

8/12/2019

Notice of Intended Action and Accompanying Documents

Phase 2 – Administrative Act
Consultation

Telecommunication Regulation
Authority



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Notice of intended action for adoption of regulations by the Telecommunications Regulatory Authority

As part of the ongoing telecommunications sector reform process, the Federated States of Micronesia (FSM) Telecommunications Regulatory Authority (TRA or Authority) is publishing this notice of intended action for adoption of regulations to afford all interested persons reasonable opportunity to submit data, views, or arguments, in writing to the rules and instruments that will govern the telecommunications sector. These include the following draft rules (together referred as the “Rules package” herein):

- The draft **Telecommunications Operating License Rules**, issued pursuant to section 330 of Title 21 of the Code of the FSM (Telecommunications Act), which establish the types of licenses required under the Telecommunications Act to deploy specified communications networks and provide communications services in the FSM;
- The draft **Schedule of Fees**, issued pursuant to section 336 of the Telecommunications Act, which establish regulatory fees payable by operating and spectrum licensees in the FSM;
- The draft **National Numbering Plan**, issued pursuant to section 357 of the Telecommunications Act, which sets forth principles and processes for the management of national numbering resources necessary to offer publicly available telephony and other services;
- The draft **Interconnection and Access Rules**, issued pursuant to section 341 of the Telecommunications Act, which are aimed at ensuring interoperability of existing and new networks that will be deployed in the FSM; and
- The draft **Spectrum Licensing Rules**, issued pursuant to section 333 of the Telecommunications Act, which establish the types of licenses that individuals or companies must obtain to use the radio frequency spectrum and deploy radio apparatus in the FSM.

We are issuing this notice as required under section 391(2) of the Telecommunications Act and the regulation-making consultation process set forth under section 102 of Title 17 of the Code of the FSM (Administrative Procedure Act).

We are keen to hear your comments on the proposed rules and instruments. We will be receiving your data, views, or arguments, in writing on the issues raised in this regulation-making process and the draft Rules package during a 30-day period starting after the date of posting of this notice. We will receive comments until 5 pm (local time in Pohnpei, FSM) of the last day of this period. You may submit your written comments to the following email address: consultations@tra.fm or to the following address:

Attention Takuro Akinaga
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FSM Telecommunication Regulation Authority
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PohnUmpomp, Nett Municipality
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Federated States of Micronesia



Accompanying this notice, we are making available a document that provides an overview of this regulation-making process; offers background information of the FSM market and the ongoing liberalization process; describes in further detail the terms and substance of the Rules package; and provides instructions on how to respond to this regulation-making process. We are also making available hard-copies of the Rules package for your review and providing them for download at: <http://tra.fm/2nd-round-consultations-2019/>

We expect the effective date of the Rules package under consultation will be September 30th, 2019.

Thank you for considering this request.

Yours Sincerely,

Takuro Akinaga

Chair

FSM Telecommunication Regulation Authority

1. Overview of the Regulation-making process

This regulation-making process brings together an interrelated Rules package necessary to implement the Telecommunications Act and move the telecommunications sector liberalization process forward into the next phase of attracting new investments and competitors. The goal of this process is to create an enabling environment where market forces will introduce more innovative services to citizens at lower prices.

What we are proposing – high-level and simplified summary

The Rules package covers five key areas of telecommunications regulation necessary to begin implementing the Telecommunications Act:

- The draft Telecommunications Operating License Rules establish the types of licenses required under the Telecommunications Act to deploy specified communications networks and provide communications services in the FSM. They are a critical building block to ensure transparent, non-discriminatory access to the market for new entrants as well as to bring existing providers under the scope and requirements of the Telecommunications Act.
- The draft Schedule of Fees is a key building block to ensure the Authority's financial independence in accordance with the Telecommunications Act. In line with the guiding principles set forth in the Act, the Schedule of Fees establishes a streamlined and fair regulatory fee structure payable by operating and spectrum licensees in the FSM with the aim of covering the Authority's operating costs.
- The draft National Numbering Plan is aimed at shifting to the Authority the responsibility of managing national numbering resources that are necessary to offer publicly available telephony and other services. The draft National Numbering Plan builds on the current numbering plan used by the FSM Telecommunications Corporation (FSMTC) so as to avoid major disruptions affecting consumers and FSMTC. Our goal is to ensure there is a forward-looking plan that accommodates potential new services and ensures numbering resources will be available to new entrants.
- The draft Interconnection and Access Rules are a central piece of the enabling environment to promote competition as they ensure interoperability of existing and new networks that will be deployed in the FSM. These rules will allow seamless communications between subscribers of different service providers in the future. We think they will reduce barriers to entry for competitors, avoid unwarranted and unnecessary duplication of infrastructure and limit the impact of telecommunications networks on our environment.
- The draft Spectrum Licensing Rules establish the types of licenses that individuals or companies must obtain to use the radio frequency spectrum and deploy radio apparatus in the FSM. Adopting objective and transparent licensing processes and conditions of use of this national resource is a fundamental component of our mandate under Telecommunications Act. Spectrum is a key resource not only for commercial communications services but also for public safety, maritime and aeronautical service and cultural exchange and our proposed

rules establish the framework to ensure its most efficient use in the FSM.

This regulation-making process is being undertaken in accordance with section 391(2) of the Telecommunication Act, and section 102 of the Administrative Procedures Act.

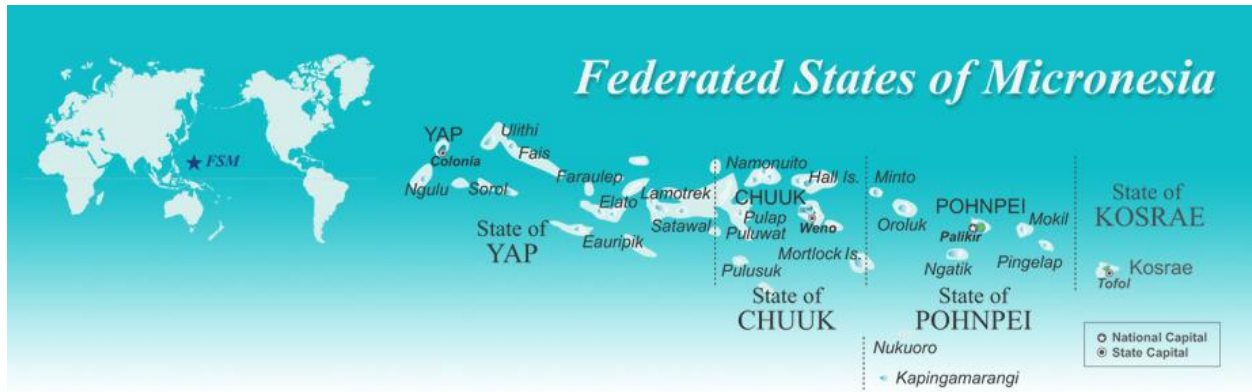
The rest of this consultation document is structured as follows:

- **Section 2** provides background information on the FSM, including our economy, geography and demographics. It also discusses the milestones achieved to date in the liberalization process to open the telecommunications market up to competition.
- **Section 3** offers detailed descriptions of the terms and substance of each of the rules subject to this process. Our objective is to provide you with an overview and background on the Rules package, covering the central issues addressed in each instrument.
- **Section 4** discusses how to respond to this consultation and how we will treat confidential information. We also address the next steps we plan to undertake to promulgate the Rules package in accordance with the Telecommunications Act.

