Telecommunications Regulatory Commission of Sri Lanka - 2011

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1. Financial Statements

1.1 Qualified Opinion

In my opinion, except for the effects of the matters described in paragraph 1.2 of this report, the financial statements give a true and fair view of the financial position of the Telecommunications Regulatory Commission of Sri Lanka as at 31 December 2011 and its financial performance and cash flows for the year than ended in accordance with Sri Lanka Accounting Standards

1.2 Comments on Financial Statements

1.2.1 Sri Lanka Accounting Standards (SLAS)

The following observations are made.

(a) A statement of changes in equity is an integral part of the financial statements. However, the Commission had not presented this statement as requested by the Sri Lanka Accounting Standard No. 3. Further, it had been brought to the notice of the Commission by my previous year audit report too.

(b) The cash flow from financing and investment activities should be clearly identified and shown separately in the cash flow statement in terms of Sri Lanka Accounting Standard No.9. However, the cash flow from these activities amounting to Rs. 33,002,372,764 had been shown under the investment activities instead of being shown separately.

(c) Although a provision for payment of gratuities amounting to Rs.23,403,160 and the investments made thereon amounting to Rs. 21,533,040 had been shown in the financial statements, the disclosures relating to the retirement benefit plan and the gratuity liability cost had not been made in the accounts in terms of Sri Lanka Accounting Standard No. 16.

(d) According to the amendments made to the Inland Revenue Act No. 10 of 2006 the income of the Commission other than interest income and dividends are exempted from the income tax. However, it had not been disclosed in the financial statements in terms of Sri Lanka Accounting Standard No. 24.

1.2.2 Accounting Deficiencies.

The accounting deficiencies observed in audit are given below.

(a) Telecommunications Levy for the year under review received directly into the bank account amounting to Rs. 11,704,355 and International Outgoing Call Levy receivable amounting to Rs. 31,405,442 had been omitted in the accounts, thus the income for the year had been understated by Rs. 43,109,797 whilst the cash and cash equalant and the accounts receivable for the year under review had also been understated by Rs.11,704,355 and Rs. 31,405,442 respectively.

(b) The cost of building shown in the accounts had been erroneously overstated by Rs. 3,292,300. As a result, the depreciation on building was also overstated by Rs. 164,615

(c) Withholding Tax payable on interest income had been erroneously included for the calculation of interest income in some instances. As a result, the Interest Income and With Holding Tax Payable for the year had been understated by Rs. 185,508

(d) Expenditure relating to the Information and Communication Technology Regulatory Capacity Building Project (ICT-RCBP) amounting to Rs. 3,223,683 had been treated as an expenditure of the Commission for the year under review, thus the expenditure had been overstated by that amount.

1.2.3 Accounts Receivable and Payable

The following observations are made.

(a) Accounts Receivables

Balances of accounts receivable as at 31 December 2011 amounted to Rs. 1,948,138,756. Of this, balances remaining outstanding for over a period of 01 year amounted Rs 318,674,227 and the follow up action in this regard was at very weak level. An age analysis thereon is given below

Less than 01 year	**Over 01 year and less than 02 years**	**Over 02 years**	**Total**
Rs.	**Rs.**	**Rs.**	**Rs.**
1,629,464,534	47,084,657	271,589,570	1,948,138,756

The following observations are also made in this connection

(i) Out of balances of Accounts receivable a sum of Rs. 1,759,562,017 or 90% of the balances had been represented the amount receivable on Radio Frequency Fees. Of this, a sum of Rs. 105,727,791 had been receivable from Sri Lanka Broadcasting Corporation (SLBC). However, according to the accounts of the SLBC there were no balances shown as payable to the Commission as at 31 December 2011. Further, it was observed that no proper conversation with the SLBC had been carried out to recover or setoff these long outstanding balances.

(ii) Even though a sum of Rs. 271,577,267 shown as amounts remained outstanding for more than 02 years, the actual outstanding period is more than 20 years. Therefore, the recovery of this balance is doubtful. Further, no effective course of action had been taken to recover these long outstanding debtor balances.

(iii) According to the register presented for audit, the number of debtors relating to the Radio Frequency Fees was 917. The confirmation letters had been sent to about 200 debtors by the Commission but only 23 debtors had responded. Meanwhile, according to the books of account of the Commission the balances receivable from two debtors aggregating Rs. 168,812,935, had been stated in the confirmation letters of these debtors as Rs. 125,198,775 thus a difference of Rs. 43,614,160 was observed in audit.

(b) Recoverable Staff Loans

Recoverable staff loan balances as at 31 December 2011 totaled Rs 83,725,710 while according to the information made available for audit the balances remaining outstanding for over a period of 01 year amounted to Rs 2,420,222 Details are shown below.

