONSULTATION ON THE WORK PROGRAMME FOR 2012-2013

Instructions for submitting a response

The Telecommunications Regulatory Commission of the Virgin Islands (the “TRC”) invites comments on this consultation document from all interested parties.

Comments should be submitted by **August 17, 2012**.

The address for responding to this document is:

Consultation on the Work Programme for 2012-2013
Telecommunications Regulatory Commission
P.O. Box 4401 or 27 Fish Lock Road, 3rd Floor
Road Town, Tortola, British Virgin Islands VG 1110

Alternatively, responses may be sent to the TRC by fax to (284) 494 6786 or email to consultations@trc.vg (indicating the subject: “Consultation on the Work Programme for 2012-2013”).

Responses should include:

- In the case of responses from corporate bodies:
 - the name of the company/institution/association/other organisation;
 - the name of the principal contact person; and
 - full contact details (physical address, postal address, telephone number, fax number and email address).
- In the case of responses from individual consumers, name and contact details (including email address).

In the interest of transparency, the TRC will make all submissions received available to public, subject to confidentiality of the information received. The TRC will evaluate requests for confidentiality in line with relevant legal provisions.

Respondents are required to clearly mark any information included in their submission, which is considered confidential, and provide justification, why that information should be treated as such. Where such confidential information is included, respondents are required to provide both a confidential and a non-confidential version of their submission. The TRC may publish or refrain from publishing any document or submission at its sole discretion.

Once the TRC has received and considered responses to this consultative document, it will issue the final version of the Work Programme, together with a report on the consultation.

CONSULTATION ON THE WORK PROGRAMME FOR 2012-2013

1. Introduction

This document is a draft Work Programme (the “Programme”) of the Telecommunications Regulatory Commission of the Virgin Islands (the “TRC”) for the financial year of 2012-2013 (from 1 October 2012 to 30 September 2013). Estimated implementation dates for some tasks included in the Programme extend beyond the end of the financial year of 2012-2013. This is a natural reflection of the time needed to implement specific projects as well as of a fact that a smooth and coherent implementation of a significant number of projects undertaken (or planned to be undertaken) by the TRC requires a multi-year planning.

This document also includes estimated expenditure of the TRC, needed to support the implementation of the Programme, as well as estimated income.

This draft has been prepared after taking into account the experience of the TRC, various issues brought to its attention by various stakeholders in the telecommunications sector as well as discussions with such stakeholders. Responses to the present consultation will constitute an additional input into the planning process.

When setting out the Programme, the TRC has taken into account the stage of development of the market and the regulatory environment as well as of the TRC as an organization. Furthermore the TRC has considered the progress with implementation of the Work Programmes for 2009-2010, 2010-2011 and 2011-2012¹ as well as the need to ensure continuity of the TRC’s efforts. Accordingly the TRC considers that **it is appropriate for this Programme to retain the same specific objective as the Work Programmes for 2009-2010, 2010-2011 and 2011-2012, which is to set a roadmap for establishing a foundation for an appropriate regulatory environment and an effective regulatory authority able to steer such an environment.**

The Programme sets out the projects that the TRC believes it should concentrate on. There may however be alterations to the Programme due to developments in the market requiring immediate attention of the TRC, such as an excessive number of cases requiring regulatory action. The TRC will internally develop detailed schedules for implementation of the projects included in the Programme.

In order to better account for the overall workload, the TRC has also included in this Programme major processes (routine activities) the TRC is responsible for. The list of the processes, however, shall not be considered exhaustive as it aims to include the most usual tasks only, but does not cover various other tasks that the TRC may need to undertake in accordance with its remit provided in the Telecommunications Act, 2006.

¹ Review of such progress will be presented in a separate annual report prepared in accordance to section 66 of the Telecommunications Act, 2006.