The draft Rules package is available for download at <http://tra.fm/2nd-round-consultations-2019/>

2. Information on the FSM and the telecommunications liberalization process

2.1. Geography, Economy, and Demographics



Source: FSM Visitors Board

2.1.1. Geography

The FSM is a sovereign state in the Pacific Ocean, comprised of approximately 103,000 inhabitants spread across four island groups in the center of the Caroline Islands. The islands are comprised of four states: Yap, Chuuk, Pohnpei, and Kosrae (from west to east). Collectively, the FSM covers a total of approximately 702 km².

2.1.2. Economy

According to World Bank data, the FSM’s 2017 gross national income (GNI) was USD 380 million and its GNI per capita was USD 3,620.¹ According to 2013 data, approximately 26 percent of economic productivity is in the agricultural sector (e.g., crops including taro, yams, coconuts, bananas, cassava, sakau, citrus, betel nuts, fish, pigs, and chickens), while 19% is generated in industries including tourism, construction, aquaculture, and craft items.² The service sector accounts for more than 50% of economic production, with the majority of the labor force employed in the government sector.

¹ The World Bank (2017), https://databank.worldbank.org/data/views/reports/reportwidget.aspx?Report_Name=CountryProfile&Id=b450fd57&tbar=y&dd=y&inf=n&zm=n&country=FSM.

² CIA, “The World Factbook: Micronesia, Federated States of,” (May 22, 2019), <https://www.cia.gov/LIBRARY/publications/the-world-factbook/geos/fm.html>.

2.1.3. Demographics

The FSM has a total population of approximately 102,843.³ The majority of the population resides on the Island of Pohnpei (approx. 36,196), the Chuuk lagoon (approx. 36,158), the Island of Yap (approx. 11,377) and the Island of Kosrae (6,616).

2.2. Telecommunications market liberalization

2.2.1. Legal and regulatory framework

In 2014, the FSM government passed the Telecommunications Act, which created the legal framework for the liberalization of the telecommunications market, including the establishment of an independent regulator, the TRA.

Following from the adoption of the Telecommunications Act, the TRA is developing rules and instruments to enable the liberalization of the sector, including operating license rules, draft licenses, a schedule of fees, a numbering plan, interconnection and access rules, and a spectrum licensing regulation. These instruments will clearly establish the framework under which a liberalized FSM telecommunications sector will operate and are intended to create a transparent and equitable foundation upon which to build a competitive sector.

2.2.2. Market structure and opportunity for entry

The FSM currently has one telecommunications service provider, FSM Telecommunications Corporation (FSMTC), providing both fixed and mobile voice and data services. The FSM currently has a mobile service penetration rate of approximately 19%, with public switched telephone network (PSTN)-based DSL service reaching approximately 4,475 subscribers. As such, there is a significant portion of the population that remains unserved by telecommunications services, providing an opportunity for competitive and innovative services.

In 2014, the FSM government passed the Telecommunications Act, which created the legal framework for the liberalization of the telecommunications market. A key component of this act was the establishment of an Open Access Entity (OAE) to own and operate FSM's fiber optic cable investments and to provide international and domestic bandwidth to competitive operators on a wholesale basis. With support from the World Bank, the OAE, was formally incorporated in May 2017. As a wholesale-only provider, OAE will not participate in downstream retail markets, but rather provide bandwidth to licensed telecommunications operators who will, in turn, provide retail services to end users.

The OAE has been funded by the World Bank to own and operate, and has been assigned by the FSM government, FSM's fiber optic submarine cable investments. Currently it owns or has an indefeasible rights of use (IRU) interest in:

- Yap-Guam: OAE holds an IRU in optical wavelengths in the SEA-US cable system and owns the spur cable from Yap to the main SEA-US cable;
- Chuuk-Pohnpei: OAE owns a submarine cable system connecting Chuuk and Pohnpei;

³ FSM Stats, "Population Size and Density by Census," http://www.fsmstatistics.fm/?page_id=254.

- Pohnpei-Guam: OAE has secured IRU to use 50% capacity on one fiber pair in the main HANTRU-1 cable:

The State of Kosrae has also signed a funding agreement alongside the Government of Kiribati and Nauru for a fiber optic submarine cable, with the Kosrae spur being owned by the OAE. This cable is due to be connected to Kosrae in 2021.

The World Bank is proposing to provide funding to the OAE to develop an open access fiber to the home network for the residents of Pohnpei Island, Yap and Kosrae. The Chuuk town of Wena has a fiber cable already (owned by the FSMTC) and the World Bank and the Chuuk State Government are assessing what additional open access telecommunications infrastructure would benefit the residents of Chuuk.

The establishment of OAE is anticipated to result in dramatically decreased bandwidth costs for FSMTC and future licensed service providers, as the capital costs of the network build (submarine cables and fiber to the home) are, or will be, grant funded through the World Bank and as such is not a cost that the OAE needs to recover from those accessing the network.

2.2.3. Low regulatory fee jurisdiction to attract investment

The FSM's proposed telecommunications fees are required to be kept to the minimum possible level to fund the operation of the TRA in line with the Telecommunications Act. The proposed regulatory fees are lower than fees for other countries in the region.

For example, spectrum intended for use by cellular mobile networks is proposed to be subject to an annual fee that is 62-67% less than the average annual fee for comparable spectrum in countries such as Fiji, Kiribati, and Samoa. These lower fees are indicative of the efficient operation of the TRA and its resulting low operational costs. Spectrum for fixed-link licenses (point-to-point) are in line with regional averages, with bandwidths below 7 MHz above the average and higher bandwidths below the average. Similarly, annual fees for land mobile and broadcast sound licensees are slightly below average.

Similarly, operating license fees compare favorably to the FSM's neighbors, with individual licenses subject to an annual fee equal to 1.25% of annual gross revenues as compared to a regional average of 2% of annual gross revenues. Similarly, class licenses are subject to a graduated fee scale that is also based upon a rate of 1.25% of annual gross revenues, as compared to a regional average of 1.67% of annual gross revenues.

3. Description of the terms and substance of the Rules package

3.1. Telecommunications Operating License Rules

3.1.1. Legal basis to promulgate the proposed rules

The Telecommunications Act grants the Authority broad powers to draft and implement operating license rules for specified communications networks and communications services, as well as issue the relevant operating licenses. The main provisions identifying the Authority's legal basis for making the rules and issuing licenses are contained in Sections 305, 329, and 330 of the Telecommunications Act.

3.1.2. Scope and content of the proposed rules

As noted above, the License Rules build on the Telecommunications Act to establish the framework and procedures for issuing Individual and Class Licenses for specified communications networks and communications services. The License Rules describe both the Individual License and the Class License, as well as detail the various rights and obligations associated with the licenses. The following addresses the key elements of the License Rules.

