



The Official Gazette

(EXTRAORDINARY)

OF GUYANA

Published by the Authority of the Government

GEORGETOWN, FRIDAY 23RD OCTOBER, 2020

TABLE OF CONTENTS

PAGE

FIRST SUPPLEMENT

LEGAL SUPPLEMENT

A. ACTS — NIL

B. SUBSIDIARY LEGISLATION —

Regulations No. 6 of 2020 – The Telecommunications (Universal
Access and Universal Services) Regulations 2020 1873

C. BILLS — NIL

GEORGETOWN, Demerara – Printed and Published every Saturday and on such
Extraordinary Days as may be directed by the Government by Guyana National Printers
Limited, 1 Public Road, La Penitence, Greater Georgetown.

FRIDAY 23RD OCTOBER, 2020

THE OFFICIAL GAZETTE 23RD OCTOBER, 2020
LEGAL SUPPLEMENT — B

GUYANA

No. 6 of 2020

REGULATIONS

Made Under

THE TELECOMMUNICATIONS ACT 2016

(Act No. 18 of 2016)

**IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTIONS 43, 80 AND 85 OF THE
TELECOMMUNICATIONS ACT 2016 I MAKE THE FOLLOWING REGULATIONS:-**

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

PRELIMINARY

1. Citation.
2. Interpretation.
3. Scope of Regulations.

PART II

UNIVERSAL ACCESS AND UNIVERSAL SERVICES

4. Objectives.
5. Universal access and universal services obligations.
6. Networks and services to which universal access and universal services apply.
7. Termination of the offering of a network or service subject to universal access or universal services obligations.

PART III

**FUNCTIONS OF THE MINISTER, THE AGENCY AND
THE FUND ADVISORY COMMITTEE**

8. Functions of the Minister.
9. Functions of the Agency.
10. Fund Advisory Committee.

PART IV

**BIENNIAL UNIVERSAL ACCESS AND
UNIVERSAL SERVICES PLAN**

11. Content of the Plan and procedure for its development, approval and publication.

PART V

UNIVERSALITY FUND

12. Purpose of the Fund.
13. Administration of the Fund.
14. Resources of and contributions to the Fund.
15. Budgeting and accounting requirements of the Fund.
16. Procedure for awarding subsidies for projects.
17. Disbursement and use of funding.

PART VI

**OFFENCES, PENALTIES AND OTHER
ENFORCEMENT MEASURES**

18. Penalty and other consequences of failure to perform a contract supported by the Fund.
19. Penalty and other consequences of failure to comply with mandatory obligations.
20. Penalty for failure to submit audited financial statements.
21. Penalty for furnishing false information.
22. General penalty.
23. Continuing offences.
24. Power to institute proceedings.

SCHEDULE 1: Contributions to the Universality Fund.

SCHEDULE 2: Public Telecommunications Networks and Public Telecommunications Services to which the obligations Of Universal Access and Universal Services apply.

PART I**PRELIMINARY**

- Citation. 1. These Regulations may be cited as the Telecommunications (Universal Access and Universal Services) Regulations 2020.
- Interpretation. 2. In these Regulations -
- "Biennial Universal Access and Universal Services Plan" and the "Plan" mean the plan to be developed by the Agency and approved by the Minister in accordance with Part IV of these Regulations;
- "contributor" means every operator and service provider and such other telecommunications undertakings as the Minister may designate in accordance with regulation 14(1)(b) and (2)(b);
- "disability" and "differently-abled" have the same meaning as in section 2 of the Persons with Disabilities Act, as applied to the telecommunications context;
- "Fund" has the same meaning as "Universality Fund" in section 2 of the Act;
- "Fund Advisory Committee" and the "Committee" have the meaning provided in regulation 10.
- Cap. 36:05
- Scope of Regulations. 3. (1) These Regulations shall govern the administration, financing and requirements of the provision of universal access and universal services, for the purpose of achieving the objectives set out in the Act and in regulation 4 and the other provisions of these Regulations.
- (2) These Regulations shall apply to every operator and service provider, and to such other contributors as the Minister may designate in Schedule 1 in accordance with regulation 14(1)(b) and (2)(b), with respect to universal access and universal services.
- Schedule 1

