

OPEN AGENDA

No: 15/2020

Memorandum for Economic Development Committee

SUBJECT

Draft Policy For Communication Networks And Services

Memorandum by the Chief Economist

ADVICE SOUGHT Economic Development Committee (EDC) are requested to:

- 1) Endorse the Draft Policy For Communication Networks and Services for 6 week consultation**

BACKGROUND & CONSIDERATIONS

1. Members will be aware that in December 2019 SHG signed a contract with Google to secure a Branch in phase 1 of the Equiano Cable. The capital costs of the branch have been paid for by EDF'11 funding, and the ongoing costs will be paid for by revenues from customer subscriptions via the public electronic communications provider.
2. The broadband service provided from the Branch will be a transformational improvement for St Helena. By switching from a service provided by a geostationary satellite to a service provided by a fibre optic cable, we will move completely away from the need to restrict access by use of data allowances. The economics of the new electronic communications network would predominately be about covering costs through maximising the number of users subscribing to the service.
3. Naturally, the Telecommunications Ordinance needs to be refreshed to get the most out of St Helena's transformational digital modernisation. In doing that, a Draft Policy For Communication Networks and Services has been developed to set the framework by which to update the Telecommunications Ordinance.
4. Note that the Policy has not been named the 'Telecommunications Policy' because Communications includes both telecommunications and electronic communications i.e. both telephones, internet and other data transfer.
5. The writing of the draft Policy also comes at a good time as it will help to guide the process of allocating a public electronic communications network and services licence to one or more providers. Currently the telecommunications licence is an exclusive licence issued to Sure South Atlantic until 31 December 2022. The draft Policy reflects that because the customer base in St Helena is very small, it is likely that St Helena will not have more than one company willing to provide communications services and networks at any one time. However, the draft Policy leaves it open in the case that more than one public electronic communications network and services licence is feasibly issued from 2023.
6. It is important to set out the draft Policy For Communication Networks

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and Services prior to moving into the procurement and negotiation stage with regards to the public communications licensee from 2023. This is because SHG needs to be clear under what parameters they expect the public communications provider to work from.

7. The major changes that the Policy recommends includes:
 - Introduction of a **Universal Service Obligation** within the next licence period. SHG must ensure that people and businesses in St Helena have access to services irrespective of their geographical location on St Helena and at a price that does not prohibit access. It is anticipated that this can only be achieved on St Helena through mandatory service obligations placed on the licensed provider of public electronic communication services.
 - Introduction of **Consumer Safeguards and Quality of Service standards** within licence agreements. Communications licensees will be obliged to establish consumer complaints-handling procedures, with the Regulator investigating unresolved complaints; not engage in misleading or deceptive conduct; protect the privacy of users' communications, subject to lawful interception and warrant; protect the confidentiality of users' personal information and publish a Consumer Code that is approved by the Regulator. Furthermore, quality measures will be set that draw on SMART principles and Licensees will be obligated to provide services that meet minimum quality/reliability standards.
 - Introduction of **Price Controls**. Price controls will represent good value for consumers, allow the licensee to earn returns that are fair, properly reflect the risks faced in operating communication services on St Helena and remain simple by focusing on items of greatest value to consumers.
 - An introduction of a **Cable Landing Licence**. The Cable Landing Licence will be granted based upon certain licence terms and conditions including payment of the requisite licence fee and the necessary safety and security considerations having been met.
 - An introduction of a **Communications Regulator** who will be regulating, supervising and enforcing compliance with conditions placed on licensees. They will investigate breaches and take targeted action.
8. Through provision of Universal Service Obligations, Consumer Safeguards and Quality of Service standards and Price Controls, SHG can ensure best value for money for St Helenians whether or not the public communications sector attracts enough private sector players willing to share a small customer base or it continues to be a monopoly from 2023.
9. The Cable Landing Licence will ensure companies connecting their cables to St Helena, albeit not necessarily using the on island network, will contribute to St Helena by paying a licence fee.
10. The Draft Policy has been created, and reviewed by the Fibre Optic

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Cable and Satellite Ground Station Board. The EDC are being asked whether the Draft Policy can be taken for 6 week public consultation to gather feedback from the public and stakeholders. The draft Policy is provided as Annex A to this memo.