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2. Continuity

As noted above, implementation of a coherent regulatory policy requires multi-year planning. Time needed for a number of important projects often spans over a number of programming periods (financial years). Furthermore, although a number of projects, included in the Work Programme for 2011-2012, have been successfully completed, more time is needed to bring other projects to closure. In this regard, it is important to ensure continuity of TRC's activities and ensure that the progress made in the financial year 2011-2012 (as well as the financial year 2010-2011) is continued. Therefore, when designing the Programme, emphasis was made on completion of projects, which have already commenced. Furthermore, the TRC considered it appropriate to essentially retain the main strategic elements of the Work Programmes for 2009-2010, 2010-2011 and 2011-2012 (such as the Vision, Mission, Regulatory Approach and Objectives).

In designing the Programme, the TRC has, however, taken an opportunity to learn from the experience in implementing the Work Programme over the last 3 years. This led to adjustments to a number of projects in order to better reflect the manner in which specific objectives could be achieved more effectively and efficiently. Adjustments to the proposed Programme were also influenced by a need to strengthen prioritisation of activities, which would have the maximum impact.

3. Vision and Mission of the TRC

The Programme should be based on a clear Vision and Mission of the TRC which should also guide the activities under the Programme. The TRC considers appropriate to retain the same Vision and Mission as first set out in the Work Programme for 2010-2011 (and retained in the Work Programme for 2011-2012). This also serves the interest of ensuring stability and certainty in the sector.

For the purposes of this Programme TRC considers that its **Vision** should continue to be: **Best telecommunications infrastructure and services in the region in terms of innovation, quality, choice and competitive pricing.**

TRC's specific role in achieving the Vision is described in the Mission of TRC. TRC considers that for the Purposes of this Programme its **Mission** should continue to be: **Enable and facilitate the availability and affordability of adequate telecommunications infrastructure and services with the view to ensure the long term benefit to the residents and businesses in the Virgin Islands.**

TRC would appreciate views of the stakeholders on the continued appropriateness of the Vision and Mission above for TRC as the telecommunications regulatory body in the Virgin Islands.

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4. Regulatory Approach

As explained above, the TRC considers that the regulatory approach outlined in the Work Programme for 2009-2010 and retained in the Work Programme 2010-2011 and 2011-2012 has proven to be appropriate. Therefore the TRC will continue to apply essentially the same approach. For the ease of reference, the TRC, however, considers it appropriate to set out the regulatory approach in full below.

In setting its work programme as well as selecting the right tools and instruments for its implementation, the TRC has to take into account a need to achieve its Vision and fulfil its Mission. In this regard the TRC continues to recognise a need to apply international best practices adjusting them to the local circumstances and requirements, where necessary. Among the factors to take into account are: the level of development of the market and regulatory framework, the size of the market as well as inherent limitations of the regulatory authority and market players in terms of resources available (both in terms of personnel and funds).

In the context above the TRC believes that its primary aim is to create an environment that enables competition and unleashes market forces to the full extent. In such an environment it is however important for the TRC to ensure that necessary safeguards are in place to guarantee that consumers obtain maximum benefit from the competitive marketplace. It is also important for the TRC to be responsive to the needs and concerns of the local community and concentrate on areas where the maximum impact can be achieved. The TRC will also seek to achieve such maximum impact and benefit to consumers with the minimum necessary regulation and the most efficient use of its resources.

The TRC would appreciate views of stakeholders with regard to the Regulatory Approach outlined above and whether there is a need to develop it further.

5. Work Programme - Overview

The TRC believes that in the light of its Vision and Mission as well as the stage of the development of the market and the regulatory organization it is appropriate for it to continue pursuing essentially the same objectives as outlined in the Work Programme for 2009-2010 (and essentially retained in the Work Programme for 2010-2011 and 2011-2012):

- 1) Regulatory environment that enables market entry and open competition therein providing maximum long-term benefits to residents and business of the Virgin Islands (**Enabling Environment**);
- 2) Proportionate pro-competitive regulatory intervention where competitive forces are unable to overcome market failures (**Fostering Competition**);

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- 3) Consumers able to make informed choices about services being offered to them and thereby acting as a disciplining force in the competitive market (**Consumer Awareness**);
- 4) Proportionate measures to achieve a basic level of consumer protection that market forces alone would not provide (**Consumer Protection**);
- 5) Telecommunications industry adequately supporting wider needs of the community (**Community**);
- 6) Regulatory institution able to establish and implement appropriate regulatory framework in an effective manner, functioning in an adequate legal and policy environment (**Effective Regulatory Institution and Framework**).