PART II**UNIVERSAL ACCESS AND UNIVERSAL SERVICES**

- Objectives. 4. The objectives of universal access and universal services shall be to -
- (a) ensure that all persons in Guyana, irrespective of their income and including persons residing in remote areas, impacted by disabilities, or faced with socio-economic challenges, have access to public telecommunications networks and public telecommunications services, including a high-quality public telephone service and the internet;

- (b) promote the education, health, economic and social development of all persons in Guyana;
- (c) contribute to national integration; and
- (d) promote technological innovation and competition in the provision of public telecommunications networks and public telecommunications services.
- Universal access and universal services obligations.
5. (1) The Minister may, after seeking the advice of the Agency -
- (a) designate, by order, universal access and universal services obligations that shall be mandatory for some or all operators and service providers whose licences authorise them to operate the relevant type of public telecommunications networks or provide the relevant type of public telecommunications services;
- (b) include universal access and universal service obligations in licences granted to operators and service providers; and
- (c) select, through competitive selection processes, operators and service providers to carry out projects to provide public telecommunications networks and public telecommunications services intended to achieve the objectives of universal access and universal services, with funding provided from the Universality Fund in accordance with these Regulations.
- (2) The obligations to provide public telecommunications networks and public telecommunications services, and to contribute to the Universality Fund under regulation 14, in order to achieve the objectives of universal access and universal services shall be applied on a transparent and non-discriminatory basis as between all similarly-situated operators of telecommunications networks and providers of telecommunications services and other telecommunications undertakings in accordance with the Act, these Regulations, and the Telecommunications Code.
- (3) (a) The Biennial Universal Access and Universal Services Plans developed by the Agency and approved by the Minister under Part IV of these Regulations shall specify the projects that shall be eligible for funding from the Universality Fund, pursuant to competitive selection processes.
- (b) Operators and services providers shall, at their own cost, implement universal access and universal services obligations designated pursuant to subregulation (1)(a) and (b), except to the extent that such obligations may be available for funding

pursuant to regulation 16(7).

(4) Subject to the approval of the Commission, a contributor may charge or otherwise pass on to consumers and other users only those proportional amounts of its actual contributions made to the Universality Fund, and the actual cost to it of carrying out any universal access and universal service obligations under subregulation (1)(a) and (b), but not including any subsidies from the Fund pursuant to the *proviso* to regulation 12 or pursuant to regulation 16, such that the contributor does not recover through such passed-on amounts any more than such actual contributions or such actual cost of carrying out such obligations.

Networks and services to which universal access and universal services apply.

6. (1) The requirements of universal access and universal services shall apply to the public telecommunications networks and public telecommunications services set out in Schedule 2.

Schedule 2

(2) The Minister may, after seeking the advice of the Agency and subject to section 85(2), amend by order Schedule 2, to supplement the details of the public telecommunications networks and public telecommunications services set out in the Schedule, or to add other public telecommunications networks and public telecommunications services to which the requirements of universal access and universal services shall apply.

Termination of the offering of a network or service subject to universal access or universal services obligations.

7. (1) An operator shall not cease operating a public telecommunications network, and a service provider shall not cease providing a public telecommunication service, to which any obligation of universal access or universal services applies without the prior written consent of the Minister.

(2) An operator or a service provider that wishes to terminate the operation of a public telecommunications network or the provision of a public telecommunications service to which an obligation of universal access or universal services applies shall send to the Minister written notice of its desire to terminate operating such network or providing such service, no later than one hundred and eighty days prior to the date on which termination is desired, specifying which public telecommunications network or public telecommunications service it proposes to terminate, the users who are being served by such network or service, the operator's or service provider's reasons for proposing the termination, and the effect that such termination would have on such users.