11. It is proposed that consultation is undertaken during the period 5 June 2020 – 20 July 2020.

12. The questions for consultation are as follows:

- Question 1: Do you agree with the approach regarding the Regulator's requirements for public engagement?
- Question 2: Do you agree with the proposed rules on Confidentiality of Commercially Sensitive Information? If not, why not?
- Question 3: Do you agree that the landing of any future fibre optic cables should be facilitated by SHG, the Cable Landing Station operator, and licensees? If not, why not?
- Question 4: Do you agree that any new Cable intended to be landed on St Helena should need to be granted a licence? If not, why not?
- Question 5: Do you agree that the Cable Landing Station operator should take the lead in facilitating the connection of the Earth Stations situated on St Helena to the Cable Landing Station? If not, why not?
- Question 6: Do you agree that the provisions of public electronic communication networks and services should be issued for a minimum period of 10 years? If not why not?
- Question 7: Do you agree that the factors outlined here are sufficient enough to decide whether an exclusive licence for the provision of public electronic communications network and services should be issued or not? If not, why not?
- Question 8: Do you agree that private users should be allowed to connect computers, and other devices, within a business, whether that business is on a single site or multiple sites within St Helena, without the requirement of a licence nor permission from the public communications networks and services licence holder/s?
- Question 9: Do you believe that a price cap formula should be set to ensure value for money for consumers? If so what factors should be taken into account when setting a price cap?
- Question 10: SHG intends to protect consumers from bad service through regulation of licensee's activity. What do you think should be in a Consumer Code of Conduct?
- Question 11: Key Quality Indicators measure quality of service. What do you believe to be Key Quality Indicators for the Public Communications and Networks Policy Licensee?
- Question 12: Do you agree that a Regulator should be established with responsibility solely for the communications industry and that they

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should be operationally independent but within SHG? If not, why not?

- Question 13: Do you agree that the Magistrates Court should deal with appeals on the decisions made by the Regulator?
- Question 14 – Do you have any other comments on the Draft Policy and its annexes?

13. As with other consultations undertaken recently, feedback will be requested:

- Through one on one meetings, where these have been requested.
- By online ‘survey monkey’ questionnaire, administered by the Statistics Office.
- At a public meeting arranged during the consultation period. Note that the consultation regarding which led to the ‘needs and delighters’ which was endorsed by EDC, took place in July 2019. Therefore we already have feedback on what public expectations are of the communications sector post 2023. This public feedback will therefore be targeted to the contents of the Policy. The interest is most likely to come from persons within the IT industry.
- Through the Chamber of Commerce.

14. The Draft Policy will be sent to Sure South Atlantic for comment. It shall be flagged with those providers who submitted Expressions of Interest for providing Communications services in St Helena as per the procurement exercise in 2020. It is suggested that a press release is issued.

15. The Draft Policy will be updated as a result of comments and shall return to EDC for recommendation for Executive Council Endorsement in August 2020.

FINANCIAL IMPLICATIONS

16. There are no financial implications.

ECONOMIC IMPLICATIONS

17. Further economic development on St Helena is conditional on affordable internet access and therefore the delivery of the Fibre project within a modernised Communications legal framework is crucial to economic growth.

18. Delivery of the fibre project is a key action in the Sustainable Economic Development Plan in order to develop the satellite ground station, work from home, academia research and conferences, film location and tourism sectors.

CONSISTENCY WITH

19. This is consistent with the following principles:

1. Make St Helena a desirable and competitive destination to do business

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INVESTMENT POLICY PRINCIPLES	by removing barriers to investment. 3. Support an economy which is accessible to all potential investors and promote investments across the economy.
PUBLIC / SOCIAL IMPACT	20. The recommended Universal Service Obligations within the Policy will ensure that there are positive social impacts arising from awarding Communications licences.
ENVIRONMENTAL IMPACT	21. There are no direct environmental impacts from this decision.
PREVIOUS CONSULTATION / COMMITTEE INPUT	22. None
PUBLIC REACTION	23. The consultation should show good movement in the modernisation of the Communications sector. The potential of awarding another exclusive licence is unpopular, although a potential necessity. This is why the Policy is open to both structures, and the outcome will depend on a process of procurement/negotiation with Communication Providers.
PUBLICITY	24. The consultation will be mentioned in the EDC update. 25. Press Release will be distributed with a link to the Draft Policy on the SHG website. 26. The Company Registry website will be updated to link to the consultation. 27. Sure South Atlantic will be contacted to inform them about the consultation.
SUPPORT TO STRATEGIC OBJECTIVES	28. Link to the 10 Year Plan: Altogether Wealthier goal and Strategic Objective 3.3 Ensure Digital Strategy and Fibre Optic Cable delivers intended benefits to the whole community;
LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS	29. Link to goal 9: Develop the Digital Economy: Open up St Helena to new economic markets by investing in broadband services and infrastructure, work towards delivering a fibre optic cable for the island.
OPEN /CLOSED AGENDA ITEM	30. Recommended for the Open Session.

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Corporate Services
18 June 2020

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