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DRAFT

A Consultation Paper on  
**Radio Apparatus Licence Fees and  
Procedures**

INVITING PUBLIC COMMENT AND INPUT

03/05/2013

# Radio Apparatus Licence Fees and Procedures

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## CONSULTATION FEEDBACK INFORMATION

- TRR welcomes and invites comments and feedback to this consultation document from all interested parties.
- We would appreciate your provision of information to be clear by quoting the corresponding main sections and sub sections when providing your comments.
- More general comments on the consultation document should be indicated accordingly.
- In the interests of transparency, TRR will make public all or parts of any submissions made in response to this Consultation Document unless there is a specific request to treat all or part of a response in confidence. If no such request is made, TRR will assume that the response is not intended to be confidential. TRR will evaluate requests for confidentiality according to relevant legal principles.
- Respondents are required to clearly mark any information included in their submission that they consider confidential. They shall provide reasons why that information should be treated as such. Where information claimed to be confidential is included in a submission, respondents are required to provide both a confidential and a non-confidential version of their submission. TRR will determine, whether the information claimed to be confidential is to be treated as such, and, if so, will not publish that information. In respect of the information that is determined to be non-confidential, TRR may publish or refrain from publishing such information at its sole discretion.
- TRR has set out a number of questions in this consultation which are summarized in Section 5.
- TRR will accept comments in English, French or Bislama.
- If comments are submitted in printed format, they must be submitted on A4 paper accompanied, wherever possible, by a disk containing the comments, in electronic format.
- Comments on this consultation document should be provided to TRR via the following means:
  - Email address [consultation@trr.vu](mailto:consultation@trr.vu)
  - Faxed to (678) 24470
  - Posted or hand delivered to:  
**Public Input – Radio Apparatus Licence Fees and Procedures**  
Telecommunications and Radiocommunications Regulator  
P O Box 3547, Port Vila, Vanuatu
- The deadline for public Comments is **4pm, Friday 31<sup>st</sup> May 2013**.
- For any phone enquiries regarding this Consultation document, please call the following numbers:
  - (678) 27621 or (678) 27487

### Radio Apparatus Licence Fees and Procedures

- All comments will be reviewed by TRR's established industry Advisory Working Groups (AWG), as appropriate. If TRR has not established an AWG, TRR only will review the comments. TRR will consider every comment submitted when finalizing its report or decision. For transparency, a record of every comment received will be made available for public information, unless comments are labeled 'In Confidence'. (See also dot points 4 and 5 above).
- For more information about TRR's Consultation Guidelines, please visit the following website [http://www.trr.vu/index.php?option=com\\_content&view=category&layout=blog&id=17&Itemid=22&lang=en](http://www.trr.vu/index.php?option=com_content&view=category&layout=blog&id=17&Itemid=22&lang=en).
- You are welcome to visit our website <http://www.trr.vu> for more details on the latest developments in the telecommunication services industry and other related matters.

### INTRODUCTION

**This section provides a brief introductory description of the Consultation and a brief assessment of the regulatory impacts**

- The Telecommunications and Radiocommunications Regulator (TRR) is responsible under section 7(2)(e) of the Telecommunications and Radiocommunications Regulations Act–No. 30 of 2009 (the “Act”) to “allocate, assign and manage the radio spectrum”.
- Section 7(4) grants to TRR powers in relation to “prescribing standard terms in various licences and exemptions; or prescribing procedures, forms and fees in respect of any licence or exception or anything which might be done by any person under this Act, except the provision of reasons for any decision by the Regulator; or providing for the methodology by which any calculation required to be made under this Act is to be made”.
- This consultation for the Republic of Vanuatu addresses the methodology for the setting of radio apparatus licence fees, and sets out proposed procedures governing licence applications and licence renewal applications.
- Prior to the establishment of TRR in February 2008, radio apparatus licence fees (known then as ‘Radio Licence Fees’) were set and collected by Telecom Vanuatu Limited (TVL). After February 2008 the management responsibilities for radio spectrum and radio apparatus management were transferred from TVL to TRR.
- TRR articulated, in its ‘Spectrum Planning, Allocation and Assignment Practices’ document [‘Practices document’] published December 2011, its objective in regard of the management of radio spectrum: “the overall goal of radio spectrum in Vanuatu is to create a predictive environment for current and future spectrum usage, which is in the public interest.”
- In the Practices document, Section 10 outlines the general approach towards radio apparatus licensing. Section 12 specifies the principles to apply with regard to fees. Section 13 makes clear that the use of radio apparatus in Vanuatu requires a licence, as set out in subsection 12(2) of the Act.
- In this consultation paper TRR discusses the principles applicable to the setting of radio apparatus licence fees; in particular, emphasizing the importance of cost recovery. It is shown that the current fees fall short of costs reasonably attributed to activities in connection with radio apparatus licensing. As a result, TRR is proposing to increase fees to enable it to fulfill its statutory duties effectively. A further problem with the current fee structure is other licensees currently cross-subsidise radio apparatus licensees. This is not appropriate, economically inefficient, as well as being unfair.

