



ANNUAL TELECOMMUNICATION REGULATION AUTHORITY REPORT 2020

This annual report covers the financial year ending September 30 2020.

Purpose of this report

This report is released under section 319 of the FSM Telecommunications Act of 2014. Section 319 requires the TRA to produce an annual report on its activities of the previous financial year. The purpose of this report is to provide an update on the general activities of the TRA and the state of the telecommunications industry.

Foreword

Our second year: Competition emerging but still early days

- 1 The year ending September 30 2020 was the TRA's second year of operations. The TRA was established by Congress to advance, through regulation, the long term interests of consumers of telecommunication services and products in the FSM.
- 2 The TRA believes those interests will be met when consumers have access to reliable, affordable, quality telecommunication services and the providers of those services (the telecommunication companies) are making a sufficient profit to enable them to continue investing in the FSM in modern telecommunication services and practises.

A future where the citizens of the FSM can be proud about their telecommunication services...

- 3 We are aiming for a future where the citizens of the FSM can be proud about the quality, accessibility and affordability of their telecommunication services and have confidence that there is no significant "digital divide" within the FSM or between the FSM and other countries. This will not only provide benefits to each individual customer in the FSM but also significant social and economic benefits for the FSM, enabling better Government services (for example in education and health) and for business opportunities to be advanced through digital technology.

Competition between telecommunication providers will help achieve the long term goal...

- 4 Congress has identified, through the TRA's governing statute, that the long term interests of consumers of FSM telecommunication services and products will best be achieved through active competition in the FSM between two or more telecommunication providers. The TRA has been charged under law to establish and enforce rules that will encourage fair competition and otherwise promote the protection of consumers.

Response to COVID-19

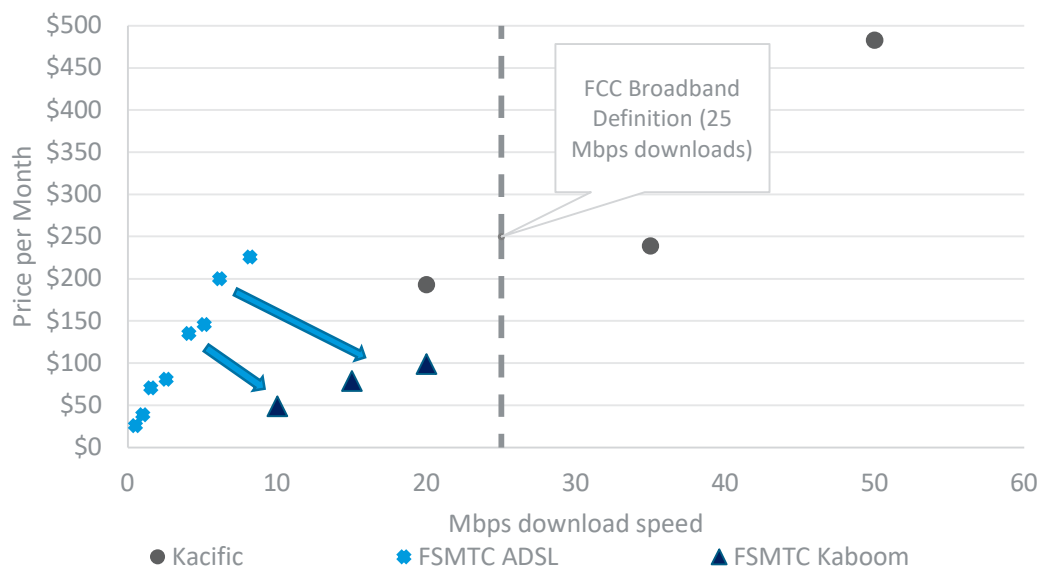
- 5 COVID-19 is widely regarded as one of the most, if not the most, significant post World War 2 global events in terms of its impact on humanity as a whole. While due to swift Government action we have been relatively fortunate here in the FSM compared to many other countries, COVID 19 has still impacted on our people both economically and socially.
- 6 What COVID-19 has done is to:
 - 6.1 Accelerate the greater use of, and reliance on digital technology globally, both in the private, public and voluntary sectors, and that use and reliance is not going to reverse post COVID-19;
 - 6.2 Increase the importance of fast, reliable, accessible and affordable digital access. The digital divide between countries and communities that have this, and those that do not, will shape economic and social opportunities for the decades to come.
- 7 It is now more important than ever that the FSM Congress and Government commitment to developing an open digital market where new entrants are

welcomed, is brought to fruition. We separately comment on this and our suggested next steps for Government and Congress in our market development report.

