



ANNUAL TELECOMMUNICATION REGULATION AUTHORITY REPORT 2021

This annual report covers the financial year ending September 30 2021.

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. 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.
- 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 2021:
 - A summary of TRA activities during the 2021 financial year
 - A list of the licenses issued under the Act and in force as at 30 September 2021
 - A list of the interconnection and access agreements in force as at 30 September 2021
 - 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 FY2021

- 5 This section summarizes the TRA's activities for the year ending 30 September 2021.

Information Reporting Framework

- 6 In 2021, 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 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 only—that is, the TRA does not get information on particular customers and their individual telecommunication use.

- 8 By 30 September 2021, two quarters' worth of information was received and has allowed the TRA to undertake some of the benchmark comparisons set out in this year's Market Development report. Going forward, the reporting framework will also support the Government's reporting under its Financing Agreement with the World Bank for the Digital Federated States of Micronesia Project.
- 9 No significant compliance issues have occurred, with licensees generally acting in good faith to provide the requested information. However, the TRA continues to work closely with the licensees to ensure all data provided fully reflects the concepts intended by the framework, and is provided in a timely way.

Bottleneck Facility determination

- 10 This year, the TRA also commenced a process to consider whether certain types of fiber optic cables and associated equipment should be declared 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 2021, the TRA:
- released a consultation paper on bottleneck facilities
 - received and considered written comments on the paper
 - held a public conference, and considered the feedback received in that conference
 - requested, received and considered additional information from interested parties
 - requested targeted additional clarification from some parties.
- 11 The TRA expects to complete this process in the next financial year.

Involvement in telecommunication disputes

- 12 Three complaints were made to the TRA during the year to 30 September 2021:
- The OAE filed a dispute about access to the Yap Cable Landing Station (CLS)
 - The OAE filed a dispute about whether FSMTC's HANTRU-1 upgrade falls under Section 342 of the Act
 - FSMTC filed a dispute that the OAE was unfairly colluding with iBoom.
- 13 Further details of these disputes, the TRA's actions, and any resolutions are detailed below.
- #### ***OAE complaint regarding access to Cable Landing Stations***
- 14 On 14 January 2021, the OAE wrote to the TRA to complain that FSMTC had blocked access to the CLS in Pohnpei and refused access to the CLS in Chuuk to an OAE repair man, in violation of the Indefeasible Rights of Use (IRU) Deed between the two licensees.
- 15 The TRA sent a Notice of Investigation and requests for information to the parties on 5 February, with responses received on the 16th and 17th of February.
- 16 Following analysis of the submissions, the TRA then issued a Notice of Contravention to FSMTC on 25 February. FSMTC provided comments to the TRA on 11 March 2021.

17 The TRA then provided directions to parties on 15 March and the matter was resolved.

OAE complaint regarding application of Section 342 to the HANTRU-1 upgrade

18 On 14 January 2021, the OAE filed a dispute alleging the FSMTC-initiated upgrade of HANTRU-1 violated the terms of the IRU Deed and should have been subject to Section 342 of the Act.

19 The issue was ultimately resolved in court.

FSMTC complaint regarding allegations of collusion / anti-competitive conduct

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

21 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.

22 As of 30 September 2021, no final resolution had been reached.

Hiring a spectrum adviser and spectrum staff member

23 The TRA has enhanced its spectrum capability by hiring an external spectrum advisor and local spectrum support staff member. On 29 March 2021, AnS were appointed as external spectrum advisers to the TRA. On 28 June 2021, the TRA hired a local Spectrum Officer. The Spectrum Officer commenced training from AnS, which is still ongoing. In July 2021, the TRA commenced procurement of a spectrum analyzer, with that procurement expected to be completed in early 2022.

Granting licenses

24 In the year ending 30 September 2021, we issued licenses to Chuuk Public Utility Corporation (CPUC) and Pacific Satellite & Telecommunications Corporation (PACSAT). These new entrants will increase competition for retail telecommunication services across the FSM.

25 CPUC is primarily focused on providing Internet Service Provider (ISP) services in Chuuk State. CPUC was granted an individual operating license, effective from 1 June 2021 and has not yet commenced retail operations as at 30 September 2021.

26 PACSAT provide ISP services by reselling wholesale satellite services (currently Kacific services). PACSAT was granted a class operating license effective from 2 December 2020.

27 The TRA has also levied and collected the required licensed operator fees for supporting the costs of the TRA.

28 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 2021;
- A list of the interconnection and access agreements in force as at 30 September 2021;
- 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

29 The licenses currently in force under the Act, as at 30 September 2021 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.

Licensee	Type of license	Date issued	Duration	Specifics
				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.
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.

Licensee	Type of license	Date issued	Duration	Specifics
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

- 30 Section 319(5)(b) of the Act requires the TRA annual report to list the interconnection and access agreements then in force.
- 31 The only interconnection and access agreement in force (and which pre dates 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

- 32 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 2021.

Universal Access Plan Activities

- 33 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.
- 34 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.
- 35 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.
- 36 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.

- 37 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.
- 38 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

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 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 the former Chief Strategy and Investment Officer for FSM Vital Energy, finishing that role in 2021.

Annex – Register of Consultants

39 There are several consultants who are advisors to the TRA. As of the year ending 30 September 2021 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
AnS	Consultant	Spectrum advisers