(3) Simultaneously with sending the written notice to the Minister required under subregulation (2), the operator or service provider shall publish a notice of the proposed termination in a daily newspaper of national circulation in Guyana, and the Agency shall publish a notice of the proposed termination in the *Gazette*, containing-

- (a) the information required for a notice under subregulation (2); and
- (b) the date, to be specified by the Agency to the relevant operator or service provider, by which interested persons may submit to

the Agency written comments regarding the proposed termination, which date shall be not less than twenty-eight days from the date on which both notices required under this subregulation will have begun,

and the Agency shall make copies of any written comments received available to the operator or service provider proposing such termination and to the public, upon payment of the cost of duplication of such comments by cheque or other immediately available funds.

(4) The Minister may hold any hearing that he concludes is necessary or appropriate in connection with a request for termination at which the operator or service provider proposing such termination and interested persons may present their views.

(5) In determining whether to approve or deny a request for termination under the Minister shall take into account the written notice submitted by the operator or service provider under subregulation (2), any written comments submitted by interested persons under subregulation (3), any oral submissions made at any hearing held pursuant to subregulation (4), and the advice of the Agency.

PART III

FUNCTIONS OF THE MINISTER, THE AGENCY AND THE FUND ADVISORY COMMITTEE

Functions of the
Minister.

8. The Minister shall -
- (a) develop and review policies and positions with regard to universal access and universal services;
 - (b) take into account when determining, under section 43(1) of the Act, the public telecommunications networks and public telecommunications services in respect of which the requirement of universal access and universal services shall apply, the following additional factors –
 - (i) any Biennial Universal Access and Universal Services Plan that may be in effect, and if no such Plan is in effect at the relevant time, the factors set out in paragraph 11(1);
 - (ii) the universal access and universal services obligations that have, or should be, designated to be performed by operators and services providers under regulation 5(1)(a) and (b); and
 - (iii) the advice of the Agency;
 - (c) review and approve the Biennial Universal Access and Universal Services Plans submitted to him by the Agency, and determine the

manner in which public telecommunications networks and public telecommunications services shall be provided through projects funded from the Universality Fund, to achieve the objectives of universal access and universal services;

- (d) determine, pursuant to regulation 5(1)(a) and (b), which obligations intended to achieve the objectives of universal access and universal services shall, by order, apply to some or all operators and service providers; which obligations shall be included in a licence granted to any given operator or service provider; and which such obligations, if any, shall be eligible for funding from the Universality Fund;
- (e) approve or deny, pursuant to regulation 7, requests to terminate the operation of a public telecommunications network or the provision of a public telecommunications service whose purpose is to meet the requirements of universal access and universal services;
- (f) oversee the Agency in the performance of its functions under these Regulations; and
- (g) have the power to do anything which, in his reasonable opinion, is calculated to meet the objectives of universal access and universal services.

Functions of the Agency.

9. The Agency shall -

- (a) advise the Minister, and implement his directions, policies and positions, regarding universal access and universal service;
- (b) liaise and consult with the Fund Advisory Committee and other stakeholders on the status of telecommunications technologies, markets, and other relevant developments, and on projects to be included in the Biennial Universal Access and Universal Services Plan;
- (c) develop, and submit for approval by the Minister, the Biennial Universal Access and Universal Services Plans;
- (d) prepare and give effect to competitive selection processes pursuant to regulation 16;
- (e) identify, and advise the Minister on, obligations intended to achieve the objectives of universal access and universal services that may be included in the licences of specific operators or service providers, or made mandatory for some or all operators and service providers, and which, if any, of those obligations may be supported, in whole or in part, with funding from the Universality Fund;

