



ANNUAL TELECOMMUNICATION REGULATION AUTHORITY REPORT 2022

This annual report covers the financial year ending 30 September, 2022.

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.

Introduction

- 1 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.
- 2 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. The President appoints our Board members with the advice and consent of Congress. We are currently made up of 2 Board members who collectively decide the TRA's actions. The third board member is in the process of being appointed. The results of this process will be reported in the Annual Report covering the 2023 financial year.
- 3 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.
- 4 This Annual Report sets out the following for the year ending 30 September 2022:
 - A summary of TRA activities during the 2022 financial year and up to the end of May 2023
 - A list of the licenses issued under the Act and in force as at 30 September 2022
 - A list of the interconnection and access agreements in force as at 30 September 2022
 - A summary of any material litigation involving the TRA; and
 - A description of the activities carried out during the year in respect of the universal access plan.

Summary of TRA's activities in FY2022

- 5 This section summarizes the TRA's activities for the year ending 30 September 2022.

Information Reporting Framework

- 6 In 2022, the TRA finished consultation on, and implemented an information reporting framework for the FSM telecommunications market. The TRA has provided licensees with a template report that they must use to provide quarterly revenue and operating information to the TRA.
- 7 The data reporting framework allows 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 only—that is, the TRA does not get information on particular customers and their individual telecommunication use.

- 8 By 30 September 2022, six quarters' worth of information was received, allowing the TRA to undertake some of the benchmark comparisons in this year's Market Development report. The reporting framework has also proved useful for the TRA's support for the Government's reporting under its Financing Agreement with the World Bank on the progress of the Digital Federated States of Micronesia Project.
- 9 The licensees are generally acting in good faith to provide the requested information. However, the TRA has found it necessary to proactively remind licensees of reporting due dates due to frequent delays in the submission of the requested information. Minor reporting errors are also found occasionally, requiring the TRA to query the respective licensee. The repeated noncompliance led the TRA to remind the licensees of their reporting obligations during an operator's workshop in April 2023. The TRA will continue to work closely with the licensees to ensure all data is provided accurately and in a timely way.

Bottleneck Facility determination

- 10 In 2022, the TRA finished consultation on and published the Bottleneck Facility determination. The determination rules that all submarine fiber optic cable facilities and all fiber-to-the-premise network facilities that were built by 9 May 2022 (the date of the decision) are bottleneck facilities. This is an important step towards testing whether, and if necessary, helping ensure, a level playing field exists for licensees relying on fiber assets to provide retail telecommunication services to end users. Up to the end of September 2022, the TRA:

- received and considered written comments on consultation papers
- released the draft bottleneck facility determination for feedback
- received and considered written comments on the draft bottleneck facility determination
- held a second public conference, and considered the feedback received at that conference
- Published the Bottleneck Facilities Determination through the Administrative Procedure Act (APA) process.

Amended Interconnection and Access Rules

- 11 On 26 July 2022, the TRA released an amended version of the Interconnection and Access Rules, 2019, following the APA process. The Interconnection and Access Rules, 2019 set out the processes, mechanisms, and rules for interconnection and access agreements and disputes between licensees.
- 12 The Interconnection and Access Rules, 2019 were amended to align with the recently finalized Bottleneck Facility determination.

2023 TRA Consultants' Mission

- 13 In April 2023, the TRA hosted its international consulting team in Pohnpei. The 2023 TRA Mission was the first time the TRA was able to have the team in-country since its formation due to previous pandemic-related international travel restrictions.
- 14 During the Mission, the TRA held workshops with three groups of telecommunications stakeholders: telecommunications operators, members of the public, and officials from the Department of Transportation, Communications and Infrastructure.

- 15 The workshops allowed the TRA to share important market updates with key stakeholders, better understand problems and concerns within the industry, and discuss, in person, ways that stakeholders and the TRA can work together to produce better outcomes for consumers.

