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EXTRAORDINARY GAZETTE

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SUPPLEMENT to the Solomon Islands GazetteMonday 11th December, 2017

S.I. No.55

[Legal Notice No. 115]

**TELECOMMUNICATIONS (SUPPLEMENTARY LICENCE FEE)
REGULATIONS 2017****Table of provisions**

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**Telecommunications (Supplementary Licence Fee)
Regulations 2017**

In exercise of the powers conferred by section 19 and section 21 of the *Telecommunications Act 2009*, the Telecommunications Commission makes the following Regulations:

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Telecommunications (Supplementary Licence Fee) Regulations 2017*.

2 Commencement

These Regulations commence on the day published in the *Gazette*.

3 Supplementary Licence Fee

- (a) For section 21 of the Act, a supplementary fee payable by licensed service providers, of 0.52% of their annual gross revenue in the 2016 financial reporting year; and
- (b) a supplementary fee is payable quarterly in equal installments, within twenty eight days after the end of each successive financial quarter, commencing with the quarter ending on 31 December 2017, and concluding with the quarter ending on 31 March 2020.

MADE IN HONIARA this fourth day of December, 2017.

COMMISSIONER
TELECOMMUNICATIONS COMMISSION

TELECOMMUNICATIONS ACT 2009**TELECOMMUNICATIONS (SUPPLEMENTARY LICENCE FEE)
REGULATIONS 2017**

(TCSI Regulation No. 01 of 2017)

Explanatory note

(This note is not part of the Regulations, but is intended to indicate their general effect.)

These Regulations of the Telecommunications Commission are made under section 21 of the Telecommunications Act 2009, and provide for the Commission to receive additional licence fee revenue to meet the Commission's costs in legal proceedings arising from the exercise of its functions and powers.

The Regulations set a supplementary licence fee which applies to all licensed telecommunications service providers. The supplementary fee is set at 0.25% of a licensed service provider's audited annual gross revenue for 2016. The supplementary fee is payable in nine quarterly instalments, commencing with the fourth quarter of 2017.

IN exercise of the powers conferred upon it by section 21 and 142 of the Telecommunications Act 2009 the Telecommunications Commission makes the following regulations in respect of the setting of a supplementary licence fee:

1. CITATION AND COMMENCEMENT

- 1.1 These regulations may be cited as the Telecommunications (Supplementary Licence Fee) Regulations 2017 *(TCSI Regulation No.01 of 2017)*.
- 1.2 These regulations commence on the date they are published in the *Gazette*, and their provisions remain in full force and effect until the date appointed for their amendment or revocation, in subsequent regulations issued by the Commission.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Order:

“Act” means the Telecommunication Act 2009, (No. 20 of 2009);

“Commission” means the Telecommunications Commission established under section 6 of the Act.

“licensed service provider” means a person providing or entitled to provide a telecommunication service in Solomon Islands under an individual or class licence;

“supplementary licence fee” means the licence fee set by clause 3 of these regulations, payable in addition to, and in association with, the annual licence fee payable to the Commission by licensed service providers;

“Commission” means the Telecommunications Commission established under section 6 of the Act.

2.2 Subject to subsection (1), words and expressions which appear in these regulations, and which also appear in the Act, have the meaning ascribed to them by the Act.

3. SUPPLEMENTARY LICENCE FEE

3.1 Further to section 21 of the Act, the Commission sets a supplementary fee payable by licensed service providers, of 0.52% of their annual gross revenue in the 2016 financial reporting year.

3.2 The supplementary licence fee is payable quarterly in equal instalments, within twenty-eight days after the end of each successive financial quarter, commencing with the quarter ending on 31 December 2017, and concluding with the quarter ending on 31 March 2020.

MADE AT HONIARA this fifth day of November, 2017.

.....
Bernard M Hill
Telecommunications Commission

THE EVALUATION COMMITTEE

MINUTES OF MEETING

MEETING NO. 03/2017 – 21st November 2017

Venue: Kalala House Conference Room – 10:50 am

1. Welcome and Opening Prayer

The Chairman welcomed the members of the Committee and he opened the meeting with a word of prayer.

In attendance were, the Chairman of the Evaluation Committee, Mr Frank Paulsen, and members, Messrs Denton Rarawa (Governor CBSI) and Jay Bartlett (Chairman SICCI).

2. Purpose of meeting

The meeting was called purposely for the Committee to consider the proposal from the Telecommunication Commission of Solomon Islands (TCSI/the Commission), to set a supplementary licence fee (fee) for the telecommunications operators. The proposal was submitted in accordance with section 21 of the **Telecommunication Act of 2009 (the Act)**. This section provides that supplementary licence fee can only be approved by the Evaluation Committee but only if it is reasonably satisfied that the fee is required for a funding deficit in relation to section 21(2)(a) and (b) that relate to judicial review/legal proceedings.