3.1.2.1. Distinctions between Individual and Class Licenses

According to Section 8 of the License Rules, Individual Licenses are facilities-based licenses while Class Licenses are resale-based or service-based licenses. Individual Licenses are differentiated from Class Licenses in that they authorize the Individual Licensee to own and operate network facilities, as well as offer services over those facilities (see Section 13 of the License Rules). In contrast, Class Licenses authorize only the provision of services, meaning that Class Licensees cannot own or operate non-exempt network facilities (see Section 17 of the License Rules). Instead, Class Licensees must purchase capacity on telecommunications network or facilities, such as transmission capacity and switching services. The Class Licensee may then offer services to consumers or resell this leased capacity to other licensed operators.

Both Individual and Class Licenses allow the licensees to offer the respective authorized networks and services on a domestic and international basis. Likewise, they may engage in both retail and wholesale provision of services, with one exception. According to section 13 of the License Rules, and consistent with section 389 of the Telecommunications Act, the Open Access Entity (OAE), which is currently the FSM Telecommunications Cable Corporation (FSMTCC), may only offer service on a wholesale basis to Individual and Class Licensees.

The FSMTC and the OAE will be issued Individual Licenses as part of the transition to the new licensing framework, pursuant to Section 54 of the License Rules.

3.1.2.2. Hierarchical relationship between Individual and Class Licenses

In addition to the facilities and resale-based distinction, another key element of the Individual and Class Licenses is that they are hierarchical. This means that any specific licensee holds only one type of

license, either an Individual License or Class License. This hierarchical structure is a central component of a streamlined licensing framework. The provision relating to hierarchy is contained in Section 17(5) of the License Rules.

The Individual License is on a higher hierarchical level than the Class License. This is because an Individual License authorizes the licensee to own and operate any specified communications network, as well as to provide any communications service. In contrast, the Class License does not authorize the licensee to own or operate specified communications network, but only to provide any communications service that is authorized by the Class License. In cases where a Class Licensee subsequently intends to own and operate a specified communications network, then the licensee must apply for an Individual License. If the Authority grants such Individual License, then the Authority will replace the Class License with the Individual License.

3.1.2.3. License-exempt communications networks and services

Section 12 of the License Rules exempts certain types of communications networks and communications services from licensing requirements in accordance with Sections 302(r) and (s) of the Telecommunications Act. License-exempt communications networks include:

- networks used to provide communications services where there is no charge imposed as determined in Section 302(r)(i) of the Telecommunications Act;
- private and internal networks (such as where an organization uses a network to communicate internally within a campus or various branches with no connection to a public network), consistent with Section 302(r)(ii) and (iii) of the Telecommunications Act; and
- community networks (deployed and operated by a local community group to meet the communications requirements of the members of the community, within the geographic area of the community served), determined under Section 302(r)(iv) of the Telecommunications Act.
- receive-only satellite earth stations, consistent with the Authority's under Section 330(1)(a) of Telecommunications Act.

Three types of services are identified as license-exempt. First, Communications Services that are provided exclusively over an exempt Communications Network are not subject to licensing. Second, voice and messaging services offered over the public Internet that are not assigned Telephone Numbers by the Authority, also referred to as over-the-top (OTT) services, are exempt. Third, licenses are not required for the provision of satellite capacity by foreign satellite providers within the FSM, which is often referred to as "landing rights."

3.1.2.4. Application and approval procedures

Both the Individual and Class Licenses are subject to "shall issue" approval by the Authority, according to Sections 14(2) and 18(2) of the License Rules. This means that the Authority shall issue the respective license where an applicant submits an accurate and complete application demonstrating that it meets all relevant eligibility criteria and pays the required application or registration fee. The "shall issue" approach is required under section 331(2) of the Telecommunications Act.

Further, the License Rules generally prohibit the Authority from artificially limiting the number of Individual and Class Licenses that can be awarded. However, the Authority may make an exception in certain cases by limiting the number of Individual Licenses for the establishment of specific communications networks (there is no exception under the Telecommunications Act allowing the

Authority to limit the number of Class Licenses). If the Authority intends to limit the number of Individual Licenses, then the Authority must justify the limitation in a reasoned and written decision. This is contained in Section 16 of the License Rules.

3.1.2.5. Expansion of networks and/or services

Section 11 of the License Rules requires a licensee that seeks to offer additional networks and/or services under its existing license to notify the Authority in writing at least 30 days ahead of time. For example, this would be the case of a Class Licensee that first applied to offer resale of Internet access service has decided to also begin offering voice over Internet Protocol (VoIP) service using telephone numbers on a resale basis only (i.e., not owning or operating network infrastructure). In this case, the notification procedures to provide additional services would apply. The new service offering would be added to the Class Licensee's license and the licensee would be subject to additional obligations that apply to providers of public voice services using telephone numbers.

However, if the Class Licensee intends to build out or operate a network, then an application for an Individual License would need to be submitted. Upon the Authority's approval, the Individual License would replace the Class License.

3.1.2.6. Terms and conditions of the licenses

Chapter V of the License Rules outlines the licenses' general and specific terms and conditions. General conditions, adopted pursuant to the powers granted under section 330(1)(e) of the Telecommunications Act, relate to license duration, expiration, renewal and instances of suspension, termination, revocation, and surrender, as well as transfers, assignments, and mergers.

Section 20 is an important provision under the general terms and conditions, which relates to license uniformity in order to foster transparency, accountability, and non-discrimination. This requires the Authority to draft and issue standardized Individual and Class Licenses in which the terms and conditions are the same for all similarly situated licensees, unless there is a written and reasoned justification for different treatment. License templates should be made publicly available so that prospective and existing licensees are aware of their respective rights and obligations.

3.1.2.7. Access to scarce resources

Chapter VII of the License Rules provides that the Operating Licenses do not grant licensees access to spectrum or numbering resources, which must be applied for separately. Section 46 states that both Individual and Class Licensees may request and receive numbering resources, provided that they are going to offer public telephony services or other services identified in the numbering plan.

As set out in Section 14 of the License Rules, and consistent Section 331(3) of the Telecommunications Act, only entities that are seeking or already hold an Individual License may apply for and receive rights to spectrum that is subject to licensing. License-exempt (also called unlicensed) spectrum is not subject to licensing obligations, and may be used by any entity or person, subject to power limits and other requirements. Section 14 states that an entity that is applying for an Individual License may simultaneously submit an application for relevant spectrum resources.

3.1.2.8. Enforcement provisions

Section 49 of the License Rules addresses the Authority's responsibilities and procedures to initiate investigations into alleged contraventions of the Telecommunications Act, rules, or licenses. This is based on Section 305 of the Telecommunications Act, particularly subsections (a) and (o), which grant the Authority powers of enforcement regarding compliance with the Act and the conditions of the licenses.

3.1.2.9. Community networks

Chapter IX of the License Rules sets forth rules to facilitate the deployment of Community Networks in order to extend Communications Networks and Services to unserved and underserved areas. These types of networks are one potential approach to extend coverage of service to "all persons" in the FSM, one of the objectives of the Telecommunications Act as provided in Section 303(i). Importantly, deployment of Community Networks does not preclude the use of other regulatory levers available to the Authority under the Code to achieve the abovementioned objective.

