Telecommunications Regulatory Commission of Sri Lanka – 2016

The audit of Financial Statements of the Telecommunications Regulatory Commission of Sri Lanka for the year ended 31 December 2016 comprising the statement of financial position as at 31 December 2016 and the profits and losses and comprehensive income statement, the statement of changes of equity and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory information, was carry out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with Section 13(1) of the Finance Act, No. 38 of 1971 and Section 22(a) (2) of the Sri Lanka Telecommunications (Amendment) Act, No 27 of 1996. My comments and observations which I consider should be published with the Annual Report of the Commission in terms of Section 14(2) (c) of the Finance Act appear in this report.

1.2 Management's Responsibility for the Financial Statements

The management is responsible for the preparation and fair presentation of these financial statements in accordance with Sri Lanka Accounting Standards and for such internal control as the management determines is necessary to enable the preparation of financial statements that are free from material misstatements whether due to fraud and error.

1.3 Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Sri Lanka Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000-1810). Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatements of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. And audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of financial statements. Sub-sections (3) and (4) of Section 13 of the Finance Act, No. 38 of 1971 give discretionary powers to the Auditor General to determine the scope and extent of the audit.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

1.4 Basis for Qualified Opinion

My opinion is qualified based on the matters described in paragraph 2.2 of this report.

2. Financial Statements

2.1 Qualified Opinion

In my opinion, except of the matters described in paragraph 2.2 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 2016 and its financial performance and cash flows for the year then ended in accordance with Sri Lanka Accounting Standards.

2.2 Comments on Financial Statements

2.2.1 Sri Lanka Accounting Standards

Following non-compliances were observed during the course of audit.

(a) Sri Lanka Accounting Standard 01

Even though action should be taken to show the expenses incurred by an entity in the financial statements according to the nature of expenses or the relevance to the functions of the entity as per Section 99 of the Standard, a sum of Rs. 101,575,000 incurred on activities extraneous to the functions of the Commission had been shown in the financial statements as regulatory expenses.

(b) Sri Lanka Accounting Standard 16

(i) An area of about 50 per cent of land 112 acres, 01 rood, and 10.5 perches in extent, which had been shown by a note to accounts during the past 13 years, had been acquired by the Divisional Secretariat, Katana. This had not been disclosed in the financial statements during the year under review.

(ii) The fully depreciated fixed assets amounting to Rs. 473,547,519 was still in use,due to non-reviewing the useful life time of the non-current assets annually. Accordingly, actions had not been taken to revise the estimated error in accordance with the Sri Lanka Accounting Standards 08.

(c) Sri Lanka Accounting Standard 18

As operator licenses had been renewed once a 10 and 05 years, the renewal fee of licenses had been recognized as an income of the year of renewal. However, the accounting policy followed in that connection had not been disclosed in the financial statements. Accordingly, the operator license fees revenue amounting to Rs. 107,708,483 in preceding year had varied up to Rs.1,751,344,170 during the year under review.

(d) Sri Lanka Accounting Standard 23

A loan amounting to US $ 88.66 million had been obtained in the year 2012 for the construction of Colombo Lotus Tower, and a sum of US $ 43.75 million of that had been spent up to the end of the year under review. Even though, a borrowing cost of Rs. 1,987 million had been incurred on the said loan up to the end of the year under review, the qualified amount of borrowing cost that had been capitalized as per the Standard had not been disclosed in the financial statements.

(e) Sri Lanka Accounting Standards 38

Even though computer software shall be included to the financial statements under the Intangible Assets, computer software amounting to Rs. 8,429,774 had been included in the Property Plant and Equipment.

2.2.2 Accounting Deficiencies

The following observations are made.

(a) A sum of Rs.761,531 and Rs. 146,750 incurred on fixed assets for computer networking and purchasing of water pumps respectively during the year under review, had been showed under the renovation and maintenance expenses.