In 2020, the TRA was able to build on the new rules by encouraging competition...

8 One of the key developments for the TRA was the emergence of new entrants in the telecommunications market. The TRA has issued licenses to Kacific, Boom! and MCS Pohnpei (as a local retailer of Kacific services) in the year ending 30 September 2020. The entry of Kacific and Boom! increases competition for telecommunication facilities and services in the FSM. The impact of this increased competition on market services and prices will likely be felt in 2021 and beyond. Already, FSMTC has responded by introducing a new set of internet plans (named KABOOM) at materially lower prices and higher speeds than FSMTC’s offer through the ADSL service before competition.

9 **Figure 0.1: FSMTC’s Response to Competition from Kacific and Boom!**



Kacific pricing includes the ‘rent to buy’ terminal price. After 24 months the terminal is paid off and prices drop \$65/month.

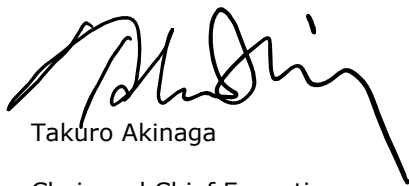
10 The TRA continues to see signs of interest in new providers entering the FSM market. However, the TRA is conscious potential new entrants will not be influenced just by regulation, they will also look to the commitment of the Federal and State Governments to a competitively neutral environment.

And increase digital connectivity across the FSM...

11 Another milestone for the TRA was the FSM Congress’ approval of a World Bank grant for the FSM Digital Project. The Government’s decision to invest in a modern open-access telecommunications network will assist the work of the TRA. It demonstrates the priority the Government is placing on connecting citizens. We hope that the Government investment into the open-access telecommunications network will encourage sustainable competition for retail telecommunication services across the FSM. This will provide the people of the FSM with a choice of providers and the benefits of competition will become noticeable.

12 The TRA is a small office, it operates on a small budget, and seeks to work collaboratively with the various stakeholders in the FSM and the telecommunications operators to progress the TRA’s goal. I would like to thank all those who worked

with the TRA in 2020 and look forward to your continued support in the future years as we all seek to enhance the FSM's social and economic potential.

A handwritten signature in black ink, appearing to read "Takuro Akinaga". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

Takuro Akinaga

Chair and Chief Executive

Telecommunication Regulation Authority

Introduction

- 13 The Telecommunication Regulation Authority (the TRA) is an independent regulator and became operational in October 2018. We set the rules for firms that provide telecommunications services in the Federated States of Micronesia (the FSM). We are also tasked with enforcing those rules.
- 14 It is our mission to develop telecommunications in a competitive environment for the benefit and interest of all the citizens of the FSM. We were created and operate under the FSM Telecommunications Act of 2014 (the Act). The Act provides for up to 3 Board members for the TRA. Our Board members are appointed by the President with the advice and consent of Congress. We are currently made up of 2 Board members who collectively decide the TRA's actions. The TRA anticipates that the third member will be appointed in due course.
- 15 Our aim is to ensure all people in the FSM have access to good quality internet, phones and other telecommunication services. Our goal is to create a competitive environment that enables telecommunications to be a key driver of economic and social growth for the FSM. In order to achieve this goal we set rules to require all firms to have a license to provide their services, facilitate competition between telecommunications services, promote efficient investment, require firms to clearly communicate to customers their terms and prices, require firms to provide a consumer complaint process and, if necessary, make rules on prices to ensure dominant firms are not charging prices we consider to be inappropriate.
- 16 The TRA set itself the following priorities for the year ending 2020
- 16.1 Developing a reporting framework to enable the TRA to better understand the types of services, quality of services and prices for services in the FSM.
- 16.2 Work with current operators to help them understand and comply with the rules and regulations
- 16.3 Ensure prospective license applications were addressed in an efficient but fair manner, so the TRA while addressing the matters it needs to, is not creating undue costs or delay for potential new market entrants.