The TRC has set out the tasks (both projects and processes) it intends to accomplish under the Programme along specific action lines, each geared to pursue one of the objectives outlined above in the light of the immediate requirements of this stage of the market and institutional development. TRC would appreciate the views of the stakeholders with regard to the objectives above, the specific tasks below as well as their priority and timelines. Stakeholders are also welcome to propose any additional tasks they consider important together with reasons of why they consider that such tasks should be included in the Programme.

Estimated Implementation Dates are outlined below: -

- Quarter 1 (Q1) - October – December, 2012
- Quarter 2 (Q2) - January - March, 2013
- Quarter 3 (Q3) - April – June, 2013
- Quarter 4 (Q4) - July – September 2013

6. Comprehensive Work Programme

Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
Action Line 1: Enabling Environment				
1.1.	Framework for collection and reporting of market information	Availability of information on the telecommunications market in the Virgin Islands as well as the possibility to benchmark it against other markets	1.1.1 Complete Market Data report 1.1.2 Carry out regular data collection from the public suppliers and market data reporting	Q1, 2012
1.2.	Authorization Framework	Transparent and clear framework governing market entry	1.2.1. Draft Licensing Authorisation Framework 1.2.2. Internal Agreement	Q1, 2012

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Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
			on the Draft Class Licence Authorisation Framework 1.2.3. Public consultation 1.2.4. Draft Report on Public consultation and final document 1.2.5. Preparation of final document (incl. internal agreement) 1.2.6. Publishing the report on final consultation and final document 1.2.7. Public presentation and press release	
1.3.	Implementation of the Spectrum Management Framework Action Plan	Ensuring the efficient and effective use of radio spectrum as a scarce resource; Development of the innovative service with the maximum impact to socio-economic development, in particular mobile broadband services	1.3.1. Implementation of the monitoring system 1.3.2. Spectrum Policy (awaiting final approval by the Board, Legal and Attorney General) 1.3.3. Implementation of the Spectrum Management Action Plan <ul style="list-style-type: none"> • Spectrum Audit • Reallocation of the 850/900 for efficient use of these bands • Releasing of the 700MHz and 2500 MHz spectrum 	Q2, 2013 Q1, 2012 Q1, 2012 Q2, 2013 Q1, 2012 Q1, 2012
1.4.	Radio Licencing Framework	Develop a framework for the management of the radio licensing process including the financial process and the electronic database	1.4.1. Develop regulations (Telecommunications Code) 1.4.2. Develop Operator Handbook 1.4.3. Develop Licence Management System Software	Q1, 2013
1.5.	Framework for coordination of	In cooperation with relevant authorities,	1.5.1. Interim Works Coordination Procedures	Q2, 2013

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Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
	infrastructure works	ensure that infrastructure works are properly coordinated among telecommunications operators and between telecommunications operators and public utilities in order to ensure efficiency of investments and protection of networks	1.5.2. Form working group for works with operators and utilities 1.5.3. Draft procedures for network works 1.5.4. TRC internal vetting 1.5.5. Consultation with operators and utilities 1.5.6. Adopt procedures	
1.6.	Numbering Plan	Numbers managed according to a clear and predictable framework; New services are enabled	1.6.1. Awaiting legal vetting	Q2, 2013
1.7.	Develop Data Requirement Guidelines	To formulate comprehensive procedures for the submission of data by the operators as is required by the TRC to perform its functions under the TRC "Act" and to provide legal certainty in relation to the treatment of confidential information.	1.7.1. Completion of Draft Dispute Resolution Framework 1.7.2. Internal Agreement on Draft Framework 1.7.3. Public consultation 1.7.4. Draft Report on public consultation 1.7.5. Preparation of final document (incl. internal agreement) 1.7.6. Publishing the report on final consultation and final document 1.7.7. Public presentation and press release	Q4, 2013
1.8.	Procurement Policy	To establish the framework for contracting for services	1.8.1. Review the existing policy and procedures to determine compliance with International Financing Reporting Standards (IFRS) and Best Practices 1.8.2. Modify policy as deemed necessary to ensure compliance 1.8.3. Internal Agreement	Q3, 2011