2023 online consumer survey

- 16 In late 2022, the TRA commenced planning for an online consumer survey. The survey forms part of the TRA's information collection toolbox to better understand the FSM telecommunications market. The survey focuses on consumers' experiences with their service providers and will allow the TRA to collect demographic information about consumers that is not picked up in the operators' quarterly information reporting framework. The survey results will also help the TRA support the Government's reporting requirements under its Financing Agreement with the World Bank on the progress of the Digital Federated States of Micronesia Project.
- 17 In January 2023, the TRA contacted several companies to request a budget and proposal for an online consumer survey.
- 18 In March 2023, the TRA signed a contract with Pasifika Communications, a Fiji-based marketing firm with experience in the FSM telecommunications market, to prepare and conduct a 1-month long online survey.
- 19 On 17 April 2023, the FSM Digital Connectivity Survey was launched and remained active until 11.59 PM on 24 May 2023. The survey finished with 752 unique submissions.
- 20 As of the end of May 2023, the TRA is awaiting the final survey results report from Pasifika Communications.

Starlink letter of no objection

- 21 In May 2022, representatives of the SpaceX satellite internet program, Starlink, contacted the TRA to express interest in providing satellite internet services in FSM.
- 22 The TRA responded to SpaceX on 11 May 2022 with an outline of the steps required to obtain an Operating License.
- 23 On 7 October 2022, SpaceX requested a Letter of No Objection to begin testing its systems in a limited number of locations in the FSM, including testing "*service in schools, hospitals, and more*".
- 24 The TRA responded to SpaceX's request on 26 October 2022 and gave a conditional no objection to the testing provided that SpaceX provides further detail of the scope of the proposed testing, including, but not limited to, the number of terminals proposed to be deployed, the States and locations where the terminals will be deployed, and the charges (if any) users would be expected to pay.
- 25 SpaceX provided the requested information in a letter on 1 December 2022. Subsequently, the TRA responded on 8 December 2022, confirming no objection to the testing.

Involvement in telecommunication disputes

- 26 No new complaints were made to the TRA during the year to 30 September 2022.
- 27 One complaint made to the TRA during the prior year remained unresolved at the start of the year:

- FSMTC filed a dispute that the OAE was unfairly colluding with iBoom.

28 Further details of this dispute, the TRA's actions, and any resolutions are detailed below.

FSMTC complaint regarding allegations of collusion / anti-competitive conduct

29 On 17 May 2021, FSMTC filed a dispute claiming that the OAE colluded with iBoom by subsidizing a competitor to FSMTC, which is anti-competitive conduct contrary to sections 343 and 344 of the Act.

30 On 31 May 2021, the TRA invited FSMTC to provide further information in support of the allegations. On 11 June, FSMTC followed up to the TRA, requesting that the dispute be kept open.

31 In November 2021, the TRA met with OAE, and on 23 November 2021, wrote to OAE posing a number of questions regarding OAE's activities in Yap, including OAE's relationship with iBoom. OAE responded to those questions on 6 December 2021.

32 Separately, FSMTC wrote to the TRA on 10 November 2021, and again on 3 December 2021, asserting unfair competition contrary to section 343 of the Act, and other claims, against OAE. This correspondence, therefore, appeared to follow FSMTC's earlier correspondence from May and June 2021, although FSMTC did not expressly state this.

33 OAE responded to FSMTC's November and December letters on 9 December 2021.

34 TRA addressed FSMTC's claims and OAE's responses by letter dated 21 January 2022. TRA did not agree with FSMTC's claims of anti-competitive collusion or unfair competition, but TRA identified a number of concerns with OAE's pricing practices. While TRA continues to follow up with OAE regarding TRA's concerns, TRA considers this complaint resolved.

Procuring a spectrum analyzer

35 In February 2022, the TRA has enhanced its spectrum capability by procuring a spectrum analyzer. The spectrum analyzer allows the TRA to determine occupied spectrum and track interference sources.

Granting licenses

36 In the year ending 30 September 2022, we issued no new licenses. The TRA has also levied and collected most of the required licensed operator fees for supporting the costs of the TRA. However, two licensee's fees remain outstanding for the financial year ending 30 September 2022.

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

- A list of the licenses issued under the Act and in force as at 30 September 2022;
- A list of the interconnection and access agreements in force as at 30 September 2022;
- A summary of any material litigation involving the TRA; and
- A description of the activities carried out during the year in respect of the universal access plan.