The Authority may select from several mechanisms that facilitate Community Network deployments, such as waiving reporting requirements, regulatory fees, and other obligations; further streamlining application and administrative processes, and creating flexible-use rules for Community Networks to use radio frequency spectrum resources.

3.2. Schedule of fees

3.2.1. Legal basis to promulgate the rules

The Telecommunications Act provides the legal basis for the Authority to adopt a Schedule of Fees and to collect and administer fees. This is consistent with the aim ensuring financial independence for the Authority, a key trait of an effective, independent regulator. Specifically, Section 319 (1) of the Telecommunications Act establishes that the Authority is entitled to charge license and other fees, and Section 336 (1) empowers the Authority to set rules specifying the annual license fees applicable to holders of operating licenses (i.e., individual or class licenses) or spectrum licenses (i.e., frequency licenses and station licenses).

Based on these provisions, the Authority has established a draft Schedule of Fees that details the application processing fees and annual fees to be charged for the individual and class licenses, as well as the application and annual fees applicable for frequency licenses. The fees to be collected are intended to allow the Authority to meet its annual budgetary requirements and to enable the discharge of its functions as set forth in the Telecommunications Act.

The draft Schedule of Fees is in line with the guiding principles laid out in Section 336 (2) of the Telecommunications Act, namely:

- fee minimization and cost recovery,
- transparency,
- relative value, and
- non-discrimination.

In addition, the draft Schedule of Fees adheres to Section 336 (3) of the Telecommunications Act, which sets limiting principles that inform the fee-setting function of the Authority, specifying that the total projected “annual license fees” payable by all licensees in a year shall not exceed the lesser of:

- 5% of the gross revenues of all licensees from the provision of communications services and from interconnection and access in the Federated States of Micronesia in the prior financial year of the Authority; or
- The Authority’s proposed annual budget and forecasts.

To ensure compliance with the fee minimization and cost recovery principle, the draft Schedule of Fees assumes a broad interpretation that the limits set forth in Section 336 (3) of the Telecommunications Act refer to **all** annual license fees, both spectrum and operating licenses. As such, both types of annual fees are considered in order to ensure the annual fees collected, in as much as possible, do not exceed the lesser of the Authority’s budget nor 5% of the combined annual gross revenue of all licensees.

3.2.2. Scope and content of the rules

The draft Schedule of Fees sets out the fees applicable to individual and class licenses, the fees applicable to frequency licenses and station licenses, payment provisions for individual licensees and class licensees, as well as transitional provisions for the initial implementation of the Schedule of Fees.

3.2.2.1. Fees applicable to individual licenses and class licenses

Chapter II of the draft Schedule of Fees sets out the license application and renewal fees applicable to individual and class licenses. In both cases, the fees specified in Schedule 1 of the Schedule of Fees are an application fee of USD 125 per license and a renewal fee of USD 100 per license.

Chapter II also sets out the annual fees payable by holders of each license type. For individual licenses, licensees with gross revenues equal to or higher than USD 100,000 in the previous fiscal year are assessed an annual license fee equal to 1.25% of gross revenues. This is in line with the requirement of Section 336 (2) of the Code, which requires that individual license fees be based on a percentage of gross revenues. The class license fees set out in Schedule 1 are fixed sums, with a specific fee assigned to each of several gross revenue ranges between USD 100,000 and USD 10,000,000+. The annual fees for class licenses range from USD 2,500 to USD 151,875.

The draft Schedule of Fees also incorporates mechanisms intended to exempt small scale or community network operators from annual license fees as a way to incentivize entry into the market and alternative network coverage in remote areas, such as the outer islands. A *de minimis* exemption for individual and class licensees with gross annual revenues below USD 100,000 eliminates annual license fees for these licensees, and the draft Schedule of Fees also empowers the Authority to waive application and renewal fees for individual and class licensees that intend to deploy community networks.

Chapter II also includes provisions requiring the payment of the applicable fees before the Authority shall process an application for a new license or a license renewal, as well as referring to the description of the manner of annual fee payment included in Chapter IV.

3.2.2.2. Fees applicable to frequency licenses and station licenses

Chapter III of the draft Schedule of Fees sets out the license application and renewal fees applicable to station licenses and frequency licenses, as well as the annual fees for frequency licenses.

The provisions of Chapter III of the draft Schedule of Fees refer to Schedule 2, which establishes that an application fee of USD 20 and a renewal fee of USD 15 apply to aeronautical station (aircraft) licenses, amateur licenses, HF-MF fixed and mobile stations, and ship station licenses. An application fee of USD 65 and a renewal fee of USD 50 apply to satellite earth station licenses. Station licenses are not subject to annual fees.

Chapter III refers to Schedule 3 with regard to the application fee, annual fee, and renewal fee for frequency licenses. The fees in Schedule 3 are categorized based on whether the frequency license is for cellular mobile, fixed link (point-to-point), land mobile, or broadcast sound use.

- Cellular mobile spectrum licenses are subject to an application fee of USD 85 or as determined in the appropriate tender documents, and an annual fee of USD 15,980 per 2x5 MHz of sub-1 GHz spectrum and USD 6,390 per 2x5 MHz of spectrum above 1 GHz. Cellular mobile spectrum license renewal fees will be determined by the Authority at the time of renewal.
- Fixed link licenses are subject to an application fee of USD 60 and a renewal fee of USD 45. The annual fee for fixed link licenses ranges from USD 200 to USD 800, depending upon the amount of bandwidth licensed.
- Land mobile licenses are subject to an application fee of USD 20 and a renewal fee of USD 15, with an annual fee of USD 60 for 12.5 kHz channels and USD 120 for 25 kHz channels.

Chapter III also includes provisions regarding the payment of the applicable fees. In particular, the draft Schedule of Fees requires payment of application or renewal fees before the Authority shall process an application for a new license or a license renewal. With regard to annual fees for frequency licensees, Chapter III sets out that annual fees for the first year are due in a single payment within 10 days of the initial license grant, and that subsequent annual fees are due in a single payment each year upon the date set in the license. The draft Schedule of Fees also instructs the Authority to, in the case of annual fees that are more than 15 calendar days late, pay the overdue fee as well as the late payment fee calculated in line with provisions of Chapter IV.

The draft Schedule of Fees also empowers the Authority to waive application and renewal fees for frequency licensees and station licensees that intend to deploy community networks.

3.2.2.3. Payment provisions for individual and class licensees

Chapter IV of the draft Schedule of Fees sets out the mechanisms by which revenue-based fees are calculated and paid, as well as empowering the Authority to obtain supporting information from licensees to ensure that appropriate license fees are calculated and paid. The chapter also details the formula for assessment of late payment fees and the method by which license and related fees are to be paid, as well as empowering the Authority to revise the schedule of fees in response to total annual license fees that exceed the criteria of Section 336(3) of the Telecommunications Act by more than 10 percentage points. Finally, the chapter provides direction to the Authority with respect to any monies collected in excess of its budget.