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Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
			with staff 1.8.4. Obtain Board approval and adopt policy	
1.9.	Pension Scheme	To ensure that each employee is awarded their full benefit in accordance with the BVI Labour Code		Q1, 2012
1.10.	Document Management Framework	Research, procure and implement an electronic document management system for the TRC offices to replace the paper-based system currently in use.	1.10.1. Function requirements 1.10.2. Research and Selection 1.10.3. Preparation, Installation and Training 1.10.4. Data migration	Q1 2012
1.11.	Domain Name Management	To obtain control of .VG top-level domain with continued TLD management by AdamsNames	1.11.1. Contact AdamsNames and agree on transfer 1.11.2. Create framework documents 1.11.3. Create draft agreement 1.11.4. Submit re-delegation application to IANA 1.11.5. Signoff agreement with AdamsNames 1.11.6. Adoption of new policies	
Action Line 2: Fostering Competition				
2.1.	Market Analysis	To review markets for possible market failures constraining the development of the sector and/or having a negative effect on user interests and to set remedies in place to address identified market failures	2.1.1. To review remaining markets identified in the 2010 Market Review	Q2, 2013

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Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
2.2.	Multichannel TV	To assess the competitiveness of the Multichannel TV market in the BVI and to impose regulatory remedies in the event of the finding of dominance.	2.2.1. Publish document for consultation 2.2.2. Consider Determination of Dominance 2.2.3. Consider and apply Regulatory Remedies and Licence Amendment process if appropriate	Q1, 2012
2.3	Broadband	To assess the competitiveness of the Broadband market in the BVI and to impose regulatory remedies in the event of the finding of dominance. To develop a National Broadband Policy and to identify the future direction of Broadband provision in the BVI.	2.3.1. Publish document for consultation 2.3.2. Consider Determination of Dominance 2.3.3. Consider and apply Regulatory Remedies and Licence Amendment process if appropriate	Q1, 2012
2.4	International Roaming	To assess the competitiveness of the International Roaming market in the BVI and to impose regulatory remedies in the event of the finding of dominance.	2.4.1. Publish document for consultation 2.4.2. Consider Determination of Dominance 2.4.3. Consider and apply Regulatory Remedies and Licence Amendment process if appropriate	Q3, 2013
2.5	Calls to Caribbean Destinations	To assess the competitiveness of the market for calls to Caribbean destinations in the BVI and to impose regulatory remedies in the event of the finding of dominance.	2.5.1. Publish document for consultation 2.5.2. Consider Determination of Dominance 2.5.3. Consider and apply Regulatory Remedies and Licence Amendment process if appropriate	Q3, 2013
2.6	Competition Guidelines	To provide guidance on how the TRC assesses anti-competitive conduct.	2.6.1 Draft Guidelines 2.6.2 Consult on guidelines	Q3, 2013