(b) Even though the Value Added Tax payable as at 31 December of year under review amounting to Rs. 60,447,939 as per schedule, it was Rs. 32,931, 752 as per statement of financial position. It had caused to understated that balance by Rs. 27,516,187.

(c) Even though interest received for fixed deposits of retirement benefit amounting to Rs. 3,097,404 during the year under review should be disclosed by adding to the fixed deposit of retirement benefit, it had been added to the investment of the statement of financial position.

(d) Expenses amounting to Rs. 7,568,582 payable by the end of the year under review including the expenses incurred on the consultancy services obtained in connection with the construction of Lotus Tower Project, had not been accounted as accrued expenses.

(e) Receivables amounting to Rs. 3,572,005,795 related to Cess fees, Telecommunication Development Charges(TDC), Outgoing Local Access Charges (OLAC) and Telecommunication Levy had been recognized in financial statements, which were not recognized on accrued basis as per No. 3.4 of notes to the financial accounts.

2.2.3 Un-explained Differences

The following observations are made.

(a) Even though cess fees receivable balance shown in the financial statements in the year under review amounting to Rs. 397,538,451, it was Rs. 395,260,175 as per schedule. Accordingly a difference of Rs. 2.278,276 was observed.

(b) Even though the balance of the salary control account should be zero, it had a balance amounting to Rs. 134,543 at the end of the year under review.

(c) Even though frequency revenue amounting to Rs. 7,496,092,897 as per financial statements, it was Rs. 7,028,943,336 as per monthly tax schedules. Accordingly, a difference of Rs. 467,149,561 was observed.

2.3 Accounts Receivable and Payable

The following observations are made.

(a) Nine institutions had been awarded for use of Kokavil Antenna and Transmission Tower on rent basis and there were no agreements relates to the 05 institutions out of that. Accordingly, there were no any procedure to collect rental and electricity bill receivable and it had taken 3 to 6 years by the end of the year under review. A sum of Rs. 91,665,480 had been paid by the Commission as electricity bills, which should be received from those institutions from the year 2012 to the year under review.

(b) System Operator license fees receivable from two telecommunication operators as at 31 December of the year under review had not been calculated and shown in the financial statements.

(c) Levy and surcharge had not been collected correct manner from 5 operators as per Telecommunication Act No. 21 of 2011.

(d) Due to not having proper procedure to collect frequency revenue, debtors of the Commission amounting to Rs. 341,614,949 had been outstanding over 02 years, out of debtor balance of Rs. 3,212,959,639 at the end of the year under review of the Commission. Balances that remained outstanding over a period of more than 20 years had also been included therein.

(e) The receivable amounting to Rs. 154,438,373 for frequencies provided to the Sri Lanka Broad casting Corporation from 1981 to the year 2016,had been failed to recover.

(f) Annual license fees from 1 March 2008 to 28 February 2009 amounting to Rs. 172,500,000 should be recovered from the Electrotech Limited.

(g) Selection of debtors for sending confirmations had been done without any basis and even though there were 2,619 debtors amounting to Rs.3,212,959,639 as at 31 December of year under review, confirmation had been send only to the 90 debtors. Out of that, 69 debtors represent zero balances and value of the remaining 21 debtors amounting to Rs. 863,061,566.

2.4 Non-compliances with Laws, Rules, Regulations, and Management Decisions

Following non-compliances were observed during the course of audit.

Reference to Laws, Rules, and Regulations	Non-compliance
(a) Section 11 of the Finance Act, No 38 of 1971 and Section 8.2.2 of Public Enterprises Circular No. PED/12 dated 02 June 2003	A sum of Rs. 5,400,000,000 had been invested in fixed deposits by the Commission during the year under review without approval of the Treasury.
(b) Inland Revenue Act No. 10 of 2006 and Public Enterprises Circular No. 03/2016 dated 29 April 2016	Even though the PAYE tax should be remitted to the Department of Inland Revenue after being deducted from the salaries of the relevant officers, a total sum of Rs. 7,231,842 had been remitted from the funds of the Commission during the year under review contrary to that provision.
(c) Financial Regulations of the Democratic Socialist Republic of Sri Lanka	
(i) Financial Regulation 261(3)	The Cash Book should be totalled and the balance ascertained daily. No payments should be recorded in the Cash Book, or a cheque drawn out for payment, unless there is sufficient money available. However balance of Peoples Bank account had been showed negative value of Rs. 115,434,747 as at 31 December of the year under review.