3.2.2.4. Transition provisions

Chapter V of the draft Schedule of Fees sets out transition framework for implementation of the Schedule of Fees. In particular, the Authority is required to make available the required forms for licensees to report their gross revenues and to make required payments within 30 days of the effective date of the rules. In addition, the transition provisions set out the process by which the license fees applicable to FSMTC and OAE will be assessed and paid.

3.3. Numbering Plan

3.3.1. Legal basis to promulgate the rules

The Act provides the legal basis for the Authority to adopt the national Numbering Plan (NNP). Sections 357 and 358 of the Act are the key numbering provisions in FSM legislation and set out the core elements of the issues address in the NNP as they outline requirements for the management of national numbers and other identifiers.

3.3.2. Scope and content of the rules

The proposed NNP reflects the evolution of the national telecommunications environment with the TRA taking responsibility for the management of the national telephone numbers and associated identifiers that is currently within the remit of FSMTC. The draft NNP was developed on the basis of the current use of telephone numbers and related identifiers to avoid unnecessary costs and disruption to the market, and to meet future requirements for numbers across different uses.

The proposed NNP sets out the structure of telephone numbers for numbering resources, which includes national only numbers, geographic numbers, and non-geographic numbers. Non-geographic numbers include those associated with alternative charging means, mobile and M2M. In addition, the proposed NNP outlines the governance process, which includes the criteria by which the TRA will assign numbering and related resources in the future, details of the states of numbers in any future audit, the annual fees for numbers as well as issues that would require remedial action at some future date.

3.3.2.1. National Numbering Plan

Section 1 of the proposed NNP presents the high-level structure of the telephone numbering resources. The high-level structure encompasses both current use and potential future uses that will minimize impact on current use, and allow introduction of new services in a manner that is fair and equitable.

3.3.2.2. Numbering Resources

Section 2 of the proposed NNP details the structure of the telephone numbers and eligibility criteria by which the telephone numbers will be assigned by the TRA across a range of uses. The basis of the use of telephone numbering resources are the general conditions of use. This clause states the conditions that apply to all uses to which telephone numbers are employed and that will be used by the TRA in the management of said resources.

The uses of telephone numbers that are detailed in this clause are:

- Geographic numbers

- Non-Geographic Numbers
 - Mobile Numbers
 - Freephone Numbers
 - Shared cost Numbers
 - Premium Rate Numbers
 - Machine to Machine numbers (M2M/IoT)
- Short Codes (short numbers only for use within FSM)

The description of each of the uses of telephone numbers specifies the digits and structure for a specific use of the telephone numbers (which adds further detail to the high-level structure), describes the use of each range, and states any specific rules associated with each identified use.

It should be noted that some of the uses of telephone numbers are yet to be implemented but are included with the intent to future proof the proposed NNP and to facilitate introduction of new services to all operators.

3.3.2.3. Use of Telephone Numbers

Section 3 of the proposed NNP specifies the use of telephone numbers in delivering calling line identity (CLI). The proposed NNP identifies options that are acceptable for the provision of CLI, namely fixed (geographic) or mobile numbers, and details the flexibility that an operator can have in the provision of this capability.

3.3.2.4. Mobile Related Resources

Section 4 of the proposed NNP details the other associated identifiers that are used in the provision of mobile related services and connectivity. The two other associated resources are International Mobile Subscriber Identifiers and issuer Identifier Numbers.

3.3.2.5. Governance Process

Section 5 of the draft NNP addresses the governance of the telephone numbers and other related resources. The process covers the possible life-cycle of a number assignment, the information required by the TRA to consider a request for assignment of telephone numbers and associated identifiers, notification of telephone numbers and other related identifiers being assigned and the timeframes by which the TRA will respond to such requests.

3.3.2.6. Annual Fees for Numbers

Section 6 of the proposed NNP details the proposed fees to be associated with telephone numbers to be levied to recover costs of the TRA associated with the management of telephone numbers in accordance with Section 357(1)(b) of the Telecommunications Act.

3.3.2.7. Transitory Measures

Section 7 of the NNP identifies three anomalies of assignment of telephone numbers that require remedial action. The anomalies emerge from decisions taken by FSMTC prior to the creation of the TRA, and the TRA taking responsibility for the National Numbering Plan. Proposals are made for two of the

anomalies that can be dealt with under business as usual measures, but one assignment will require TRA to regularize the current assignments of use to reflect the new management regime.

3.4. Interconnection and Access Rules

3.4.1. Legal basis to promulgate the rules

The Authority has the power to make interconnection and access rules in the FSM under Section 341 of the Telecommunications Act. Interconnection and access rules issued by the Authority may address (i) standard terms that should apply to interconnection agreements; (ii) designate mandatory services to be included in such agreement; and (iii) specify prices or pricing principles for interconnection and access.

3.4.2. Scope and content of the rules

The draft Interconnection and Access Rules sets out the applicable rules, processes, and requirements for the provision of interconnection and access services.

3.4.2.1. Process to enter into an interconnection and access agreement

Chapter II of the Interconnection and Access Rules sets out the process and rules governing the establishment of an interconnection and access agreement between two licensees. The Rules clearly state that licensees have the right and obligation to negotiate an agreement with another licensee, and also set out the obligations of the negotiating licensees. Consistent with Section 339(2) of the Telecommunications Act, the rules require good faith negotiations, prompt response to reasonable information requests, avoidance of obstruction or delay, compliance with Authority direction, and a prohibition on behavior that would cause the other party to withhold information from the Authority.

This chapter also sets out the requirements for an interconnection and access request. The requesting licensee must specify the specific services requested, a point of contact, an estimate of the capacity required, and a time and location for initial negotiations. A copy of the request containing the required information must be sent to the Authority within three days of its submission to the other licensee. Upon completion of an agreement, the licensees are required to submit a copy of the final agreement to the Authority.

Finally, Chapter II empowers the Authority to intervene in cases where an agreement has not been reached within 30 days of the initial request, and also requires the Authority to publish copies of all interconnection and access agreements and related amendments on its website.

3.4.2.2. Dispute resolution

Chapter III of the Interconnection and Access Rules sets out the relevant dispute resolution process. The first two sections of the chapter empower the Authority to, upon receipt of a request for intervention following an unsuccessful negotiation, determine the terms of the agreement or to direct licensees to take specified actions to reach an agreement in line with Section 340(1) of the Telecommunications Act. The draft rules do require that any agreement determined by the Authority must be in accordance with Section 340 (2) of the Telecommunications Act, which requires inclusion of the same conditions that must be negotiated between the licensees themselves, avoidance of requirements to interconnect with

facilities where interconnection is not feasible, and consideration of the best interest of consumers and competition.

With regard to directions that may be imposed by the Authority, the draft rules empower the Authority to require engagement of a mediator or arbitrator, or adoption of any other actions that may be conducive to the conclusion of an agreement. Directions from the Authority must be made via written notice and must include the timeline and manner for their implementation, as well as the manner in which costs shall be divided between the licensees involved, and may include any other measure the Authority believes necessary for implementation of the direction. Licensees are obligated to comply with directions issued by the Authority as required under 340(1)(b) of the Telecommunications Act.