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Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
			and publish on TRC website	
Action Line 3: Consumer Awareness				
3.1.	Promoting Consumer Awareness	To create an environment for consumers with a view to provide accurate information for ease of access in reference to policies, regulations, services and guidelines	3.1.1. Identify key areas of awareness 3.1.2. Create a Charter 3.1.3. Develop Pamphlets 3.1.4. Advertise on website 3.1.5. Make available the products at the TRC's office	Q2, 2013
3.2	Quality of Service Reporting	Collect & publish first set of Quality of Service data from service providers.	3.2.1. Completion of framework 3.2.2. Operator procedures workshop 3.2.3. Operator data collection 3.2.4. Analysis and publication of data 3.2.5. Final report	Q2 2013
Action Line 4: Consumer Protection				
4.1.	Consumer Protection Framework	To establish and assist in a greater understanding for consumers to make compliance simpler.	4.1.1. Awaiting legal vetting	Q1 2012
4.2.	Monitoring Compliance Procedures	Monitoring compliance with anti-ex ante regulation to determine ex post regulation is required.	4.2.1. Completion of Monitoring and Compliance Procedures 4.2.2. Internal Agreement on Draft Framework 4.2.3. Public consultation 4.2.4. Draft Report on public consultation 4.2.5. Preparation of final document (incl. internal agreement) 4.2.6. Publishing the report on final consultation and final document 4.2.7. Public presentation and press release	Q1, 2012

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Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
4.3.	Quality of Service framework for Cable TV	Develop Quality of Service framework for Cable TV service.	4.3.1. Research international best practices 4.3.2. Draft telecommunications code 4.3.3. Internal vetting of draft code 4.3.4. Public consultation on draft code 4.3.5. Implementation of code 4.3.6. First reporting cycle	Q2, 2013
4.4.	Supervision of commitments undertake by new owners of BVI Cable TV	Enhance quality and offering of multi-channel television services; Ensure that existing BVI Cable TV infrastructure is used so that to maximise benefit to the residents and businesses of the Virgin Islands	4.4.1. Completion of framework 4.4.2. Operator procedures workshop 4.4.3. Operator data collection 4.4.4. Analysis and publication of data 4.4.5. Final report	Q1, 2012
Action Line 5: Community				
5.1.	World Telecommunication and Information Society Day	To create a greater awareness of the telecommunications industry in the British Virgin Islands		Q2, 2013
5.2.	Emergency Management Framework	Create a framework for ensuring that proper processes and systems are in place for preparing for, responding to and recovering from any emergency.	5.2.1. Setup interim communications procedures for operators 5.2.2. Conduct operator Request for Information (RFI) 5.2.3. Draft framework documents (telecoms code, management doc) 5.2.4. Public consultation on framework documents 5.2.5. Finalize documents 5.2.6. Adopt new policies	
5.3.	Measuring	Adequate information to	5.3.1. UWI – Trinidad	

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Number	Task	Objective	Subtask/Specific Delivery	Estimated Implementation
	electromagnetic radiation	the public and individual stakeholders on levels of electromagnetic radiation, enabling the TRC and other relevant authorities to take corrective actions if necessary.	Campus will conduct a series of radiation studies throughout the BVI 5.3.2. Produce report of study for Public review	
Action Line 6: Effective Regulatory Institution and Framework				
6.1.	Review of the TRC financing framework	Ensure sustainable long-term financing of the TRC in a manner, which would support the TRC's regulatory objectives	6.1.1. Liaise with directors within TRC to gather an understanding of each revenue source including Spectrum, Royalties, Radio and other Licencing. Conduct a SWOT Analysis and document findings 6.1.2. Conduct external consultation 6.1.3. Develop the framework 6.1.4. Obtain internal agreement 6.1.5. Obtain Board approval and adopt policy	Q4, 2013

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Estimates of Expected Expenditure and Income (US Dollars)

Estimated Revenues Retained from Prior Periods	4,737,768.37
Estimated Revenues for 2012 -13	<u>3,382,000.00</u>
Total Estimated Revenues	<u>8,119,768.37</u>
Estimated Operating Expenditures for 2012-13	2,104,963.37
Including:	
Human Capital	1,220,024.19
Leaseholds, Maintenance and Utilities	227,769.18
Professional Fees	485,000.00
Public Relations and Events	79,000.00
Other	93,170.00
Estimated Capital Expenditures for 2012 -13	<u>737,000.00</u>
Total Estimated Expenditures	2,876,963.37
Contingency Pct.	3%
Contingency Pct.	<u>86,308.90</u>
Total Estimated Expenditures with Contingency	<u>2,963,272.27</u>
Plus: Reserve for Future Periods	<u>5,156,496.10</u>