Category of Loan and Advances	Balance as at 31 December 2011	Amounts outstanding for more than 01 year
	Rs.	Rs.
Distress Loans	21,198,207	983,823
Festival Advances	137,258	-
Motor Vehicle Loans	55,428,682	1,294,405
Housing Loans	5,700,209	-
Motor Cycles Loans	1,261,354	141,994
	83,725,710	2,420,222

The following observation is also made in this regard.

Necessary action had not been taken to recover the distress and motor vehicle loans amounting to Rs. 474,275 recoverable from an officer who had vacated his post during the year 2010.

(c) Accounts Payable

The following observations are made.

(i) Balances of accounts payable as at 31 December 2011 totalled Rs 3,255,142,565 while balances outstanding without being settled for over a period of 01 year amounted to Rs 312,059,587.

(ii) Although advances received from 05 Institutions during the period from 2003 to 2008 amounting to Rs. 307,635,000 had been brought under current liabilities continuously, action had not been taken to settle or taken as revenue of the Commission.

1.2.4 Lack of Evidence for Audit

Accounts receivables and payables, fixed assets, depreciation, telecommunications levies and charges and CESS aggregating Rs. 30,043,711,925 could not be satisfactorily vouched in audit due to non availability of confirmations, updated fixed assets register, register pertaining to computer and accessories, reports of Boards of Survey and independent evaluation reports on levies and charges paid and payable by the Operators.

1.2.5 Non-compliance with Laws, Rules, Regulations and Management Decisions

Instances of the following laws, rules, regulations etc., observed in audit are given below.

Reference to Laws, Rules, Regulations etc.	Non-compliance
(a) Finance Act No. 38 of 1971 (i) Section 13(8)	Although the report under section 13(7)(a) should be considered by the governing body of a public corporation and after such consideration that body shall inform the steps that they have taken or proposed to be taken with regard to the matters pointed out in the audit report within three months of the submission of the report to the corporation, it had not been complied with in respect of the report for the year 2010.
(ii) Section 11 and State Finance Circular No. PF/PE/09 dated 27 June 2000 and Public Enterprises Circular No. PFD/56 dated 27 January 2011.	A sum of Rs. 3,120,000,000 had been invested by the Commission in fixed deposit account in a bank and the Treasury bills during the year under review without being obtained the relevant approval for the investment of excess cash.

(b)	State Finance Circular No. PF/PE/21dated 24 May 2002	Even though a draft annual report including the draft financial statements should be furnished to the Auditor General within 60 days after closure of financial year, it had not been complied with.
(c)	Treasury Circular No. IAI/2002/02 dated 28 November 2002	A register of fixed assets in respect of computers and accessories had not been maintained.
(d)	Financial Regulations (F.R.)	
	(i) F.R. 371 (c)	The Commission had failed to determine the anticipated expenditure before given ad-hoc advances. As a results out of the advances amounting to Rs.1,021,250 given, a sum of 496,664 or 49% had been settled by cash after delaying a period ranging from 3 days to 71 days without being utilized for intended purposes.
	(ii) F.R. 371 (2) (b)	The total amount of 83 ad-hoc advances given in excess of the specified limit of Rs.20,000 totaled Rs.4,519,175
	(iii) F.R. 757 (2)	The Commission had not taken necessary action to appoint a Board of Survey for the year under review and submit the report thereon to the Auditor General.

2. Financial and Operating Review

2.1 Financial Results

According to the financial statements presented, the operations of the Commission for the year under review had resulted in a surplus of Rs.29,350,461,445 as compared with the corresponding surplus of Rs.5,378,271,498 for the preceding year, thus indicating an increase in financial results by Rs.23,972,189,947.

The income of the Telecommunication Levies and charges for the year had been increased tremendously by Rs. 23,836 million and decreased the provision for bad and doubtful debts by Rs. 138 million were the main reasons for the increase of the financial results for the year under review.

2.2 Analytical Financial Review

(i) The summary of income and expenditure of the Commission as compared with the previous year is given below.