- (f) monitor the performance of -
 - (i) universal access and universal services projects carried out with funding from the Universality Fund and enforce compliance with the terms of contracts for such projects;
 - (ii) mandatory universal access and universal service obligations of operators and service provider pursuant to regulation 5(1)(a) and (b);
- (g) implement, monitor and enforce the assessment, payment and collection of contributions to the Fund;
- (h) prepare, submit to the Minister for his approval, and maintain in any Telecommunications Code that may be issued, up-to-date rules, procedures, guidelines and other requirements for the effective implementation of the objectives of universal access and universal services, not inconsistent with these Regulations;
- (i) by the thirtieth of April in each year, publish an annual report on the status of achieving the objectives of universal access and universal services, including -
 - (i) details of the implementation of universal access and universal services obligations and projects, and their impact;
 - (ii) details of projects supported with subsidies from the Fund;
 - (iii) information on any other projects being planned and implemented by other government authorities, non-governmental organisations and the private sector that would impact achieving universal access and universal services;
 - (iv) the audited financial statements of the Fund; and
- (j) perform any other function allocated to it in these Regulations or requested by the Minister with regard to universal access and universal services.

Fund Advisory
Committee.

10. Committee.

- (1) There is established a body to be known as the Fund Advisory
- (2) The Committee shall consist of not more than fourteen individuals as follows -
 - (a) the Director, who shall be the Chairman of the Committee;

- (b) one representative each of -
 - (i) the Ministry of Finance;
 - (ii) the Ministry of Home Affairs;
 - (iii) the Ministry of Human Services and Social Security;
 - (iv) the Ministry of Health;
 - (v) the Ministry of Education;
 - (vi) the Ministry of Local Government and Regional Development;
 - (vii) the Ministry of Amerindian Affairs,
designated by the Minister with responsibility for such Ministries and approved by the Minister;
- (c) one representative of consumer advocacy groups, appointed by the Minister;
- (d) two representatives of dominant and jointly dominant operators and service providers and one representative of non-dominant, non-jointly dominant operators and service providers, appointed by the Minister; and
- (e) one other member as the Minister deems appropriate.

(3) The Committee shall serve as a consultative and advisory body to the Minister and the Agency with regard to -

- (a) the identification of projects which are intended to achieve the objectives of universal access and universal services;
- (b) the matters set forth in regulation 11(1); and
- (c) any other matter referred to it by the Minister or the Director.

(4) The Committee may regulate its own procedure and may carry out its functions through subcommittees appointed by the Chairman of the Committee, which subcommittees, after consideration of any designated issue, shall report back to the Committee as a whole.

(5) The Committee shall meet whenever requested by the Director, but in

any event at least quarterly.

PART IV

BIENNIAL UNIVERSAL ACCESS AND UNIVERSAL SERVICES PLAN

Content of the Plan
and procedure for its
development,
approval and
publication.

11. (1) The Agency shall develop a Biennial Universal Access and Universal Services Plan for projects which are intended to achieve the objectives of universal access and universal services over each successive two-year period, taking into account -

- (a) the socio-economic, educational, health, and other developmental needs of population groups in specific geographical areas with regard to telecommunications;
- (b) the telecommunications needs of schools, health care facilities, other institutions and organisations, and the business community in specific geographical areas;
- (c) the extent to which a project includes special arrangements for persons who are blind or are otherwise differently-abled;
- (d) market demand and other economic factors, including the ability to provide public telecommunications networks and public telecommunications services at affordable rates and on a self-sustaining basis, and an analysis of whether the project would not be undertaken by operators or service providers under market conditions;
- (e) a cost-benefit examination of each project, including its estimated cost (design, construction, operation and maintenance) and the economic, social and developmental benefits of the project to the relevant population, institutions and organisations, and business community, and to Guyana as a whole;
- (f) the extent to which a project will contribute to national integration, introduce appropriate technology, and promote competition;
- (g) the extent to which each project is consistent with the Government's then-existing policies and positions for universal access and universal services, and any considerations that might warrant a revision to such policies and positions in order to accommodate a project;
- (h) the extent to which projects should be undertaken on a shared access or staged basis;