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- This Consultation paper is structured as follows: *Section 1* provides interpretations to some terms used in the Consultation. *Section 2* sets out the background principles that should guide the setting of fees. *Section 3* presents the purpose of the Consultation and the case for increasing fees in light of the principles set out in Section 2. *Section 3* also sets out the proposed new fees and discusses the procedures surrounding implementation. *Section 4* contains a regulatory impact assessment which looks at how the measures proposed comply with broader objectives set out by government and improves upon the status quo from an economic efficiency perspective. *Section 5* provides a consolidated list of questions posed by the TRR in this Consultation.
- Respondents to the Consultation are not bound to focus only on the questions raised by the TRR, but it is expected that respondents will provide opinions on these questions.
- A report on this Consultation paper will be published by TRR. It will include a list of respondents, a summary of comments received and explanations on how such comments were appraised by the TRR (as well as, if applicable, reasons as to why certain comments/suggestions were rejected).

### 1 INTERPRETATIONS

This section provides interpretations or definitions of terms used in the document.

Term	Definition
<i>Act</i>	Telecommunications and Radiocommunications Regulations Act–No. 30 of 2009 (the “Act”)
<i>Cost Recovery</i>	An economic term which means that fees should be set to recover all costs reasonably attributed to an activity, including any indirect costs
<i>Radio Apparatus</i>	Equipment that makes use of electromagnetic radio frequencies for the purposes of communicating and/or broadcasting
<i>Radio Apparatus Licence Fee</i>	A fee set by the TRR in respect of using licensable Radio Apparatus in Vanuatu
<i>Re-Farming</i>	Where certain portions (bands) of radio spectrum may be re-allocated to another use, e.g. from TV terrestrial broadcasting to mobile communications
<i>VSAT</i>	Very Small Aperture Terminal is a two-way satellite ground station or a stabilized maritime Vsat antenna with a dish antenna that is smaller than 3 metres. The majority of VSAT antennas range from 75 cm to 1.2 m. Data rates typically range from 56 kbit/s up to 4 Mbit/s. VSATs access satellite(s) in geosynchronous orbit to relay data from small remote earth stations (terminals) to other terminals (in mesh topology) or master earth station "hubs" (in star topology).

## 2 BACKGROUND

This section first provides the background to the Consultation.

2.1 This section discusses the principles the TRR proposes to apply to the setting of new radio apparatus licence fees.

### Practices

2.2 In Section 11 of the Practices document “The objectives of spectrum charges and fees are to:

- a. recover the cost of managing the radio spectrum where there is no congestion;
- b. encourage efficient use of the radio spectrum;
- c. accelerate the migration of spectrum users from one band to another where re-farming is necessary;
- d. reflect the socio-economic or market value of radio spectrum where such spectrum can be shown to be congested or scarce;”

2.3 Objectives (a) and (b) above are of relevance to the setting of radio spectrum apparatus fees.

### Cost recovery

2.4 Best practice government administration is founded upon a principle of setting fees to recover necessarily incurred costs that form the basis of the supply of efficient regulatory services. To comply with the specific duties in relation to the management of radio apparatus, as set out in the Act, the TRR necessarily expends resources. As radio apparatus licensees make use of radio spectrum, an element of the TRR’s spectrum management costs should also be apportioned to the fees set for radio apparatus. Some of the TRR costs are shared across all of its activities, such as energy costs for the TRR office. A proportion of these common costs should be apportioned to fees set for radio apparatus licences.