List of Licenses Issued under the Act

38 The licenses currently in force under the Act, as at 30 September 2022, are:

Licensee	Type of license	Date issued	Duration	Specifics
Chuuk Public Utility Corporation (CPUC)	Individual Operating License No. IL-005	1 June 2021	20 years	This license allows CPUC to have terrestrial cable transmission facilities, international gateway services facilities and satellite earth station facilities. The license also authorizes CPUC to provide certain types of communication services, including wireline connectivity, wireless connectivity and data transmission services, wireless connectivity and data transmission services and public internet access services.
Pacific Satellite & Telecommunications Corporation (PACSAT)	Class Operating License No. CL-002	2 December 2020	15 years	This Class Operating License does not authorize the Licensee to construct, own or operate a Specified Communications Network in the FSM. This license authorizes PACSAT to provide certain types of communication services, including wireless connectivity and data transmission services and wireless internet access services.
MCS Pohnpei Inc.	Class Operating License No 001	16 September 2020	15 years	This Class Operating License does not authorize MCS Pohnpei to construct, own or operate a Specified Communications Network in the FSM. This license authorizes MCS Pohnpei to provide certain types of communication services including wireless connectivity and data transmission services, and public internet access services.
Kacific Broadband Satellite(s) International Ltd	Individual Operating License No IL-004	30 June 2020	20 years	This license allows Kacific to have terrestrial cable transmission facilities, terrestrial radio communications transmission facilities, international gateway service facilities and satellite earth station facilities. The license also authorizes Kacific to provide certain types of communication services

Licensee	Type of license	Date issued	Duration	Specifics
				including wireline connectivity, wireless connectivity and data transmission services, and public internet access services.
iBoom	Individual Operating License No IL-003	21 April 2020	20 years	This license allows iBoom to have terrestrial cable transmission facilities, international gateway services facilities and satellite earth station facilities. The license also authorizes iBoom to provide certain types of communication services including wireline connectivity, wireless connectivity and data transmission, and public internet access services.
FSMTC	Individual Operating License No IL-001	14 October 2019	20 years	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. 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.
The OAE	Individual Operating License No IL-002	14 October 2019	20 years	This license allows the OAE to have a communication network including submarine cable and cable landing facilities, terrestrial cable transmission facilities and 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	14 October 2019	20 years	This license authorizes FSMTC to provide services at certain

Licensee	Type of license	Date issued	Duration	Specifics
	No FL-MC-001			frequencies and to specific spectrum blocks.

List of Interconnection and Access Agreements

- 39 Section 319(5)(b) of the Act requires the TRA annual report to list the interconnection and access agreements then in force.
- 40 The only interconnection and access agreement in force (and which predates the establishment of the TRA) is the Deed Granting Indefeasible Rights of Use (IRU Deed) relating to certain strands of the HANTRU-1 Cable and access to cable landing stations, entered into between the OAE and the FSMTC dated 2 February 2018.

Material Litigation

- 41 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 2022.

Universal Access Plan Activities

- 42 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.
- 43 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.
- 44 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.
- 45 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 increased 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.

- 46 On 21 April 2020, the 21st FSM Congress approved a World Bank grant which would see significant investment by the OAE into bringing fiber 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.
- 47 Once the details of the types of infrastructure and services that will be provided are published (expected to be in 2022/23), 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

APA	The Administrative Procedures Act
CLS	Cable Landing Station
CPUC	The Chuuk Public Utility Corporation
DTC&I	The Department of Transportation, Communications, & Infrastructure
FSMTC	Telecommunications Corporation of the Federated States of Micronesia
IRU	The Indefeasible Rights of Use Deed
ISP	Internet Service Provider
PACSAT	Pacific Satellite & Telecommunications Corporation
The Act	The FSM Telecommunications Act of 2014
The FSM	The Federated States of Micronesia
The OAE	FSM Telecommunications Cable Corporation
The TRA	The Telecommunication Regulation Authority

Annex – Members of the TRA

Two members of the TRA were both appointed in 2018. 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 the former Chief Strategy and Investment Officer for FSM Vital Energy, finishing that role in 2021.

Annex – Register of Consultants

48 Several consultants are advisors to the TRA. As of the year ending 30 September 2022, these were:

Name	Position Held	Area of expertise or project responsibilities
Castalia Limited	Consultant	Regulatory Support and Data Collection
AnS	Consultant	Spectrum advisers