- (i) the extent to which subsidies from the Universality Fund would be needed to accomplish each project, and the type of competitive selection processes that should be utilised in each case;
 - (j) any plans or programmes for projects related to universal access or universal services by Ministries, regional and local governments, and non-governmental organisations;
 - (k) the existing universal access and universal services obligations of operators and service providers; and
 - (l) the advice of the Fund Advisory Committee and any information developed through consultations with other public and private sector organisations and groups.
- (2) The Agency shall submit the draft Biennial Universal Access and Universal Services Plan to the Minister for the Minister's review and approval -
- (a) within the one hundred and eighty days following the appointed day, in the case of the first Plan; and
 - (b) in the case of every subsequent Plan, by the thirty-first day of January in every two-year period, beginning with the first thirty-first day of January that is more than eighteen months after the appointed day.
- (3) Notwithstanding the projects identified in an approved Biennial Universal Access and Universal Services Plan, the Agency may recommend to the Minister, and the Minister may approve, amendments to the Plan within any biennial period, to -
- (a) include projects whose implementation should not be delayed until the next biennial period, including, subject to any binding obligations to which resources from the Fund have already been committed in writing, projects that shall be eligible to receive subsidies from the Fund; and
 - (b) eliminate projects within an approved Plan that are no longer viable or should be postponed.
- (4) Upon approval by the Minister of each Plan and any amendments to any Plan pursuant to subregulation (3), the Agency shall -
- (a) post each such Plan and any such amendments on its website; and
 - (b) make copies of each such Plan and any such amendments

available to the public, upon the payment of the cost of duplication by cheque or other immediately available funds.

PART V

UNIVERSALITY FUND

Purpose of the Fund. **12.** The Agency shall establish a Universality Fund, whose purpose shall be to provide funding to supplement private investment in public telecommunications networks and public telecommunications services in order to achieve the objectives of universal access and universal services:

Provided that, over a period of not more than three years from the appointed date and with the approval of the Minister if he deems it warranted based upon data and other information provided by a relevant service provider or developed by the Agency or the Commission, the Fund may be utilised, in the sole discretion of the Minister, to subsidise the retail prices charged for fixed wire public telecommunications services, to provide assistance in such prices reaching economic levels.

Administration of the Fund.

- 13.** (1) The Fund shall be administered by the Agency.
(2) The financial year of the Fund shall be the calendar year.

Resources of and contributions to the Fund.

- 14.** (1) The resources of the Fund shall consist of -
- (a) the annual contributions from each operator and service provider in the percentage of gross annual revenues provided for in Schedule 1, subject to the maximum percentage set out in subregulation (2)(a);
 - (b) any annual contributions from any persons operating private telecommunications networks or providing telecommunications services or value added services, and other telecommunications undertakings that the Minister determines shall contribute to the Fund in all cases subject to the maximum percentage set out in subregulation (2)(b);
 - (c) any penalties that may be imposed by the Agency and paid over to it under regulations 18(b) and 19(b);
 - (d) funds that may be provided to the Fund under any appropriation law; and
 - (e) any grants, donations, loans, bequests or other contributions to the Agency for purposes of achieving universal access or universal services.

Schedule 1

Schedule 1

(2) The Minister may after seeking the advice of the Agency and subject to section 85(2), amend by order, Schedule 1, to –

- (a) change the percentage provided for in the Schedule 1 up to a maximum of three percent; and
- (b) require persons operating private telecommunications networks and providing private telecommunications services and value added services, and other telecommunications undertakings as the Minister may determine, to contribute to the Fund, in all cases up to a maximum of three percent of gross annual revenues.

(3) By the thirty-first day of January in each financial year after the year in which the appointed day occurs, the Agency shall review and make recommendations to the Minister regarding whether the percentage of gross annual revenues contributed to the Fund by operators and service providers should be changed, and whether persons operating private telecommunications networks or providing private telecommunications services or value added services, or any other telecommunications undertakings should be required to contribute to the Fund and in what percentages of their gross annual revenues.

Schedule 1

(4) Any change to Schedule 1 shall become effective for the calendar year after the order is issued.