Key developments

Consultations

- 17 In 2020, the TRA undertook a consultation with licensed operators, interested parties and the public on the data reporting framework by licensed operators. The consultation is expected to be completed by March 2021. Data reporting enables the TRA to do a number of important things:
- (a) It can tell us whether customers are better off over time, i.e. are we seeing a wider range of services, more reliable services, faster speeds, or lower prices over time;
 - (b) It can tell us how the FSM is progressing compared to other countries – i.e. are we closing the digital divide or is it getting it wider;
 - (c) It will tell the TRA what actions it might need to take to advance the long term interests of customers.
 - (d) It will support the TRA in providing statistical data to the International and Regional Telecommunications Organizations, of which the FSM Government is a member. As a member, the TRA is responsible for

reporting statistical data about the telecommunications market in the FSM.

- 18 The data reporting framework is intended to allow the TRA to monitor the number of customers, connectivity, volumes, traffic, revenues, service quality, prices, geographic coverage and bandwidth of telecommunication services provided in the FSM. Importantly it is a statistical framework i.e. the TRA does not get information on particular customers and their individual telecommunication use.
- 19 The purpose of seeking this information is to enable the TRA to undertake its functions under the Act to effectively monitor the telecommunications market, and provide information to other parties where necessary. This will include regular gathering of data held by licensees.
- 20 The TRA needs to have a deep understanding of developments in the market to assess and report on progress towards its objectives and take further action, where necessary, to achieve them. Ultimately this understanding helps guide future regulations and national policies both in the telecommunications sector and the wider economy.

Granting licenses

- 21 In year ending September 30 2020, we issued licenses to Boom! Inc., Kacific Broadband Satellite(s) International Ltd and MCS Pohnpei Inc. These new entrants will increase competition for retail telecommunication services across the FSM.
- 22 Boom! Inc. is the first private operator to be licensed in the FSM and is an internet services provider on Yap. Boom! Inc. has been granted an individual operating license, effective from April 21 2020 and will commence operations once the Telecommunications Cable Corporation (the OAE)¹ fibre network is ready on Yap.
- 23 Kacific is a satellite operator providing a high-speed broadband internet service in the South East Asia and Pacific Islands regions. Kacific has been granted an individual operating license, effective from 1 July 2020. This will ensure the outer islands of FSM can be connected to the internet by satellite.
- 24 MCS Pohnpei Inc. is a computer and electronics store on Pohnpei. It has been granted a class operating license effective from 16 September 2020. This allows MCS Pohnpei to provide communication services, such as internet access to the public.
- 25 Previously in 2019, we issued licenses to Telecommunications Corporation of the Federated States of Micronesia (FSMTC) and the OAE so that they could continue to provide telecommunications services in the FSM.
- 26 The OAE is a Government owned corporation which now owns the undersea fibre optic pipelines that transport digital information back and forth throughout the FSM and between the FSM and the rest of the world. The OAE has been granted an individual operating license, effective from 14 October 2019. This will enable the OAE to ensure cable services reach all parts of the FSM.

¹ The F.S.M. Telecommunications Cable Corporation is required by law to provide *open access* to its services to all other telecommunications providers on non-discriminatory and cost-based terms. This provides confidence to all operators that they are treated fairly and equally in getting access to the core telecommunication infrastructure held by the OAE. For this reason it is referred to in this report as the Open Access Entity.

- 27 FSMTC is the first retail operator in the FSM to be granted a license. FSMTC has been granted both an individual operating license, effective from October 14 2019, and a spectrum license, effective from October 14 2019.
- 28 The TRA has also levied and collected the required licensed operator fees for supporting the costs of the TRA.
- 29 These licenses are discussed further at paragraph 40.

Establishing awareness of the TRA in the community

- 30 We were very conscious in our second year of operation that there was limited understanding of the TRA. We see the need to raise both greater understanding of the TRA, and more generally the telecommunications reforms, that Congress has promoted through the 2014 Act.
- 31 The TRA has contracted Pasifika Communications to undertake a 4 state awareness raising for the regulatory reforms and potential new investments. This work included providing source information for promoting the reforms. We have also promoted the rule making work of the TRA through radio and newspaper advertisements as part of our rule making consultations.
- 32 In January 2020, the TRA supported the DTC&I by providing relevant regulatory information slides for a presentation to potential interested operators at the Pacific Telecommunications Council's Annual Conference in Honolulu, and met with potential interested operators at the Conference. This was an important part of the TRA's regional operator engagement role to aid understanding as to the FSM's relevant laws relating to the FSM's telecommunications sector.
- 33 Due to the disruption cause by Covid-19, we were unable to present at any other conferences in 2020.

Intergovernmental Cooperation

- 34 The TRA also supports other FSM Government agencies in conducting work relating to telecommunications. For example, we have provided an annual Market Development Report to the President, with summaries of the Report presented to DTC&I, and the Department of Finance and Administration.