The dispute resolution process also includes provisions for draft agreements or directions and a mechanism for reconsideration of agreements determined by the Authority. Section 14 of the draft rules requires the Authority to provide both licensees with draft interconnection and access agreements or draft directions and consult with the licensees before determining their final contents. Section 15 empowers licensees to apply for reconsideration of the terms of any agreement determined by the Authority that is applicable to the licensee.

3.4.2.3. Standard terms

Chapter IV of the Interconnection and Access Rules sets out the standard terms for interconnection and access agreements in line with the powers granted to the Authority under Section 339(1)(d) of the Telecommunications Act. Consistent with international practice, the chapter requires specification or inclusion of the following information:

- the specific services to be provided,
- the specific compensation agreement agreed between the licensees,
- a non-discrimination requirement under which the services offered are on terms at least equivalent to those the providing licensee offers to itself or any other party,
- the service levels and quality of service,
- applicable technical standards,
- an assurance of accurate and timely billing to each other and to other licensees,
- a commitment to avoid causing physical or technical harm to each other's networks,
- agreements regarding the reasonable exchange of information and the protection of sensitive information,
- stipulation of any specific reasons that would justify unilateral termination or suspension of the agreement (subject to approval by the Authority),
- agreement to amend the agreement to comply with regulatory changes by the Authority, and
- agreement that the licensees will submit a copy of the agreement to the Authority within five days of its completion.

3.4.2.4. Prices and pricing principles

Chapter V of the draft Interconnection and Access Rules establishes pricing approaches for interconnection and access services to be employed during negotiations between licensees. Setting pricing principles is consistent with the Authority's powers under Section 341(1) of the Telecommunications Act.

Section 27 requires licensees to employ commercial negotiation, cost-based prices, or bill and keep approaches when setting interconnection prices. It also requires the Authority to set pricing terms for services in response to a licensee's request for intervention and empowers the Authority to direct the licensees to engage in mediation or arbitration over pricing disputes or to determine the pricing itself under certain pricing methodologies. Licensees are also empowered to adopt commercially negotiated prices for interconnection services so long as such prices are reasonable.

Section 29 of the draft rules require that cost-based interconnection prices be calculated through the use of a bottom-up, forward-looking economic cost methodology. Further, when interconnection prices are calculated in such a manner, the price of interconnection services different from termination are required to be computed using a long run average incremental cost standard. This section also sets out rules for calculation of cost-based prices for termination of fixed and mobile voice services and SMS, requiring a long run incremental cost standard whereby the relevant increment is the termination service and only includes avoidable costs.

Licensees are also empowered to use bill and keep as a pricing scheme for the provision of termination services for fixed and mobile voice, SMS, and Internet traffic. Under bill and keep the price for termination services is set equal to zero.

With regard to pricing for access to bottleneck facilities, Section 31 requires that licensees adopt a commercial negotiation, cost-based pricing, or retail-minus pricing approach to setting prices. As in the case of interconnection, the Authority is empowered to direct the licensees who cannot reach an agreement to engage in mediation or arbitration, or to determine the pricing itself.

Chapter V also sets out interconnection and access pricing principles, requiring that prices adhere to the principle of cost causality, where costs are borne by the licensee whose activities cause the costs to be incurred. The principles also require that costs and charge types are aligned, in that non-recurring costs are recovered through non-recurring charges, recurring costs are recovered through recurring charges, flat costs are recovered through flat charges, and variable costs are recovered through usage-based charges. In addition, the rules require that prices for interconnection and access services are sufficiently unbundled to allow requesting licensees to pay for only the network elements and services that it requires.

Finally, the draft rules specify that each licensee is responsible for providing and maintaining the portion of the interconnection link between its network and the point of interconnection. In the case of a jointly constructed interconnection link, the licensees are to divide the cost based upon a reasonable expectation of the link's relative use between the two parties.

3.4.2.5. Designated mandatory services

Chapter VI of the Interconnection and Access Rules sets out designated mandatory services and provides relevant definitions of each in accordance with Section 341(2) of the Telecommunications Act. Specifically, the chapter designates the following mandatory interconnection services:

- Physical and logical interconnection: Ensuring the exchange of communications traffic between licensees, subject to the terms and definitions in Section 35.
- Basic interconnection services: Origination, transit, and termination services as specified in Section 36.
- Co-location: Including the provision of equipment space, power, security, and site maintenance, or alternative solutions when physical co-location is not feasible, as specified in Section 37.

- Ancillary services: Including arrangements for the provision of equal access and number portability (where warranted); services such as emergency, free-phone toll-free numbers, directory assistance, and SMS termination, as well as any other services specified by written order of the Authority; access to special services such as premium rate services, and arrangements for measuring traffic and billing, as specified in Section 38.

3.4.2.6. Access to bottleneck facilities

Chapter VII of the Interconnection and Access Rules sets rules for access to bottleneck facilities. The draft rules specify that licensees shall agree to and take all reasonable steps to give effect to reasonable requests for access to and use of bottleneck facilities under their ownership or control. The Rules also set the specific conditions under which a licensee may refuse to grant access to bottleneck facilities under its ownership or control. In particular, Section 42 enables licensees to refuse to grant access on technical, economic, or legal infeasibility grounds, subject to independent verification by the Authority.

Section 40 of the draft rules sets out an obligation to reject discriminatory preferences, prohibiting licensees from accepting or requesting access to bottleneck facilities and related services that are under the control of unrelated entities or affiliates on prices, terms, or conditions that are not available to other licensees.

Licensees are also prohibited in Section 41 from engaging in any conduct, action, or omission that influences a person unrelated to the licensee or an affiliate of the licensee to refuse granting access to bottleneck facilities.

The chapter also allows licensees to reserve capacity on bottleneck facilities that they own and for which they have made long-term investments, as long as such a reservation does not adversely affect competition. However, such reservations are limited to two years and shall not exceed 20% of spare capacity on the specific facility. Reservations must be supported by information and documentary evidence that will be made available to the Authority upon request.

Schedule 1 of the draft rules identifies a set of facilities deemed to be “bottleneck facilities” in accordance with Section 302(f) of the Telecommunications Act. These include the following passive infrastructure (i) towers and other supporting constructions for the provisions of radio communications services; (ii) poles, masts, ducts, conduits, inspection chambers, manholes, and cabinets; and (iii) submarine cable landing stations. Such facilities are essential for the production of communications services which, for technical reasons or due to economies of scope and scale and the presence of sunk costs, cannot practicably be duplicated by a potential competitor in a communications market.

3.4.2.7. Sharing of new communications facilities

Chapter VIII of the Interconnection and Access Rules govern deployment of new communications facilities and access to land. Specifically, Section 44 requires licensees that propose to construct a new communications facility to expand its network to comply with the sharing requirements in Section 342 of the Telecommunications Act. The draft rules also guide the Authority’s actions in the event that parties subject to a sharing negotiation are not able to reach an agreement.