(ii) Financial Regulation 757(2)	A Board of Survey had not been conducted for the year under review and the reports had not been furnished to the Auditor General.
(d) Section 9.3 of Public Enterprises Circular No.PED/12 dated 02 June 2003	Scheme of recruitment had been prepared and used on the approval of the Commission for recruitment of officers and employees to the Commission, without obtaining the consent of the Treasury.
(e) Section 2.3 of Public Enterprises Circular No. PED/03/2015 dated 17 June 2015	Even though a person employed in another entity in addition to his permanent entity, will be paid only 50 per cent of due allowance of second post, total allowance of Rs. 100,000 had been paid to the Chairman of the Commission as allowance for second position according to the commission decision with effect from July 2015.
(f) Circular letter dated 19 February 1990 of the Secretary to the Ministry of Policy Development and Implementation.	All services relating to the legal affairs of Public Corporations, Government Institutions, Business Undertakings and People’s Companies should be done by the Attorney General as decided by the Cabinet of Ministers. Contrary to that, a sum of Rs. 1,349,408 had been paid to persons by the Commission during the year under review for obtaining legal services.
(g) Treasury Circular No. 842 dated 19 December 1978	Details had not been included in the Fixed Assets Register in order to identify the items separately. Even though, Rs. 148,863,771 had been recognized as value of the lands under the Property Plant and Equipment, what are the lands and values of the lands had not been recognized separately.

(h) Government Procurement Guideline of 2006	
(i) Section 2.8.4	Even though, at least one member shall be from line ministry or external to Procuring Entity who is conversant with procurement, all three members appointed for Technical Evaluation Committees were officers of the Commission in 6 occasions for total procurement value amounting to Rs. 15,674,324.
(ii) Section 4.2.1	Even though the Master Procurement Plan and Detailed Procurement Plan should prepared for 3 years and next upcoming year respectively, Annual Procurement Plan had not been prepared as per given format by the Commission.

2.5 Transactions not supported by adequate authorities

--

Following observations are made.

(a) A sum of Rs. 53,329,079 had been paid to the staff, for the year under review as incentive, bonus and house rent allowances based on the decisions taken by the Commission and internal circular, contrary to the Management Service Circular No. 39 dated 26 May 2009.

(b) Even though monthly travelling allowance for non-executive officers amounting to Rs.2,000 had been approved by No. NS CC/3/ABC/24 letter dated 1 June 2007 of National Salary and Cadre Commission, monthly travelling allowance amounting to Rs.6,000 had been paid by the Commission. Accordingly, a total sum of Rs.18,756,408 had been paid during the year under review.

3. Financial Review

3.1 Financial Results

According to the financial statements presented, the financial result of the Commission for the year under review in excess of Rs.54,613,961,089 as compared with the corresponding excess of Rs.47,215,344,134 for the preceding year, thus indicating an improvement of Rs.7,398,616,955 in the financial result of the year under review. The increase in the revenue of license fees, telecommunication levy and telecommunication development charges amounting to Rs.9,516,861,172 had mainly attributed to the above improvement.

Although the increase in the contribution for the year under review amounted to Rs.7,754,827,633 as compared with the preceding year, the increase in the contribution for the year under review amounted to Rs.7,366,312,711 after removal of the effect of frequency upfront fee and effect of Kokavil lease rentals amounting to Rs. 367,346,939 and Rs. 21,167,983 respectively.