Strengthening Institutional Outputs

- 35 We have introduced new ways of internally improving the TRA's work. These include:
- 35.1 an operational manual to guide staff on the TRA's core regulatory activities under the Rules,
 - 35.2 staff training in the use of its operations manual,
 - 35.3 a TRA key objectives traffic light reporting system for Board meetings to ensure the TRA monitors on key drivers of market impact and development, and
 - 35.4 a forward resourcing assessment, which forecasted financial support from license fees to guide the TRA's future resourcing and recruitment needs.
- 36 We are also looking at ways of enhancing our spectrum capability. The TRA has created a new terms of reference and expression of interest for external technical

assistance for spectrum capability development, but this is currently on hold due to COVID-19 travel restrictions.

- 37 Despite the challenges posed by the pandemic, the TRA has developed a job description looking for ICT and Spectrum expertise.

Priorities going forward

- 38 Our priorities going forward include:

- 38.1 To work with incumbents and new entrants on matters relating to the entrance of new entrants of the FSM telecommunications market;
- 38.2 To work with licensed operators in the FSM to ensure they understand what the law requires of them and that they meet those requirements;
- 38.3 To develop the TRA, Government and citizens’ understanding about the FSM telecommunications market including: the current state of services and prices in the FSM, customer experiences, how the FSM compares to other countries, areas for improvement and growth, and how improvement and growth benefits the economic and social development of the FSM; and
- 38.4 To continue to raise awareness both with key stakeholders and the public more generally about the role of the TRA, the objectives of the 2014 telecommunications reforms, the current state of the market and potential for growth.

- 39 As per section 319(5) of the Act, the remainder of this report includes:

- 39.1 A list of the licenses issued under the Act and then in force;
- 39.2 A list of the interconnection and access agreements then in force;
- 39.3 A summary of any material litigation involving the TRA; and
- 39.4 A description of the activities carried out during the year in respect of the universal access plan.

List of Licenses Issued under the Act

- 40 Section 319(5)(a) of the Act requires the TRA annual report to list the licenses issued under the Act and then in force. The licenses currently in force under the Act during the year ending 30 September 2020 include:

Licensee	Type of license	Date issued	Duration	Specifics
Boom! Inc.	Individual Operating License No IL-003	21 April 2020	20 years	This license allows Boom! to have terrestrial cable transmission facilities, international gateway services facilities and satellite earth station facilities. The license also authorizes Boom! to provide certain types of communication services including wireline connectivity, wireless connectivity and data

Licensee	Type of license	Date issued	Duration	Specifics
				transmission, and public internet access services.
Kacific Broadband Satellite(s) International Ltd	Individual Operating License No IL-004	30 June 2020	20 years	<p>This license allows Kacific to have terrestrial cable transmission facilities, terrestrial radio communications transmission facilities, international gateway service facilities and satellite earth station facilities.</p> <p>The license also authorizes Kacific to provide certain types of communication services including wireline connectivity, wireless connectivity and data transmission services, and public internet access services.</p>
MCS Pohnpei Inc.	Class Operating License No 001	16 September 2020	15 years	<p>This Class Operating License does not authorize MCS Pohnpei to construct, own or operate a Specified Communications Network in the FSM.</p> <p>This license authorizes MCS Pohnpei to provide certain types of communication services including wireless connectivity and data transmission services, and public internet access services.</p>
FSMTC	Individual Operating License No IL-001	14 October 2019	20 years	<p>This license allows FSMTC to have a communication network including terrestrial cable transmission facilities, terrestrial radio communication transmission facilities, submarine cable and cable landing station facilities, and international gateway services facilities.</p> <p>The license also authorizes FSMTC to provide certain types of communication services including wireline connectivity, wireless connectivity and data transmission services, fixed and/or mobile public voice services, and public internet access services.</p>
The OAE	Individual Operating License No IL-002	14 October 2019	20 years	<p>This license allows the OAE to have a communication network including submarine cable and cable landing facilities, terrestrial cable transmission facilities and</p>

Licensee	Type of license	Date issued	Duration	Specifics
				terrestrial radio communications transmission facilities. The license also authorizes the OAE to provide wholesale connectivity and data transmission services on a wholesale basis to an individual or class license on non-discriminatory and cost-based terms.
FSMTC	Mobile Cellular License No FL-MC-001	14 October 2019	20 years	This license authorizes FSMTC to provide services at certain frequencies and to specific spectrum blocks.