Section 45 states that a party subject to a sharing agreement shall have the right to access and use land under the terms and conditions described in Section 371 of the Telecommunications Act

3.5. Spectrum Licensing Rules

3.5.1. Legal basis to promulgate the rules

The Authority has the power to make Spectrum Licensing Rules under Section 333 of the Telecommunications Act. Spectrum Licensing Rules issued by the Authority may specify (i) the types of spectrum licenses to be awarded; (ii) the technical requirements that apply to the use of the spectrum; (iii) the assignment mechanisms and eligibility criteria; (iv) procedures for vacating spectrum and (v) general conditions of spectrum licenses. Scope and content of the rules

3.5.2. Scope and content of the rules

The draft Spectrum Licensing Rules sets out the applicable rules, processes, and requirements for the provision of allocations and assignment radio frequency spectrum.

3.5.2.1. Spectrum management functions of the Authority

Chapter II sets out the Authority's functions and powers with relation to FSM spectrum resources. In particular, consistent with Section 332(1) of the Telecommunications Act the Authority is empowered with sole responsibility for allocating and assigning spectrum for the provision of communications services. The Authority may also conduct reviews of FSM spectrum needs and resources, as well as reallocate spectrum to foster the introduction of new technologies. The Authority may also establish spectrum aggregation limits of various types in order to promote competition and avoid undue concentration of spectrum.

The Authority is obligated to harmonize spectrum allocations with regional and international allocations; to manage spectrum in an efficient, open, non-discriminatory, competitively neutral, objective, and transparent manner; and make spectrum available to promote the introduction of new technologies. In addition, the Authority is obligated to issue and periodically update a national table of frequency allocations.

The Authority is also required to establish and maintain a publicly available register of all spectrum licenses granted under the rules, detailing the licensee's name and contact information, the type of spectrum held, the frequencies authorized, and the start and end dates of the license. However, in the event that spectrum is held by a natural person, the Authority may choose to withhold publication of personal information.

Importantly, Chapter II also states that, as a national resource, licensees are not granted any ownership rights over the spectrum that they are authorized to use.

3.5.2.2. Types of spectrum licenses

Chapter III of the rules states that a license is required to use radiofrequency spectrum and to install, establish, or use any radio apparatus within the FSM or on board any local vessel, aircraft, or vehicle operated in the FSM.

The chapter also details the types of spectrum licenses that may be issued by the Authority, namely frequency licenses granting the right to use specific spectrum and station licenses authorizing the installation, establishment, and use radio apparatus.

The Spectrum Licensing Rules, when implemented, will not impact on all radio frequency spectrum use. Rather the Authority, is prioritizing use of radio frequency spectrum that is used for [cellular mobile services, fixed service for point to point backhaul and satellite spectrum licenses with the Spectrum Licensing Rules applying to these spectrum uses from commencement of the Spectrum Licensing Rules.

Other uses of spectrum, for example land mobile and government licenses as well as aeronautical station licenses, HF-MF fixed and mobile station licenses, ship station licenses, amateur licenses, and temporary use licenses will be determined within 18 months of the effective date of the draft Spectrum Licensing Rules. The Authority will conduct a subsequent consultation process in 2020 to adopt amendments to the rules and seek inputs from interested stakeholders. Thereafter, the Authority will begin assigning the subset of licenses identified above. Regulatory priorities in relation to spectrum licenses are further defined in the transition provisions of the draft Spectrum Licensing Rules (see section 3.5.2.7).

The Authority also identifies specific bands in which radio apparatus may be used without a license (license-exempt spectrum) by general reference to the U.S. Federal Communications Commission rules (with exceptions) and empowers the Authority to identify additional license-exempt spectrum consistent with international recommendations following a consultation process. The rules further set out the conditions for the use of license-exempt spectrum, including that devices operating in such spectrum may not cause harmful interference to licensees and must accept interference from licensees and other license-exempt radio apparatus.

3.5.2.3. Assignment of spectrum licenses

Chapter IV of the rules details the procedures that may be used by the Authority to issue spectrum licenses and station and frequency licenses. Specifically, spectrum licenses may be issued on a first-come, first served basis, in response to a request for applications issued by the Authority, or through a competitive tender. Station licenses are to be issued on a first-come, first-served basis, although the Authority is empowered to issue a request for station license applications as long as the spectrum is deemed of high economic value.

More specifically, Section 16 of the draft rules sets out the procedure for assignment of licenses on a first-come, first-served basis. This section includes information on the necessity of submitting a complete application, the Authority's obligation to respond to the application within 30 days, and the requirement for the applicant to hold a corresponding operating license. Section 16 also sets out the procedure under which an applicant can cure deficiencies of an application.

Similarly, Section 17 sets out the procedure for assignment of licenses in response to a request for applications published by the Authority, noting that such requests may be issued in relation to spectrum that is considered to have high economic value. The section specifies the information to be included in the Authority's request for applications, including the available spectrum, the eligibility requirements, the timeframe in which applications may be submitted, and the relevant fees. Further, the section states that if spectrum demand exceeds supply, the licenses shall be issued through a competitive tender, and that they shall otherwise be assigned under the same rules outlined in Section 16.

Section 18 presents the process for assignment of licenses via competitive tender. The section establishes the information that the Authority must include in its tender document, including the spectrum to be offered, the applicable eligibility criteria, application fees, selection criteria, license

obligations, and the timeframe for the selection process. Section 18 also obligates the Authority to employ fair and transparent selection criteria for the assignment of spectrum licenses.

Sections 19 and 20 set out the eligibility criteria for spectrum and station licenses, respectively. In both cases, applicants must be registered or incorporated in the FSM, must not have any outstanding fees owed in respect to a current license or have had such a license terminated by the Authority within the past three years, and must possess the financial and technical capabilities to carry out and engage in the planned networks and services. In the case of frequency licenses, the Authority is empowered to adopt additional or different eligibility criteria for spectrum licenses in a request for applications or a competitive tender document.

3.5.2.4. General terms and conditions for spectrum licenses

Chapter V of the rules establish the general terms and conditions governing spectrum licenses. Section 21 requires that the Authority standardize spectrum licenses and make them publicly available on its website, including similar terms and conditions and a requirement for maximizing technology- and service-neutrality. The rules also set maximum license durations at 20 years for frequency licenses and 10 years for station licenses.

Section 24 sets forth the terms for the request and approval of a spectrum license renewal, including the period during which renewal requests may be submitted, the timeframe in which the Authority must review and approve an appropriately requested renewal request, and the Authority's obligation to renew a spectrum license on substantially similar terms as the original license unless there is justifiable cause for a change. The Authority is also required to provide written justification for any refusal to renew a license, including providing the applicant an opportunity to correct any defect that prevents renewal.

Section 26 sets out the terms under which a spectrum license can be transferred, assigned, or sub-licensed, notably including a requirement to obtain written permission from the Authority. The Authority has an initial period of 30 days to consider such requests, with the potential to extend the review timeframe by an additional 30 days. Any refusal by the Authority to permit a transfer, assignment, or sub-license arrangement must be communicated in writing and include the reasons for the denial.