3.2 Analytical Financial Review

Significant variances were observed in income and expenditure of the Commission as compared with that of the preceding year.

(a) Interest income on fixed deposits had increased by 438 per cent as compared to the preceding year due to average interest rate on fixed deposits was 6.5 per cent in 2015 and 10 per cent in 2016.

(b) Frequency upfront fees collected from a private institutions amounting to Rs. 367,364,939 had caused to increase the frequency upfront fee by 100 per cent in year 2016.

(c) Increase in economic social responsibility expenses by Rs. 88,661,075 compared to the preceding year had caused to increase the regulatory expenses by 68 per cent.

(d) Lease rental receivable amounting to Rs.13,274,668 from year 2011 from the operators who use the Kokavil Antenna and Transmission Tower, recognized in the year under review had caused to increase that value by 100 per cent.

3.3 Legal proceedings instituted against the Commission

--

Two external institutions had claimed compensation totaling Rs. 47,346,612,000 from the Commission in connection with the non- implementation of the frequency project and breach of contract agreement.

4. Operating Review

4.1 Performance

Following observations are made according to the action plan of the year under review.

(a) Even though, a sum of Rs. 702.5 million had been allocated for three essential programs planned under the spectrum division and Net Safe Child Protection Programme proposed to implement under the legal division which recognized as a social need, such programs had not been implemented.

(b) Progress of providing services to telecommunication operating Companies for improvement of high speed internet capacity was 70 per cent. It had reported that the implementation was done only to the Dialog Company and construction of SE-ME-WE-S underground center of Sri Lanka Telecom had not been completed during the year 2016.

(c) It had obtained only the proposals by the Commission, for the research on telecommunication sector which should be implemented with the support of Universities and Research Institutions of Sri Lanka. It had been reported that the implementation of future activities postponed to the year 2017 due to transfer of officers.

(d) Progress of the E-Nable Information Technology Promotion Programme which was started to implement by the License division was only 50 per cent. It had been informed that remaining works were postponed to the year 2017 due to transfer of officers.

(e) Director General had informed that the International Telecommunication Union Expert Assistance Programme 2015/2016 had been postponed which was proposed to be implementing by license division due to the need of amendments to the Telecommunication Act.

(f) Even though the guideline review of construction of telecommunication towers and use in partnership should be held monthly, only two meetings were held during the year 2016.

4.2 Management Activities

The following observations are made.

(a) Four fixed deposits amounting to Rs.7,000,000,000 had been withdrawn before the maturity for sending the cash to the Treasury, and loss of interest income amounting to Rs. 213,805,480 had been occurred due to withdrawn before maturity.

(b) Cess fees had not been paid by three institutions out of telecommunication operators, in accordance with the Section 22(g) of Telecommunication Act of Sri Lanka and notification published in the Extra Ordinary Gazette No. 1686/4 dated 27 December 2010 of Democratic Socialist Republic Sri Lanka. Out of that, one institute for the year 2012, another institute for year 2015 and 2016 and other one for year 2016, had not paid the cess fees. Even though need of impose a fine from operators who had defaulted to pay the cess fees or delayed making payments had been informed time to time, such procedures had not been prepared up to now.

4.3 Operating Activities

Following observations are made.

(a) Monitoring usage of frequency license of Radio and Television

(i) Due to the fact that the same officer performed all the activities including deciding on what are the institutions to be monitoring the usage of frequency license, monitoring such institutions, recommending the actions for monitored institutions, complain to the Police, and acting as the witness for complain, monitoring of frequency license had not been implemented properly.

(ii) The vehicles given to the Spectrum division for observation activities were not in usable condition. There was interrupts to perform the monitoring activities in effective manner, as those vehicles had been purchased before 16 years.

(iii) Usable vehicle with frequency equipment had checked the usage of frequencies only 8 travel times for 17 institutions from 01 January 2015 to 01 August 2016. Accordingly, this vehicle was underutilized due to lack of frequent use frequency.