(5) Each contributor shall submit its audited financial statements for its just-ended financial year to the Agency -

- (a) in the year in which these Regulations are brought into effect, by the later of -
 - (i) thirty days after the effective date of these Regulations; and
 - (ii) three months after the end of the contributor's financial year; and
- (b) in every subsequent year, not later than three months after the end of the contributor's financial year.

(6) Within twenty-eight days of receiving audited financial statements from a contributor pursuant to subregulation (5)(a) or (b), as the case may be, the Agency shall issue an invoice to the contributor for the amount that it must pay to the Universality Fund for the year in which such financial statements are required to be provided to the Agency.

(7) The contributor shall pay to the Agency the amount for which an invoice is issued under subregulation (6) within twenty-eight days of the date of the invoice,

and such amount shall be deposited by the Agency in the bank account provided for in regulation 15(1).

Budgeting and
accounting
requirements of the
Fund.

15. (1) The Fund's resources shall be kept in a single bank account at a commercial bank in Guyana, separate and independent from the other operating accounts of the Agency, and shall be disbursed only upon authorisation of the Agency for specific obligations for carrying out approved Fund projects and other Fund-related activities.

(2) The Agency shall prepare an annual budget for the Fund based on the projects in the then-current Biennial Universal Access and Universal Services Plan approved to receive funding from the Fund, and shall, no later than the first of November in each year after the appointed day, submit such budget to the Minister for approval.

(3) If, in the opinion of the Agency, the total contributions to the Fund in any financial year are not, or will not be, sufficient to fully implement the approved projects scheduled for implementation in that year, the Agency, with the approval of the Minister, may reschedule the implementation of such projects for the following financial year.

(4) If the total contributions to the Fund in any financial year exceed the cost of implementation of the projects approved to receive funding in that year, the Agency may, subject to the approval of the Minister, undertake any one or a combination of the following steps -

- (a) apply such excess towards the funding of projects scheduled for implementation in the Plan during the following financial year;
- (b) develop new universal access and universal services projects and recommend them to the Minister for inclusion in an amended Plan pursuant to regulation 11(3);
- (c) expand the budget for the implementation of approved projects scheduled for implementation during the following financial year; and
- (d) on a non-discriminatory basis, temporarily suspend the obligations of contributors to contribute to the Fund until excess funds have been utilised.

(5) The Agency shall establish and maintain separate books and records, in accordance with international generally accepted accounting principles and international financial standards, for all projects and other authorised activities subsidised from the Fund and the costs related to operation and administration of the Fund.

(6) The accounts of the Fund shall, at the end of each financial year, be audited as required by law for government-administered resources or, if no such requirement exists, by an independent auditor appointed by the Agency with the approval of the Minister.

(7) The Agency shall publish its audited accounts on its website and make copies of such accounts available to the public upon the payment of the cost of duplication upon payment by cheque or other immediately available funds.

Procedure for
awarding subsidies
for projects.

16. (1) Except as provided for in subregulations (6) and (7), subsidies for universal access and universal services projects included in an approved Biennial Universal Access and Universal Services Plan shall be awarded on the basis of a competitive selection process and shall be disbursed under a written contract to be concluded between the Agency and the winning bidder for the performance of the relevant project.

(2) The procedure for a competitive selection process shall include -

- (a) preparation of a tender document by the Agency, which shall include the rules and procedures for the tender and provide -
 - (i) a detailed description of the universal access or universal services project for which a subsidy is being offered;
 - (ii) transparent evaluation criteria and, if applicable, associated weightings that will be used to select a winning bidder;
 - (iii) the contractual terms and conditions that will govern the winning bidder's implementation of the project, including a schedule of performance by, and the disbursement of correlated payments to, the winning bidder and sanctions where the winning bidder fails to complete the project or otherwise perform the obligations of the contract;
 - (iv) the procedure through which a bidder that does not already hold a licence or frequency authorisation necessary to perform the project shall apply for such licence or frequency authorisation, including any requirement that the winning bidder post a performance bond for completion and performance of the project, in accordance with subregulation (5); and
 - (v) any other matter that the Agency, after consultation with the Minister, shall deem necessary or appropriate to the transparent conduct of the competitive selection process -
- (b) publicly inviting eligible interested parties to submit competitive bids and to demonstrate that they have the

technical, financial, and operational capability and experience necessary to perform the project;