Section 27 empowers the Authority to vary a spectrum license of its own accord or following a consultation process, notably to bring the terms and conditions of the license into compliance with international obligations or applicable FSM legislation, rules, or regulations, as well as to foster development of new technologies, promote efficient use of spectrum, or conform to the terms and conditions of an associated operating license. In all cases, variations must be based on reasonable grounds, promote specific policy objectives consistent with the Telecommunications Act, and be subject to principles of non-discrimination and fairness.

Chapter V also sets the terms under which the Authority may suspend or revoke a license, referring to the cases enumerated in Section 337(3) of the Telecommunications Act. Further, the rules set the minimum notice that must be provided by a licensee seeking to surrender a spectrum license – 60 days for a frequency license and 30 days for a station license. Further, the rules require licensees to wind down operations affected by an expired, revoked, or suspended license within 60 days, including making reasonable efforts to transition affected customers to alternative communications service providers.

These timeframes are consistent with those adopted for similar notification processes under the Operating License Rules.

Finally, Chapter V requires licensees to pay the annual fees due according to the Schedule of Fees, and empowers the Authority to pursue steps to revoke the license if the licensee willfully or repeatedly fails to pay its license fees.

3.5.2.5. Specific terms and conditions of spectrum licenses

Chapter VI sets out the specific terms and conditions of spectrum licenses, including compliance with technical standards, spectrum efficiency, management of interference, radio frequency emission standards, and coverage obligations.

Section 32 of the rules requires licensees to only deploy apparatus that complies with applicable standards set by the Authority under Section 355 of the Telecommunications Act. In the absence of a technical standard required by the Authority, licensees may deploy radio apparatus that complies with technical standards adopted by a recognized international standards-setting body, routinely used by service providers in other countries, or specifically approved by the Authority.

In order to ensure efficient use of spectrum, the rules require licensees to cooperate with the Authority efforts to determine whether and to what extent the assigned spectrum is being used efficiently. Should a licensee determine that it no longer require use of any or all of the spectrum assigned to it, the licensee is required to notify the Authority, who will reclaim the spectrum for reassignment. The rules also empower the Authority to initiate action to reclaim spectrum that it determines is being used inefficiently or that is licensed to an entity that does not have a need for all of its assigned spectrum.

In addition, Sections 34 and 35 address interference matters. Section 34 obligates licensees to comply with international coordination requirements and to coordinate with other FSM spectrum users to avoid harmful interference, but also empowers the Authority to adjudicate disputes between parties with respect to interference. The section also requires the Authority to work with its counterparts to address cross-border interference issues and obligates licensees to cooperate with the Authority to resolve cross-border interference. Section 35 sets out the rights and obligations of primary, co-primary, and secondary spectrum users with respect to interference generated by each type of licensee.

Chapter VI sets out additional obligations on licensees, including taking measures to maintain proper and effective functioning of networks and services and, in the case of major outages or force majeure, to guarantee the fullest possible availability of their networks and services (Section 36) and limiting human exposure to radiofrequency (non-ionizing) radiation emissions from radio apparatus in its network through compliance with international guidelines (Section 37).

Section 38 of the rules empowers the Authority to impose coverage obligations on spectrum licensees and sets the terms under which such obligations may be set, set, including on the basis of population, geographic coverage or timing.

3.5.2.6. Monitoring and enforcement

Chapter VII of the rules establish the Authority's monitoring and enforcement powers. Section 39 empowers the Authority to establish additional notification and information requirements, including regular reporting obligations in service of its duties. Licensees are obligated to comply with any such requests.

Section 40 of the rules state that a licensee's premises are subject to entry or inspection in accordance with Section 377 of the Telecommunications Act, which sets out the powers of an inspector. In Section 41, the rules set out the process by which the Authority may investigate a supposed contravention of the rules and, if appropriate, take an enforcement action.

3.5.2.7. Transitional provisions

Chapter VIII of the rules set out transitional provisions for the award of spectrum licenses to FSMTC.

The transition provisions reflect the Authority's regulatory priorities in relation to assignment of spectrum licenses. As such, the terms and conditions and assignment of a subset of spectrum licenses, namely land mobile and government licenses as well as aeronautical station licenses, HF-MF fixed, and mobile station licenses, ship station licenses, amateur licenses and temporary use licenses, will be determined within 18 months of the effective date of the draft Spectrum Licensing Rules. To this end, the Authority will conduct a subsequent consultation process in 2020 to adopt amendments to the rules and seek inputs from interested stakeholders. Thereafter, the Authority will begin assigning the subset of licenses identified above.

3.5.2.8. Schedules

The spectrum rules also include two schedules that set out the types of spectrum licenses available in the FSM, as follows:

- Schedule 1 sets out the various types of frequency licenses: cellular mobile, fixed links, land mobile, government use, special temporary use, and other radiocommunications services. To reflect regulatory priorities, the draft reserves for future development the specific rules on land mobile and government licenses; and
- Schedule 2 sets out the various types of station licenses: aeronautical station license (aircraft); amateur license, HF-MF fixed and mobile stations, ship station license, satellite earth station license, and other station licenses. As above, to reflect the Authority's regulatory priorities, the draft reserves for future development the specific rules on Aeronautical station licenses, HF-MF Fixed and mobile station licenses, Ship station licenses, and Satellite spectrum licenses.

4. Responding to this regulation-making process

4.1. How to respond?

We would like to receive your data, views, or arguments, in writing on the issues raised in this regulation-making process and the accompanying draft Rules package during a 30-day period starting after the date of posting of this notice. We will receive comments until 5 pm (local time in Pohnpei, FSM) of the last day of this period.

Responses to the consultation should be presented in English using the comments form available for download at [comment form Pg. 27](#) and provided below.

You may submit your written comments to the following email address: consultations@tra.fm or to the following address:

Attention Takuro Akinaga
Chief Executive
FSM Telecommunication Regulation Authority
Suite 1A, Varner-Boylan building
PohnUmpomp, Nett Municipality
Pohnpei FM 96941
Federated States of Micronesia

4.2. Confidentiality

In the interest of transparency and good regulatory practice, we plan to publish all comments received.

If you believe that all or part of your responses should be treated as confidential information, please specify which part(s) and the reasons for such request as provided in the comments form.

We will address all confidentiality request in accordance with Section 322(5) of the Telecommunications Act.

4.3. Next steps

Once we have received and reviewed inputs to this process, we will publish our responses to those comments. Our responses will state our views and reasons for either making changes to the draft Rules package or maintaining our initial proposals. We will then issue final rules and comply with the publication requirements set forth in section 103 of the Administrative Procedures Act. We expect the effective date of the Rules package will be September 30th, 2019.

5. Comments form

Consultation title

Information of commenting party

Full name	
Organization (as applicable)	
Phone number	
Email	
Is confidential information being submitted?	Y/N

Comments

Section	Comment	Proposed changes	Confidentiality
[Please identify the specific section of the rules to which the comment pertains]	[Please describe your views and comments on the specific section. Please be as detailed as possible and provide supporting evidence of why you hold your views and what the potential impact of the Authority’s proposal would be.]	[If possible, please provide an alternative drafting to the rule that would, in your view, be consistent with your comment.]	Y/N [If confidential treatment requested, please explain the reasons]
(...)			

Please complete this form in full and submit it to consultations@tra.fm or in person to:

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