List of Interconnection and Access Agreements

- 41 Section 319(5)(b) of the Act requires the TRA annual report to list the interconnection and access agreements then in force.
- 42 The only interconnection and access agreement in force (and which pre dates the establishment of the TRA) is the Irrevocable Use Deed relating to certain strands of the Hantru Cable, entered into between the OAE and the FSMTC dated 2 February 2018.

Disputes

- 43 Section 319(5)(c) of the Act requires the TRA annual report to outline a summary of material litigation involving the TRA. There was no material litigation involving the TRA in the year ending 30 September 2020.
- 44 The TRA has been involved in two disputes. These include:

Yap FTTH

In February 2020, FSMTC shared its plans to build a fibre-to-the-home (FTTH) network in Yap with the TRA. The TRA wrote to remind FSMTC to comply with the notice requirements of s 342 of the Act which are intended to encourage efficient investment and co-investment in new infrastructure. FSMTC responded that, in its view, the FTTH network was not “new infrastructure” and that it would continue to roll out FTTH in compliance with the mandate set out in the FSMTC Act (Chapter 2 of Title 21 of the FSM Code).

In March 2020, the TRA met with FSMTC and, later, wrote to FSMTC detailing the TRA’s view that the proposed FTTH network was in fact “new infrastructure” and issuing a number of requests for information in order to better understand FSMTC’s position,. FSMTC did not respond to these requests for information.

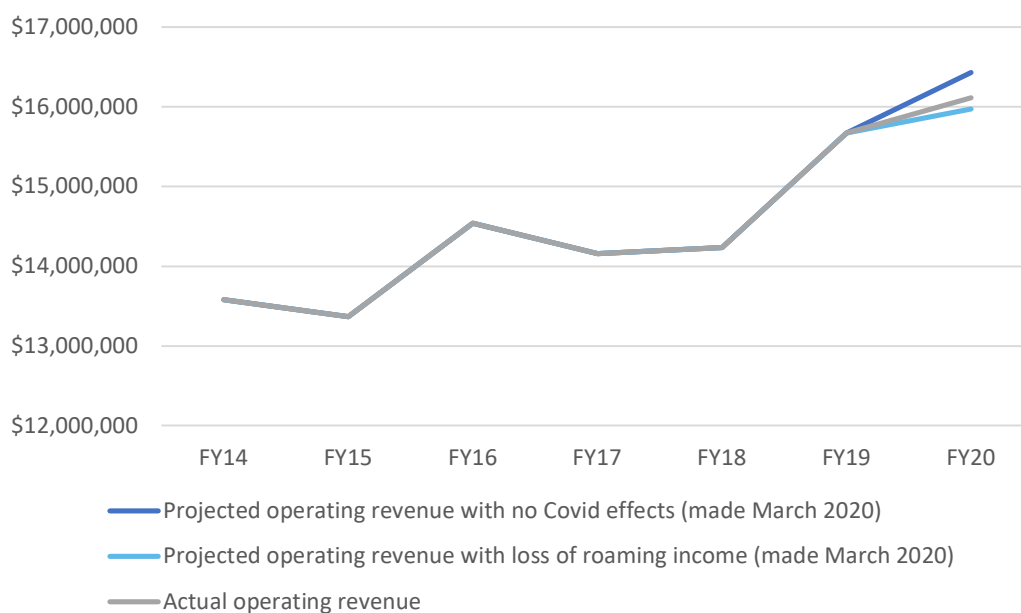
OAE-FSMTC Billing Dispute

In March 2020, FSMTC advised the President, copying the TRA, that FSMTC would, among other things, cease all payments to OAE because of the challenges raised by COVID-19 and the immediate risk to FSMTC of exhausting its cash reserves. In its letter to the President, FSMTC claimed to be “*at a serious risk of running out of cash*”

to meet our payroll and pay vendors to continue to provide uninterrupted services to the public in FSM”

At the President’s request, the TRA undertook its own analysis of FSMTC’s finances based on audited accounts and information provided by FSMTC. The TRA developed a forecast for FSMTC’s financial year 2020 revenues with and without the impact of COVID-19. The TRA concluded that, though the impact of COVID-19 on FSMTC would be material, FSMTC was not at any immediate risk of exhausting its cash reserves. Ultimately, FSMTC fared slightly better than even the TRA’s forecast, with the FSMTC’s cash reserves in the financial year ending September 30 2020 actually increasing by \$830,000. The TRA’s March 2020 analysis of the likely impact of COVID-19 on FSMTC’s revenues is set out in the figure below. For reference, the figure also includes the actual result from FSMTC’s audited accounts for financial year 2020.