- (c) if deemed appropriate by the Agency after consultation with the Minister, pre-selection of qualified bidders based on their technical, financial, and operational capability and experience in light of the requirements of the project;
- (d) the conduct of information sessions for, and responses to inquiries from, potential bidders, in a transparent and non-discriminatory manner;
- (e) the public opening of bids received, in the manner specified in the tender document issued under paragraph (a);
- (f) a record, made at the time of opening of the bids, including the name of each bidder and any other information as may be specified in the tender document issued under paragraph (a);
- (g) evaluation and, with the approval of the Minister, selection of the winning bidder, applying the selection criteria set forth in the tender document issued under paragraph (a);
- (h) negotiation and execution of a contract with the winning bidder, within a reasonable time after its selection;
- (i) written notification to the unsuccessful bidders, including the results of the evaluation and selection process and the identity of the winning bidder; and
- (j) without prejudice to subregulation (6), postponement or cancellation of the tender process if the Agency, after consultation with the Minister, concludes that none of the bids meets the requirements of the tender document issued under paragraph (a).

(4) The Agency shall evaluate bids and, with the approval of the Minister, select the winning bidder eligible to receive funding from the Fund for the relevant project based upon the rules and procedures, selection criteria and other material parameters set forth in the tender document.

- (5) (a) The provisions of regulation 4 of the Telecommunications (Licensing and Frequency Authorisation) Regulations 2020 shall apply *mutatis mutandis* to the submission and determination of the application by a winning bidder for any licence or frequency authorisation necessary to carry out a project subject to this paragraph and not previously granted to such winning bidder.

- (b) The Minister may require that, as a condition for the issuance of a licence to a winning bidder, such winning bidder post a performance bond to secure the completion and performance of a project subject to this paragraph.

(6) If no bidder responds to the tender document issued by the Agency under this regulation or if, in the opinion of the Agency after applying the relevant selection criteria, no bidder which did respond adequately meets such criteria, the Agency may, with the approval of the Minister, proceed to conclude the contract for the relevant project with an existing operator or service provider that has the technical, financial and operational capabilities and experience necessary, and whose existing infrastructure would require the least build-out, to carry out the project.

- (7) (a) The Agency, with the approval of the Minister, may provide funding from the Universality Fund for the performance, in whole or in part, of designated mandatory universal access and universal services obligations of operators and service providers pursuant to regulation 5(1)(a) and (b), and for the purposes provided for in the *proviso* to regulation 12, without the need for any competitive selection process and in an amount to be determined by the Minister.

- (b) Any funding under paragraph (a) shall be provided under a contract for the performance of the relevant obligation and the utilisation of such funding, to be executed by the Agency, with the approval of the Minister, and the operator or service provider to which the funding is to be provided.

Disbursement and
use of funding.

17. (1) Funding from the Universality Fund shall be disbursed under the contracts between the Agency and the operators and service providers awarded such contracts under regulation 16 as progress payments, against proof satisfactory to the Agency that the operator or service provider has completed specifically-defined stages of the performance and completion of the project.

(2) The Agency shall be responsible for monitoring and ensuring the performance of each contract under which subsidies are disbursed from the Fund, in accordance with these Regulations and the terms and conditions of the contract.

(3) In addition to any fines and penalties provided for in the Act and these Regulations and notwithstanding any performance bond provided pursuant to regulation 16(5)(b), an operator or service provider which fails to perform and complete a contract under which funding has been disbursed from the Fund shall be liable to compensate the Agency in the amount of such funds, any legal costs incurred by the Agency in monitoring and enforcing the contract, and any other damages provided for in the contract.