(iv) License condition had been imposed, in respect of transfer the radio, television frequency equipment to another party or use under their knowledge had not been allowed without permission of Telecommunication Regulatory Commission of Sri Lanka. Commission had revealed that the equipment of 5 institutions, who received broadcasting equipment, had been acquired and implementing by another institution. However, actions had not been taken in this regard.

(v) It was revealed that, changes had been occurred in the channel name, business name, director board, and address and business registration number of broadcasting Companies / institutions, who received radio and television frequencies. Commission had not followed any procedures to collect information related to such changes and it was observed that the relevant institutions also had not presented that information. In this case, license had been issued by the Commission without confirming changes in ownership of the Companies who received frequencies.

(b) Collecting license revenue from sellers

(i) License should be taken which is issued by the Commission for manufacture, import, sell, offer for sale, deal in transfer, hire, lease, demonstrate, maintain or repair by way of trade any telecommunication apparatus in Sri Lanka as per Section 21 of the Telecommunication Act No. 25 of 1991 amended by Telecommunication Act No. 27 of 1996. Commission had decided that, the fees should be paid when obtaining the license as per notification on Extra Ordinary Gazette No. 1182/12 dated 03 May 2011.

However, it was revealed that different institutions were engaging business activities without obtaining licenses. Out of sample of 90, 79 institutions who engaged in such business activities, had not obtained licenses.

(ii) Even though, 1103 institutions were recorded according to the sellers'information on issued licenses during the period 01 January 2014 to 25 October 2016, licenses of 274 institutions had been expired by 25 October 2016. Even though, it was informed that the letters had been sent to the license holders to renew license in time, actions had not been taken for not renewing licenses.

(c) Even though decision had been taken in year 2013 to establish Control Equipment Identity Register by Telecommunication Regulatory Commission with the aim of avoiding supply of fake phones to the market, it had not been implemented up to date.

(d) Even though, income tax liability of the Commission for year under review amounting to Rs. 321,765,766, any of the quarter payments had not been done during the year. For third and fourth quarters, Rs.125 million each had been paid in delay on 7 April 2017.

4.4 Uneconomical transactions

The following observations are made.

(a) A sum of Rs. 4,700,370 had been incurred from Commission fund during the year under review on accommodation, foods and miscellaneous expenses in respect of the get-together and the trip for the employees and their families.

(b) Even though advertising is adequate at least in one widely circulated national newspaper as per Section 3.2.2 (a) of the procurement guideline, advertisements had been published in 06 newspapers in June 2015 incurring a sum of Rs. 4,213,694 by the Commission in respect of recruitment of employees for 70 staff vacancies. However, recruitments had not been done for these vacancies.

4.5 Transactions of contentious nature

For the production of a film and a tele drama, an activity that was unlikely to be in line with the objective of the Commission, a sum of Rs. 32,191,906 and Rs. 7,160,400 had been incurred on approval of the Commission in year 2015 respectively.

4.6 Procurement and contract process

The following observations are made relates to the Lotus Tower Project.

(a) The Project which had been scheduled to be complete within a period of 912 days by 12 May 2015, the decision had been taken to extend again up to 31 October 2017 by 903 days. Even though Project had not been completed until 31 December 2017, extending the period of contract and charging delay damages as per contract had not been done.

(b) As per the agreement dated 15 February 2013 with the University of Moratuwa for providing consultancy services, 1.5 per cent of the contract value amounting to Rs. 198,691,500 fixed amount had been agreed to pay in installments. Telecommunication Regulatory Commission had agreed to pay Rs. 3 million per month up to maximum of Rs. 72 million due to extend of contract period up to October 2017 and a sum of Rs. 66 million had been paid up to July 2017.