**Question 1: Do you agree that the setting of radio apparatus licence fees should account for costs incurred by TRR in the management of radio apparatus licensing?**

**Question 2: Do you agree that a proportion of common costs should be apportioned to the fees set for radio apparatus licences?**

### Demand for Radio Spectrum in relation to Radio Apparatus Licences

2.5 The use of radio apparatus places a demand on radio spectrum resources. Radio spectrum is a valuable finite but non-exhaustible resource which is a vital input into an ever widening range of



## **Radio Apparatus Licence Fees and Procedures**

services. Use of the radio spectrum is crucial to communications in Vanuatu and an important enabler in the national economy.

- 2.6 In order to maximise the efficient and effective use of the radio spectrum by all sectors of society, the overall goal of radio spectrum in Vanuatu is to create a predictive environment for current and future spectrum usage, which is in the public interest. The setting of radio apparatus licence fees provides the TRR an important instrument that facilitates influence over demand for use of radio spectrum in Vanuatu. TRR intends to issue a separate public consultation document on the setting of radio spectrum usage fees.

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### 3 PURPOSE

This section provides the rationale or intention of the Consultation.

#### Apparatus subject to fees

In Table 3.1 the category of radio apparatus currently subject to licence fees are shown.

Category	Apparatus Type
Fixed Links	High Frequency (HF) and VHF operating into a licensed telecommunication operators' network. There is estimated 1 licence holder.
Maritime	Apparatus on commercial trading vessels (vessels over and under 25 metres in length); apparatus making use of dedicated frequencies and assigned channels (vessels over and under 25 metres in length); tourist passenger vessels; private pleasure craft; small inter-island water taxis and small locally registered/owned fishing craft. Coastal stations serving vessels. There are an estimated 82 current licensees.
Aeronautical services	Aeronautical stations serving aircraft; commercial aircraft; private aircraft not used for commercial purposes. There are an estimated 8 current licensees.
Private Mobile Radio	Private mobile radio networks. There are an estimated 13 current licensees.
Broadcast stations	Broadcast radio and TV networks. There are an estimated 7 current licensees.
Amateur Stations	There are an estimated 14 current licensees.
VSAT	Receive only; Transmit and receive (for commercial communication purposes) There is estimated 1 licence holder.
Telemetry and Link services	Civil aviation beacon, signals or indicators.

Table 3.1 Category of apparatus subject to radio apparatus fees

- 3.1 Radio apparatus licence fees have been at the same level as were applicable in the year before the establishment of TRR in 2009. The current fees were set by the incumbent operator TVL without reference to costs incurred by TRR.

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- 3.2 In 2012 the cost of the TRR regulatory operations before interest and depreciation was VT 135m. In the same year, radio license fees (which is largely radio apparatus licence fees) contributed around VT 1.8m towards the income received by TRR or 1.3% of operating expenses.
- 3.3 The TRR has within its structure a radio engineer licensing and spectrum department which is overseen directly by the regulator. Furthermore, the activities of the radio engineer licensing and spectrum department frequently overlap with the other departments within the small TRR office.
- 3.4 It is estimated by the TRR that 20% of the spectrum engineer's time, 2% of the Finance Officer's time, 2% of the receptionist and administrative assistant's time and 2% of the regulator's time can reasonably be attributed to matters pertaining to radio apparatus licensing. It is also estimated that around 3% of the office overhead (common costs) can be attributed to radio apparatus licensing activities. Given these estimates, the TRR expends VT 4.9m each year on radio apparatus licensing activities or around 3.7% of total costs.
- 3.5 The TRR estimates that the current radio apparatus licence fees fail to cover costs incurred by VT 3.1m.

**Question 3: Do you agree that radio apparatus licence fees should be increased to permit achievement of cost recovery? If you disagree, please make clear your reasoning.**

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In Table 3.2 the current radio apparatus fees are set out.<sup>1</sup>