Details	for the year ended 31 December 2011	for the year ended 31 December 2010	Variation favorable/(adverse)	Percentage of the variation
Income	Rs. 000	Rs.000	Rs.000	%
Telecommunication Levy	28,185,372	5,704,938	22,480,434	394
Telecom Development Charges	1,774,458	418,436	1,356,022	324
Other Income	91,803	7,187	84,616	1177
Total Income	**30,051,633**	**6,130,561**	**23,921,072**	**390**
Expenditure				
Regulatory Expenses	107,504	63,894	(43,610)	(68)
Operating Expenditure	593,668	688,396	94,728	14
Total Expenditure	701,172	752,290	51,118	**7**
Net effect to the Financial Results	**29,350,461**	**5,378,271**	**23,972,190**	446

(ii) The working capital of the Commission as at 31 December 2011 had increased by 165% as compared with previous year, thus showing unnecessary liquidity assets had been kept with Commission throughout the year under review. Further it was observed that the liquidity ratio as at 31 December 2011 was 1.4: 1 while it was 1.2: 1 as at 31 December 2010

2.3 Performance Review.

The following observations are made.

(a) Two Towers had been constructed in Kokavil and Vavuniya by spending Rs. 292.3 million by the Commission for the purpose of providing facilities for currying out the Telecommunications, Broadcasting and Telecasting activities in the Northern region. However, no income had been earned by the Commission on this capital expenditure during the year under review.

(b) In the aim of implementing the main functions of the TRCSL as referred to in the Sri Lanka Telecommunication (amendment) Act, No. 27 of 1996, a Program was launched with effect from April 2010 to undertake the public complaints relating to misplaced or stolen mobile phones and carrying out the investigation thereon. However, the Commission had failed to implement a proper mechanism to respond the above public complaints. The progress of responding on public complaints for last two years are shown below.

Year	Number of complaint received	Number of Respondent made	Percentage of respondent
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	No.	No.	%
2010	5600	1200	21.4
2011	5400	1900	35.2

In this connection the Director General of the TRCSL had informed me as fallow. “Under the increasing the number of such incidents, the Commission is not in a position to continue this facility”

(c) A person who manufacture, sale, import, offer for sale, deal in, transfer, hire, lease, demonstrate, maintain or repair any telecommunication apparatus should obtain a license issued by the Commission under Section 21 of the Telecommunication Act, No. 25 of the 1991 as amended by Act, No. 27 of 1996. Nevertheless, it was observed that such businesses are operated in various places within the country without obtaining licenses. It was further observed that the Commission did not have proper mechanism or database to investigate and find out the institutions carrying on business without a license and to recover the relevant charges.

(d) A sum of Rs. 180,000 had been continuously brought forward under the work in progress account for last 06 years as renovation of entrance lobby and head office building without being completed such works.

2.4 Operating Review.

Following observations are made

(a) In terms of Extra Ordinary Gazette Notification No. 1686/4 dated 27 December 2010, every Telecommunication Operator should pay a new CESS with effect from 01 January 2011. In view of non indication of the time bar for making the CESS payments to the Commission, the Operators had settled their CESS in time to time. As a result, the CESS receivable to the Commission had been received with a considerable delay. The Director General of the Commission had informed me that according to the prevailing laws there were no legal authorities to impose the surcharges on the delayed payments.

(b) In terms of Section 22(g) of Sri Lanka Telecommunication (Amendment) Act, No. 27 of 1996 every telecommunication operator should pay cess for his licence and the operating license fees in respect of the year specified for him before the 31^{st} of January next year. However, the cess amounting to Rs.206,384,147 payable by 13 entities and the operating charge of Rs.393,808,974 payable by 08 entities had been paid after a period ranging from 21 to 275 days and 23 to 275 days respectively.

Even though it was stated in the licence that an additional charge could be imposed on the delays, action had not been taken to determine and recover such additional charges. However, the Director General of the Commission had reported to the Auditor General on 28 June 2011 that there was no such provision in the existing Act to recover an additional fine on account of delays or non-payment of operating license fees and cess and action will be taken in future to include a methodology in the Telecommunication Act to ascertain the legal powers. However, no action had been taken by the Commission in this regard up to 30 June 2012.

(c) In terms of Extra Ordinary Gazette Notification No. 1680/29 of 19 November 2010, every Telecommunications Operator should pay an International Outgoing Call Levy on or before the date of publish. Whereas, the International Outgoing Call Levy aggregating Rs. 29,089,578 payable by 04 operators had been paid after delaying period ranging from18 days to 135 days.

2.5 Human Resources Management

The approved cadre of the Commission as at 31 December 2011 was 265 while the actual cadre was only 203. However, 20 employees on contract and casual basis had been recruited without the approved cadre and a sum of Rs. 11,777,540 had been paid to them as salaries and allowances during the year under review. Details are shown below.

Category of Staff	Approved Cadre	Actual Cadre	Vacancies	Excess
Executive Level	23	08	15	-
Staff Level	34	20	14	-
Supporting Staff	166	117	49	-
Minor Staff	42	38	4	-
Others (Contract and Casual)	-	20	-	20
	265	203	82	20

The following observation is made in this connection.