(c) Even though decision had been taken by Cabinet of Ministers dated 14 December 2011 for transfer the land to Telecommunication regulatory Commission by Urban Development Authority on the basis of charging only expenses incurred up to now by the Urban Development Authority for the selected land as a project of national importance, land had not been transferred up to now. However, Commission had agreed to pay a sum of Rs. 11,612 million by 34 years as the value of the land contrary to the Cabinet Decision and a sum of Rs. 2,250 million had been paid as at 31 December 2015.

(d) Even though order given by the Committee on Public Enterprises dated 23 June 2016 to submit a report to the Committee within a month of period including details of benefit obtain, if the Commission does not obtain a loan and this construction is done with the monies of the Commission as per order 9, such report had not been presented. Even though Committee on Public Enterprises dated 23 June 2016 had emphasized to perform internal audit for construction of Lotus Tower, such internal audit had not been performed.

(e) Even though, it is essential to planning the parking facility of vehicles for the Project, planning had not been done for development of such infrastructure in first phase. It was observed that, there will be a loss of potential income as parking facilities have not been implemented at the first phase.

4.7 Personnel Administration

The following observations are made.

(a) Even though the approved cadre of the Commission as at 31 December of the year under review was 292, the actual cadre stood at 207. There were 89 vacancies and the excess cadre was 04. Amendments to the approved cadre and approved recruitment procedure had not been completed and recruitments had not been done for the essential services.

(b) Even though the post of Assistant Accountant is not an approved post, two Assistant Accountants had been recruited on permanent basis on 01 January 2015. In addition to that, there was excess cadre in two Office Assistants.

(c) Action had not been taken to fill the vacancies of permanent cadre including 03 posts of Additional / Deputy Director General and 12 and 07 officers engaged in servicing as at 31 December 2016 on secondary basis and contract basis respectively.

5. Accountability and Good Governance

5.1 Presentation of Financial Statements

Even though, the Draft Annual Report and Accounts should be rendered to the Auditor General within 60 days after the close of the financial year as per Public Enterprises Circular No. PED/12 dated 2 June 2003, financial statements for the year 2016 had been submitted on 10 August 2017. Draft Annual Report had not been furnished with that.

5.2 Tabling of Annual Reports

Annual Report for the year 2014 and 2015 had not been tabled in Parliament even by September 2017.

5.3 Procurement Plan

The following observations are made.

(a) 13 goods items amounting to Rs. 7,375,000 which was planned to buy as per procurement plan, had not been purchased. Director General of the Commission informed that, only the essential goods were purchased by considering the price of the product and actual requirement.

(b) Even though a sum of Rs. 10,000,000 and Rs. 954,000,000 had been allocated to computerize of Finance Division and modernization works of Head Office respectively, that activities had not been performed.

(c) 39 goods items had been purchased amounting to Rs. 10,346,157 which was not included in the procurement plan and 25 items amounting to Rs. 3,579,867 had been purchased by exceeding the estimated cost in 3 occasions.

5.4 Budgetary Control

Positive variance ranging from 11 per cent to 221 per cent and negative variance ranging from 7 per cent to 356 per cent were observed between the budgeted values and the actuals approved by the Commission on 29 December 2015. Furthermore, a sum of Rs.35 million had been incurred in 11 occasions without budgetary allocation. As such, it was observed that the budget had not been made use of as an effective instrument of management control.

6. Systems and Control

Deficiencies in systems and controls observed were reported to the Chairman of the Commission from time to time. Special attention is needed in respect of the following areas of control.

Area of Systems and Controls	Observations
(a) Control of Loans	Existence of loan balances that had remained outstanding for over a long period of time, and recovery of loans remained at a weak level.
(b) Revenue Control	Failure to obtain approval for sufficient legal provisions on the collection of revenue.

(c) Payment of Allowances	Payment of allowances on the decisions of the Commission for incentive, bonus, and house rent allowance without approval of the Treasury.
(d) Contract Administration	Delay in the construction of Lotus Tower on due dates.