Description	Annual Licence Fee VT
HF Radio	9,600
VHF Teleradio; fixed price channel (fixed price channel Port Vila or Luganville only)	4,800; 19,797 (42,667)
Maritime commercial	9,600
Marine water taxi, local fishing craft	1,920
Marine coastal station (HF only; VHF only; HF and VHF; dedicated frequency)	4,800; 1,920; 6,756; 21,178
Aeronautical ground station	9,600
Aeronautical commercial aircraft	9,600
Aeronautical private aircraft	2,880
VHF land mobile base station, vehicle using repeater, private repeater; not using repeater; handheld device	4,800; 2,880; 1,920
Link or telemetry transmitter	2,880
Broadcast station up to 100w; over 100w	4,800; 9,600
Private Mobile Radio	9,600
Amateur unrestricted; novice; vision's permit	1,440; 960; 444
Paging base station	4,800
Civil aviation beacon/signals or indicators	9,600
VSAT receive only; receive-transmit	2,400; 6,667

Table 3.2 Current radio apparatus fees

### Proposed new fees

3.6 In accordance with the principle of cost recovery, the TRR proposes to increase fees for radio apparatus use. The changes proposed lead to both a simplification in the fee structure and cost recovery. The TRR also intends to levy a greater burden of cost recovery on commercial users of radio apparatus, who are in a position to pass on costs to final consumers.

<sup>1</sup> The TRR sets an application fee which is zero in all cases and in principle licence renewal fees may differ to those charged on first application – in practice no such difference exists. Thus in Table 3-2 only the annual fee is shown.

## Radio Apparatus Licence Fees and Procedures

**Question 4: Do you agree that changes to radio apparatus licence fees should fall more on commercial users? If you disagree, please make clear your reasoning.**

The proposed new fee structure is presented in Table 3.3.

Description	Annual Licence Fee VT
HF Radio	50,000
VHF Teleradio; fixed price channel (fixed price channel Port Vila or Luganville only)	10,000; 60,000 (100,000)
Maritime commercial	30,000
Marine water taxi, local fishing craft	5,000
Marine coastal station (HF only; VHF only; HF and VHF; dedicated frequency)	10,000; 4,000; 15,000; 60,000
Aeronautical ground station	50,000
Aeronautical commercial aircraft	100,000
Aeronautical private aircraft	15,000
VHF land mobile base station, vehicle using repeater, private repeater; not using repeater; handheld device	15,000; 8,000; 6,000
Link or telemetry transmitter	5,000
Broadcast station up to 100w; over 100w	40,000; 80,000
Private Mobile Radio	50,000
Amateur unrestricted; novice; vision's permit	2,500; 1,500; 500
Paging base station	15,000
Civil aviation beacon/signals or indicators	30,000
VSAT receive only; receive-transmit (domestic/international)	10,000; 30,000 (50,000)

Table 3.3 Proposed radio apparatus fees

## Radio Apparatus Licence Fees and Procedures

**Question 5: Do you agree the new radio apparatus licence fees? If not, on what grounds do you object?**

### Procedures for radio apparatus fees

- 3.7 The proposed radio apparatus fees shall apply from 1 January 2014. The fees applicable are annual. Applications will be processed on a quarterly basis. Thus, applications made between 1 January and 31 March will be subject to the full annual charge, applications received between 1 April and 30 June will pay three quarters of the annual fee; applications received between 1 July and 30 September shall pay half the annual fee and applications received between 1 October and 31 December will pay one quarter the annual fee.

**Question 6: Do you agree with the proposed quarterly fee discounts for new radio apparatus licence applications and renewals? If not, on what grounds do you object?**

- 3.8 It is the intention of the TRR to streamline radio apparatus licence applications and where feasible introduce electronic means of facilitating licensing processes. If the TRR makes an investment enabling an electronic application licence process, it will offer a discount to those payments made online.

**Question 7: Do you agree with the proposed discounts for payments that might be made online? If not, on what grounds do you object?**