A sum of Rs. 208,725 had been paid as acting allowances during the year under review for three officers in respect of vacancies prevailed at the executive level.

2.6 Utilization of Vehicles.

36 vehicles belonging to the Commission as at 31 December 2011 and a sum of Rs.13,464,238 had been spent for fuel and maintenance of vehicles during the year under review. The expenditure incurred during the previous year was only Rs. 12,371,085 and it was 9% increase as compared with the previous year. The following observations are made in this regard.

(i). 06 vehicles valued at Rs. 2,950,000 had not been utilized by the Commission since 2010 and the Commission had taken action on 02 April 2012 to dispose these vehicles by calling public tenders.

(ii). Even though two vehicles valued at Rs. 1,850,000 had met with accidents during the year 2004 and 2010, the action in terms of F.R. 103 to 105 had not been taken in this regard. Further, a vehicle of the Commission had not been utilized for last several years and these vehicles are allowed to be laying in a perishable condition without being repaired.

2.7 Item of a Contentious Nature

Even though the land valued at Rs. 45,000,000 approximately 50% out of the total land in Kadirana, Negombo had been captured by unauthorized parties, the Commission had not taken any action in this regard. Therefore, the accuracy of the cost of land shown in the accounts amounting to Rs. 136,475,809 could not be consider as disclosing the correct position of each land.

3. Accountability and Good Governance

3.1 Corporate Plan

Although the updated copies of the Corporate Plan approved by the Board should be forwarded to the line Ministry (Presidential Secretariat), Department of Public Enterprises, General Treasury and the Auditor General at least 15 days before the commencement of each financial year in terms of Department of Public Enterprises

Circular No. PED/47 of 18 December 2007, the Telecommunications Regulatory Commission of Sri Lanka had not taken action accordingly. According to the un-updated Corporate Plan existed at the Commission, the attention had not been drawn to prepare the Corporate Plan to identify the management responsibility clearly by indicating the significant features such as human resources administration, financial and supplies Divisions and the currently available resources. Meanwhile an action plan and a review of the preceding three years operating results had also not been included in the Corporate Plan. Further, the above Corporate Plan had not incorporated strategies to achieve the Vision, Mission and Objectives of the Commission.

A contract had been awarded to a foreign organization for the preparation of a Corporate Plan and US$ 262,980 or Rs. 22.2 million had been paid in three installments on 06 December 2000, 26 December 2000 and 19 April 2001 respectively. However, the Committee on Public Enterprises in its meetings held on 19 June 2007 and 15 November 2011 had observed that the documents given to the Commission by the Contractor had not in a good quality and it was merely a report prepared for other organization dumped on the Telecommunications Regulatory Commission of Sri Lanka after making few changes. Nevertheless necessary action in this regard had not been taken by the Commission up to 30 June 2012.

The Committee on Public Enterprises in its meeting held on 15 November 2011 had discussed this matter lengthily and instructed the TRCSL to conduct an inquiry with regard to the above and report accordingly.

3.2 Action Plan

Annual action plan clearly identifying the responsibilities of core – staff with target to be achieved and the budgetary allocation relating to the activities carried out during the period had not been prepared by the Commission for the year under review. Therefore the progress of the Commission as a whole could not be properly evaluated in order to take corrective measures and to make necessary changes with the view to achieve the objectives as set for

3.3 Internal Audit

Internal Audit division comprises with 03 officers and headed by a Chief Internal Auditor. Interim internal audit reports and Internal Audit Plan for the year under review had been furnished to the Auditor General.

3.4 Procurement Plan

A procurement plan for the year under review had not been prepared and presented for audit.

3.5 Budgetary Control

The following observations are made

(a) Significant variances were observed between the budgeted and actual figures for the year under review thus indicating the budget had not been made use of as an effective instrument of management control.

(b) Twenty four items in the financial statements presented for audit had not been included in the budgeted financial statements prepared for the year under review.

(c) The cash budget for the year under review had been prepared based on the budgeted cash balance as at end of the previous year instead of being taken the actual cash balance at the end of previous year. Hence, minimum of Rs. 1,000,000,000 difference was observed between the actual and budgeted cash balances throughout the year.

4. Systems and Controls

Deficiencies in systems and controls observed during the course of audit were brought to the notice of the Chairman of the Commission from time to time. Special attention is needed in respect of the following areas of control.

(a) Investments of Surplus Funds

(b) Debtors

(c) Collection of Telecommunications Levies and Charges

(d) Utilization of Vehicles

(e) Investigations on Misplaced or Stolen Mobile Phones