The Committee noted that the purpose of this provision is to ensure that the Communication is at all times sufficiently funded to respond effectively to appeals and judicial review proceedings (section 26(6))

3. Submission by Mr Haggai Arumae – TCSI

The acting Commissioner, Mr Haggai Arumae, was called by the Committee to take it through the proposal, purposely to explain and to justify why TCSI was seeking to set the fee for the telecommunications operators.

Mr Arumae spoke on the submission and reiterated the need for the Commission to now seek the approval of the Committee to set the fee; as provided for under section 21 of the Act.

He submitted that this had become necessary because of the rising costs of the current ongoing dispute between two operators, Telekom and BMobile, over inter-connection terms; and the possible legal proceedings that would arise out of this dispute; and costs related to other legal and administrative proceedings.

He added that, this was the first case of its kind in the country, and that the Commission was assisting the operators to deal with the issues over the inter-connection terms and also that the costs connected to the dispute would continue to rise hence the submission of the proposal.

He further submitted that, because of the recent developments that had taken place within the telecommunications industry, the application by the government for a licence for the undersea cable and the challenge to the filing sanctioned by the Commission and the necessity to meet the costs of engaging a Panel of Experts and related legal costs, it had now become crucial and justifiable for the Committee to approve the proposal.

A concern was raised on the possible costs to the consumers on the imposition of the proposed fee on the operators. Mr Arumae, however, assured the Committee that, that would not happen. As stated in its submission. *"The Commission is also conscious that the Commission's adding to the operators cost of doing business may ultimately be reflected in consumer prices, and could affect implementation of their commercial plans. Because of this, the Commission does not propose implementing a lump sum supplementary fee. Its proposal is for the additional 0.52% of annual revenue to be paid in quarterly instalments over a two year period commencing in the first quarter of 2018."*

4. Resolution

The Committee considered and deliberated on the proposal for the supplementary licence fee for telecommunications operators as submitted by the Commission. The Committee is satisfied, that, given the changing circumstances and the recent developments within the telecommunications industry, it is highly likely that the costs relating to dealing with disputes and related matters would rise considerably, bearing in mind that it is difficult to predict how long disputes would drag on for and the costs involved. Based on those considerations and the submission by the Commission, the Committee resolved to accept and approve the proposal from the Telecommunications Commission of Solomon Islands, to set the supplementary licence fee for the telecommunications operators.

5. AOB

There was no AOB

6. Next Meeting and Closing

The next meeting will be held in December 2017. The Chairman thanked the members for their attendance.

.....
Frank B. Paulsen
Chairman – Evaluation Committee

Telecommunications Act 2009
(No. 20 of 2009)

NOTICE OF FUNDING DEFICIT

(Section 21(4))

Explanatory Note

This statutory notice is directed to the Evaluation Committee, which is responsible for approving the supplementary licences fees set by the Telecommunications Commission, and which are payable by licensed telecommunications service providers.

A supplementary fee, payable by service providers in quarterly instalments from December 2017 to March 2020, is necessary to make up a funding deficit resulting from the cost of legal proceedings arising from the Commission's exercise of its statutory functions and powers.

The outcome from the Commission's notice is that further licensing revenue of some \$2,000,000 will be available to the Commission over the next two years.

1. Interpretation

In this notice, words and expressions which are defined in the Telecommunications Act 2009, have the meaning ascribed to them in or pursuant to the Act.

2. Notification of funding deficit

Pursuant to section 21(4) of the Act, the Telecommunications Commission gives notice to the Evaluation Committee that:

- a) the Commission has incurred, and reasonably expects to incur, costs amounting to \$2,000,000 or more in connection with a number of legal proceedings, including proceedings relating to international satellite coordination, licensing of an undersea cable, and a domestic network interconnection dispute, which proceedings are now in progress or are reasonably foreseeable;
- b) this amount exceeds the sum of any year financial surpluses forecast for the next three years, and the amount of the Commission's accumulated cash reserves of some \$500,000 as at the third quarter of 2017, which indicates a substantial funding deficit can reasonably be expected during the next three years;

- c) a revised and updated rolling budget, covering the period during which the supplementary licence fee will apply is attached, together with a schedule illustrating the Commission's historic and projected revenues and expenses.

NOTIFIED at Honiara on 7 November 2017 by the Telecommunications Commission.

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Bernad Hill
Telecommunications Commissioner

Honiara, Solomon Islands
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