### 4 REGULATORY IMPACT ASSESSMENT

**This section provides the regulatory impact assessment of the proposed radio apparatus licence fees and procedures.**

- 4.1 As identified as in TRR's 2013 and Onwards Work Program, this consultation addresses the methodology for the setting of the new radio apparatus licence fees, and sets out proposed procedures governing licence applications and licence renewal applications.
- 4.2 TRR is responsible under section 7(2)(e) of the Act to "allocate, assign and manage the radio spectrum".
- 4.3 Section 7(4) grants to TRR powers in relation to "prescribing standard terms in various licences and exemptions; or prescribing procedures, forms and fees in respect of any licence or exception or anything which might be done by any person under this Act, except the provision of reasons for any decision by the Regulator; or providing for the methodology by which any calculation required to be made under this Act is to be made".
- 4.4 In 2011 a draft National Policy on the use and application of Information and Communications Technologies (ICT) services was published by a cross sectional group drawn from Ministries and the TRR. The group set out 7 Goals covering Access and Affordability of Communications, Human Resource Development, Economic Growth, Social Development, Environmental support, Good Governance and Legal Framework & Security.
- 4.5 TRR has assessed the goals set out by the group and considers that a reform of radio spectrum management in general and the setting of radio apparatus fees is a high priority for helping Vanuatu's development in relation to the 7 goals.
- 4.6 TRR articulated in its Practices document published in December 2011 that its objective in regard to the management of radio spectrum: "the overall goal of radio spectrum in Vanuatu is to create a predictive environment for current and future spectrum usage, which is in the public interest."
- 4.7 The Consultation forms an important component to the reforms needed in radio spectrum management and have been prioritized by the TRR.
- 4.8 The approach by the TRR has been to, where possible simplify the setting of radio apparatus fees and to consider the introduction of improved management information systems overseeing their deployment. As fees are currently applied the proposal in this Consultation do not represent a major shift in policy, rather they represent a change that better reflects underlying economic cost drivers and this correlates with the goal of promoting more effective and sustainable economic growth. The arrangements proposed also provide for a predictive environment and make clear the methodology used for the calculation of radio apparatus fees.

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- 4.9 The changes to the radio apparatus fees and procedures in the Consultation have been designed to promote:
- i. Interests of Vanuatu residents and businesses in the area of telecommunications; and
  - ii. Sustainable and effective competition
- 4.10 TRR is giving licencees sufficient time to adapt to the new environment for the setting of radio apparatus fees.
- 4.11 The fees currently levied were set prior to the establishment of the TRR in February 2008 and were collected by Telecom Vanuatu Limited (TVL). The setting of radio apparatus fees by TVL was undertaken with very different objectives in mind. Its primary purpose was to set fees to discourage potential competition through use to services it provided, and to set fees the recovered costs it faced for administering the service on behalf of government.
- 4.12 TRR recognizes that the existing fee structure and absolute levels are now not fit for purpose. In aggregate, they fail to generate sufficient revenues to cover the costs associated with administering the services involved, and their relative structure has not changed to reflect changes more broadly in the telecommunications and broadcasting markets. As a result, TRR is proposing to increase fees to enable it to fulfill its statutory duties effectively. A further problem with the current fee structure that the new fee schedule seeks to address is that other licensees currently cross-subsidise radio apparatus licensees. This is not appropriate, economically inefficient, as well as being unfair.
- 4.13 International best practice suggests that setting fees to recover administrative costs is necessary to ensure efficiency. If the status quo were maintained then effectively the tax payer would be cross-subsidising activities of those engaged specifically in using radio apparatus. In accordance with the principle of those who cause costs should bear the costs, unless there are good social reasons not to, means that a revision to the fees is needed.

**Question 8: TRR believes the methodology underpinning the proposed fees are grounded in a more solid economic rationale and better reflect broader government policy objectives. As a consequence, the proposed fees are viewed as superior to the existing fees and in the wider public interest. Do you agree?**



## 5 CONSULTATION QUESTIONS

5.1 The following list is a summary of the questions set out in this consultation.

**Q1 Do you agree that the setting of radio apparatus licence fees should account for costs incurred by TRR in the management of radio apparatus licensing?**

**Q2 Do you agree that a proportion of common costs should be apportioned to the fees set for radio apparatus licences?**

**Q3 Do you agree that radio apparatus licence fees should be increased to permit achievement of cost recovery? If you disagree, please make clear your reasoning.**

**Q4 Do you agree that changes to radio apparatus licence fees should fall more on commercial users? If you disagree, please make clear your reasoning.**

**Q5 Do you agree the new radio apparatus licence fees? If not, on what grounds do you object?**

**Q6 Do you agree with the proposed quarterly fee discounts for new radio apparatus licence applications and renewals? If not, on what grounds do you object?**

**Question 7: Do you agree with the proposed discounts for payments that might be made online? If not, on what grounds do you object?**

**Question 8: TRR believes the methodology underpinning the proposed fees are grounded in a more solid economic rationale and better reflect broader government policy objectives. As a consequence, the proposed fees are viewed as superior to the existing fees and in the wider public interest. Do you agree?**