Figure 0.2: Impact of COVID-19 on FSMTC FY2020 operating revenues –TRA projections compared to actual outcome



FSMTC Financial statements and TRA modelling

In May 2020, the OAE wrote to the TRA requesting its assistance in resolving its payment dispute with FSMTC in accordance with the dispute resolution procedures of the Indefeasible Rights of Use (IRU) Deed between OAE and FSMTC.

The TRA determined that the matter was non-regulatory in nature and advised the parties that it would assess potential arbitrators. However, it became clear in FSMTC’s June 2020 response to the TRA’s correspondence that FSMTC was challenging the validity of the IRU Deed pursuant to which an arbitrator would be appointed. Given this, the TRA advised the parties that a dispute regarding fees could be subject to arbitration by an arbitrator appointed by the TRA but that a court would need to rule on the validity of the IRU Deed itself. The parties did not take further action on this matter before 30 September 2020.

Universal Access Plan Activities

- 45 The purpose of Universal Access policies, plans and funding is to address the provision of telecommunication services to those parts of the population that might not otherwise get access to telecommunication services or services of a reasonable

standard. An example is communities that live in more distant or remote areas where the provision of a telecommunication service is uneconomic and as a result, unless the service is supported by public funding, the people will not be able to access services of a reasonable standard.

- 46 Section 319(5)(d) of the Act requires the TRA annual report to outline a description of the activities carried out during the year in respect of the Universal Access Plan. Under section 367 of the Act the TRA must prepare and publish a Universal Access Plan, once the Secretary for Telecommunications has issued a Universal Access Policy and sent the TRA a list of geographical areas that are eligible under the Universal Access Policy for universal service obligations and funding. To date the Secretary has not issued a Universal Access Policy.
- 47 The Act also requires any licensee of the TRA to have an obligation to provide services under the Universal Access Policy in the eligible geographic areas. One of the ways this can be achieved is through the inclusion of a Universal Access obligation in the license. The TRA Individual Operating Licenses include a condition requiring the licensee to comply with any directive issued by the TRA relating to the licensee's compliance with any universal access service obligation. This lays the foundation for the TRA and licensees to respond if a Universal Access Policy is issued in the future.
- 48 The FSM Government and the World Bank have agreed on project funding to enable the FSM Government to support the provision of telecommunication infrastructure and services to remote communities. This digital connectivity project is being delivered through the OAE and is currently in the early design stage. We also anticipate that increase competition in the market due to entry into the market by new licensees will stimulate the provision of additional services with a wider geographic scope.
- 49 On 21 April 2020, the 21st FSM Congress approved a World Bank grant which would see significant investment by the OAE into bringing fibre to the home for the main islands of the FSM, enhanced outer island connectivity by satellite and the development of E-government services designed to enable all citizens to access Government services easily and more quickly.
- 50 Once the details of the types of infrastructure and services that will be provided are published (expected to be in 2021/22), then the Government and the TRA will be better able to assess whether there is a need for a Universal Access Plan and what it would need to address.

Annex – List of defined terms

The TRA	The Telecommunication Regulation Authority
The FSM	The Federated States of Micronesia
The Act	The FSM Telecommunications Act of 2014
FSMTC	Telecommunications Corporation of the Federated States of Micronesia
The OAE	FSM Telecommunications Cable Corporation
DTC&I	The Department of Transportation, Communications, & Infrastructure

Annex – Members of the TRA

Two members of the TRA were both appointed in 2019. A third member will be appointed in due course. The current members are:

Takuro Akinaga	Chief Executive Officer of the TRA and is responsible for the management of the TRA. Takuro was the former Chief Executive of FSMTC, finishing that role in 2010
Mathias Lawrence	Mathias was, during the year ending 30 September 2020, the Chief Strategy and Investment Officer for FSM Vital Energy.

Annex – Register of Consultants

- 51 There are several consultants who are advisors to the TRA. As of the year ending 30 September 2020 these were:

Name	Position Held	Area of expertise or project responsibilities
Frank McLaughlin, Chapman Tripp	Technical Assistance	Law, Governance and Policy
Castalia Limited	Consultant	Regulatory Support and Data Collection