- (4) Every operator and service provider that has been authorised or

required to perform a project or to carry out any other activities under funding from the Fund shall publish annually, on its website and in at least one edition of a newspaper of national circulation in Guyana -

- (a) a written report detailing its obligations, and the performance of such obligations, under such funding; and
- (b) the contact information for an official designated by the Agency to the relevant operator or service provider, who may be contacted by any person desiring to provide information or lodge complaints regarding the operator's or service provider's performance of its obligations under such funding.

PART VI

OFFENCES, PENALTIES AND OTHER ENFORCEMENT MEASURES

Penalty and other consequences of failure to perform a contract supported by the Fund.

18. An operator or service provider which has failed to perform a contract concluded under regulation 16 in any material respect -

- (a) is deemed to be in breach of the contract, and the Agency may seek such redress as may be available to it under these Regulations and the terms and conditions of the contract;
- (b) commits an offence and is liable on summary conviction to a fine of not less than one million dollars and not more than three million dollars and to imprisonment for a term of not more than two years and, in the case of a continuing offence, to a further fine of not more than five hundred thousand dollars for each day that the offence continues after conviction.

Penalty and other consequences of failure to comply with mandatory obligations.

19. An operator or service provider which has failed to perform, in any material respect, any mandatory universal access or universal service obligation designated pursuant to regulation 5(1)(a) or any such obligation included in its licence pursuant to regulation 5(1)(b) -

- (a) is deemed to be in breach of its licence, and the Minister may, after consultation with the Agency, exercise his powers to suspend or terminate the licence pursuant to section 34 of the Act;
- (b) commits an offence and is liable on summary conviction to a fine of not less than one million dollars and not more than three million dollars and to imprisonment for a term of not more than two years and, in the case of a continuing offence, to a further fine of not more than five hundred thousand dollars for each day that the offence continues after conviction.

Penalty for failure to submit audited financial statements.

20. A contributor who fails to submit its audited financial statements to the Agency as required by regulation 14(4) shall be guilty of an offence and liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

Penalty for furnishing false information.

21. Any person who submits any information to the Agency that is false or misleading in any material respect, in connection with a competitive selection process under regulation 16 or in any other context under these Regulations, a contract concluded under regulation 16, or any other obligations regarding universal access or universal services, commits an offence and is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

General penalty.

22. Every person who contravenes or fails to comply with any of the provisions of these Regulations, but for which a penalty is not specified in these Regulations, commits an offence and is liable on summary conviction to a fine of not less than one million dollars and not more than two million dollars.

Continuing offences.

23. For the purposes of these Regulations, where an offence continues after there has been a conviction, it shall be deemed to be a separate and distinct offence committed each day on which the offence continues and shall be punishable by a fine of not less than five hundred thousand dollars and not more than one million dollars for each such day.

Power to institute proceedings.

24. Without prejudice to the Minister's powers to institute legal proceedings under the Act and these Regulations, the Agency may institute legal proceedings under any provision of this Part.

SCHEDULE 1

rr. 3(2), 14(1), (2) and (4)

CONTRIBUTIONS TO THE UNIVERSALITY FUND

| Percentage of Gross Annual Revenues | Contributor |
|--|--------------------|
| 1% | Operators |
| 1% | Service providers |

SCHEDULE 2

r. 6 (1) and (2)

**PUBLIC TELECOMMUNICATIONS NETWORKS AND
PUBLIC TELECOMMUNICATIONS SERVICES TO WHICH
THE OBLIGATIONS OF UNIVERSAL ACCESS
AND UNIVERSAL SERVICES APPLY**

The obligations of universal access and universal services shall apply to the following public telecommunications networks and public telecommunications services –

1. universal access to a high quality public telephone service, including -
 - (a) a free telephone directory for consumers of such services;
 - (b) a free telephone directory at each pay telephone or other public access point; and
 - (c) operator directory assistance;
2. twenty-four hour free access to emergency telecommunications services; and
3. as the Minister may specify, special arrangements for persons who are blind or otherwise differently-abled.

Made this 23rd day of October 2020.



Hon. Brigadier Mark Phillips, M.P.
Prime Minister