

No. 101 of 2010

VIRGIN ISLANDS

**TELECOMMUNICATIONS CODE (PART 2) (INTERNET TRAFFIC
EXCHANGE) REQUIREMENTS, 2010**

ARRANGEMENT OF SECTIONS

Section

**PART I
PRELIMINARY PROVISIONS**

1. ..Citation and commencement.
2. ..Interpretation.
3. ..Purpose.
4. ..Scope.

**PART II
OBLIGATIONS**

5. ..Obligations of public suppliers.
6. ..Establishment of an internet exchange facility.
7. ..Internet exchange facility costs.
8. ..Failures affecting routing of traffic.
9. ..Force majeure.

**PART III
COMPLIANCE**

10. Compliance and enforcement.
11. Relationship with licenses.

VIRGIN ISLANDS
STATUTORY INSTRUMENT 2010 NO. 101

TELECOMMUNICATIONS ACT, 2006
(No. 10 of 2006)

Telecommunications Code (Part 2) (Internet Traffic Exchange)
Requirements, 2010

[Gazetted 6th January, 2011]

The Telecommunications Regulatory Commission, in exercise of the power conferred by sections 6 (d), 26 (1), 26 (2) and 91 (3) of the Telecommunications Act, 2006 (No. 10 of 2006), issues these Requirements.

PART I
PRELIMINARY PROVISIONS

Citation and
commencement.

1. These Requirements may be cited as the Telecommunications Code (Part 2) (Internet Traffic Exchange) Requirements, 2010 and shall come into force on the date of publication in the Gazette.

Interpretation.

2. In these Requirements, unless the context otherwise requires,

No. 10 of 2006.

“Act” means the Telecommunications Act, 2006;

“Commission” means the Telecommunications Regulatory Commission established under the Act;

“internet exchange facility” means an internet exchange point, which is a physical infrastructure through which public suppliers exchange internet traffic;

“internet access service” means a public telecommunications service that provides users with access to the global internet;

“internet network” means a public telecommunications network used to provide an internet access service;

“internet traffic” means data transmitted through the internet;

“license” has the meaning set out in the Act;

“local internet traffic” means internet traffic that originates and terminates in the Virgin Islands;

“network termination point” has the meaning set out in the Act;

“public telecommunications network” or “PTN” has the meaning set out in the Act;

“public supplier” has the meaning set out in the Act;

“SMS” means Short Messaging Service, a telecommunications service involving the transport of a short alphanumeric message through the PTN such that any user can use equipment connected to a network termination point to exchange these messages with another user of equipment connected to another termination point;

“user” has the meaning set out in the Act.

3. The purpose of these Requirements is to establish a framework for the exchange of internet traffic between the users of public suppliers licensed in the Virgin Islands. Purpose.

4. These Requirements apply to a public supplier who Scope.
(a) provides an internet access service; or
(b) operates an internet network.

PART II OBLIGATIONS

Obligations of public suppliers.

5. (1) A public supplier shall exchange local internet traffic between its users and the users of other public suppliers through an internet exchange facility established in the Virgin Islands, without sending such traffic abroad.

Public suppliers shall also exchange local internet traffic through the internet exchange facility between its users and other persons connected to the internet exchange facility.

(2) No compensation shall be paid to or requested by public suppliers or any other person connected to the internet exchange facility for internet traffic exchanged in accordance with the obligation set out in subsection (1).

Establishment
of an internet
exchange
facility.

6. (1) An internet exchange facility shall be established in the Virgin Islands through the collaboration of public suppliers at a mutually agreed site. Every public supplier shall have an obligation to effectively and in good faith cooperate in establishing such facility.

(2) Public suppliers shall devise a mutually agreed method of governance and rules under which the internet exchange facility shall operate.

(3) The internet exchange facility shall be operated in a manner that is fair, reasonable and non-discriminatory to all and shall be open to all interested parties, including persons that are not public suppliers who meet fair, reasonable and non-discriminatory minimum requirements for participation.

(4) The Commission may, in its discretion, issue such instructions to ensure conformity with subsections (1), (2) and (3) as it may deem necessary and may resolve disputes arising out of or in connection with the internet exchange facility.

(5) The internet exchange facility shall be implemented and become operational no later than one calendar month after these Requirements comes into force.

(6) Public suppliers shall adhere to the relevant rules and agreements applicable to the operation of the internet exchange facility and are entitled to fair, reasonable and non-discriminatory right to participate in the development of the internet exchange facility and the relevant rules and agreements.

7. The capital and operating costs of the internet exchange facility established in accordance with these requirements shall be borne by all public suppliers and other persons connected to the internet exchange facility in accordance with the mutual agreement of the public suppliers and other persons connected to such facility, except where such costs are covered by other sources, including unilateral contributions by any person connected to the internet

Facility
costs.

exchange facility. The Commission may determine such rules for sharing costs as the Commission may deem necessary from time to time and may resolve disputes arising out of or in connection with the costs of the internet exchange facility.

Failures affecting routing of traffic.

8. (1) In the event of any failure, such as the failure of internet exchange facility equipment or the failure of a public supplier's link to the internet exchange facility or other failure affecting the routing of traffic through the internet exchange facility that cannot be resolved in an expeditious manner, a public supplier

(a) may re-route local internet traffic to any alternate route to eliminate any interruption of service to users;

(b) shall notify the Commission by email or SMS that such an action has been taken and shall indicate the reason for the re-route and the estimated time for restoring traffic through the internet exchange facility.

(2) A public supplier affected by any failure referred to in subsection (1), shall take measures to ensure the expedient restoration of the routing of traffic through the internet exchange facility.

(3) Public suppliers and other persons connected with the internet exchange facility shall effectively cooperate in ensuring the expedient restoration of the routing of traffic through the internet exchange facility in case of any failure or other issue affecting such routing.

Force majeure.

9. In the event of force majeure affecting
(a) the operation of the internet exchange facility; or
(b) a public supplier's ability to send internet traffic to the internet exchange facility,

the Commission reserves the right to exempt a public supplier from these requirements for a period specified by the Commission.

**PART III
COMPLIANCE**

Compliance
and
enforcement.

10. (1) A public supplier who is providing services at the time of commencement of these Requirements shall take the necessary steps to comply with obligations set out in section 5 within one month of the commencement of these Requirements.

(2) A public supplier who commences activities pursuant to section 4, after the commencement of these Requirements shall comply with the obligations set out in section 5 at the commencement of the activities.

(3) A public supplier who fails to comply with the provisions of these requirements commits an offence and is liable to the enforcement measures provided in sections 75 to 77 of the Act.

Relationship
with licenses.

11. The provisions of these Requirements do not replace, but rather supplements the requirements of a public supplier's license.

Issued by the Telecommunications Regulatory Commission this 23rd day of December, 2010.

**(Sgd.) Collin Scatliffe
Chairman of the Board**