Telecommunications Regulatory Commission of Sri Lanka – 2017

The audit of Financial Statements of the Telecommunications Regulatory Commission of Sri Lanka for the year ended 31 December 2017 comprising the statement of financial position as at 31 December 2017 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. A detailed report in terms of Section 13(7) (a) of the Finance Act was issued to the Chairman of the Commission on 31 July 2018.

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 2017 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 to the Sri Lanka Accounting Standards were observed during the course of audit.

(a) Sri Lanka Accounting Standard 01

Even though expenses should be shown in the financial statements by the entity 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. 825,000 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

The fully depreciated fixed assets amounting to Rs. 9,562,937 continued to be used due to non-reviewing the useful life of the non-current assets annually as per the paragraph 51 of the standard. Accordingly, action had not been taken to revise the estimated error as per Sri Lanka Accounting Standard 08.

(c) Sri Lanka Accounting Standard 19

(i) Even though interest income of fixed deposit of retirement benefit obligation amounting to Rs. 5,589,452 should be recognized in the comprehensive income statement as per Section 57 (c) (iii), retirement benefit liability had been overstated and profit of the year had been understated since it had been credited to the retirement benefit obligation account.

(ii) Further, interest income in respect of the fixed deposit had been added to the investments of the commission without adding to that asset.

2.2.2 Accounting Deficiencies

The following observations are made.

(a) A sum of Rs. 21,697,523 had been paid during the year 2018 for the period of 1 November 2017 to 31 October 2018 for software maintenance of the Frequency Management Maintenance Software (FMMS) Project and that total amount had been recognized as expenses and accrued expenses of the year under review. However, expenses and accrued expenses of the year under review had been overstated by that amount since, a sum of Rs. 18,071,362 relevant to the financial year 2018.

(b) Total of expenses amounting to Rs. 4,310,660 including consultancy fees for construction of Lotus Tower Project paid in year 2018 relevant to the year under review had not been recognized as accrued expenses.

(c) Accumulated depreciation amounting to Rs. 2,855,310 had been recorded as at 31 December of the year under review by exceeding the cost of vehicle, since depreciation for year 2010 to 2014 had not been correctly identified for the Rs. 1,795,000 worth of vehicle purchased in year 2010.

(d) Since computer software purchased during the year amounting to Rs. 4,866,987 had been recorded twice, computer software had been overstated by that amount in the financial statements and credit entry of that had been deducted from office equipment renovation and maintenance account. Therefore net profit of the year under review also overstated by Rs. 4,866,987 in the financial statements.

2.2.3 Un-explained Differences

The following observations are made.

(a) Even though the liable turnover for the Nation Building Tax and Economic Service Charge amounting to Rs. 20,586,730,761 as per the tax payment schedules, it was Rs. 20,681,696,557 as per the financial statements and which shows a difference amounting to Rs. 94,965,796. However, reconciliation statements had not been prepared for that.

(b) Even though balance of Value Added Tax control account amounting to Rs.100,761,116 as at 31 December of the year under review, it was amounting to Rs.113,182,122 as per tax schedules. Hence difference was Rs. 12,421,006.

2.3 Accounts Receivable and Payable

The following observations are made.

(a) Surcharge payable of Rs. 813,505 for the delay payment of Telecommunication Development Charges amounting to Rs. 6,779,212 by a Government Owned Company had not been paid even as at 16 July 2018.

(b) Operator License fees from a telecommunication operator amounting to Rs.7,621,129 had not been collected during the year under review.

(c) Action had not been taken to calculate and collect the installments receivable from year 2012 from 4 operators in government sector and a one operator in private sector who use the Kokavil Antenna and Transmission Tower and agreements had not been signed with those operators.

In addition to that, electricity bill amounting to Rs. 93,846, 873 had not been recovered for the period of January 2012 to 31 December 2017 from another 4 entities who use the Kokavil Antenna and Transmission tower.

(d) Out of the debtor balance amounting to Rs. 3,604,038,706 at the end of the year under review as per financial statements, a sum of Rs. 371,451,570 was the debtor balances more than 2 years and within that there were Rs. 197,130,954 debtor balances more than Rs. 1 million, that ranging from 9 to 26 years period.

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

Following non-compliances to the laws, rules and regulations were observed during the course of audit.

Reference to Laws, Rules, Regulations and Management Decisions	Non-compliances
(a) Section 11 of the Finance Act, No 38 of 1971 and Section 8.2.2 of Public Enterprise Circular, No. PED/12 dated 02 June 2003	A sum of Rs. 42,700,000,000 had been invested in fixed deposits by the Commission during the year under review without the approval of the Minister of Finance.
(b) Inland Revenue Act, No. 10 of 2006 and Public Enterprise 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, PAYE tax of Rs. 9,474,320 had been remitted from the funds of the Commission during the year under review contrary to that provision as previous years.

(c)	Section 9.3.1 of the Public Enterprises Circular, No. PED/12 dated 2 June 2003.	Even though scheme of recruitment had been prepared and used for the recruitment of officers and employees of the Commission based on the commission approval, concurrence of the treasury had not been obtained.
(d)	Public Enterprises Circular, No.PED/27 dated 27 January 2005	Draft annual report had not been presented with the financial statements.
(e)	Assets Management Circular, No.01/2017 dated 28 June 2017	Even though, correct details of all assets under their own entity shall be presented by every public institution to the Comptroller General according to the relevant formats, Commission had not been done so.

2.5 Transactions not supported by adequate authorities

Following observations are made.

(a) Even though miscellaneous provisions had been made for deciding salary and allowances of the staff in the Acts of establishment of Government Corporations and Statutory Boards as per paragraph 1 of the management services circular, No. 39 dated 26 May 2009, recommendation of the salary and cadre commission and approval of the management services department should be obtained. However, a sum of Rs. 73,661,558 had been paid to the staff for the year under review as incentives, bonus and house rent allowances based on the decisions taken by the commission and internal circulars without obtaining that recommendation and approval.

(b) Even though monthly travelling allowance of Rs.2, 000 for non-executive staff had been approved by No. NS CC/3/ABC/24 letter dated 1 June 2007 of National Salary and Cadre Commission, it had been paid Rs. 6000 each during the year under review.

3. Financial Review

3.1 Financial Results

According to the financial statement presented, profit after tax of the commission for the year under review was Rs. 53,040,035,396 and corresponding to that the profit after tax of preceding year was Rs. 54,613,961,089, thus indicating decrease of Rs. 1,573,925,693 in financial result of the year under review compared to the preceding year. Decrease of the license fees income, telecommunication levy income, telecommunication development charges and levy on outgoing local access charges by Rs. 1,655,910,100 had mainly attributed to the decrease in the financial result.

When analyzing financial results of the year under review and 4 preceding years, even though excess of Rs. 46,937,880,323 in 2013 had increased up to Rs. 53,040,035,096 in year 2017, that indicating the decrease of Rs. 1,573,925,693 compared to the year 2016. Even though contribution of Rs. 47,643,341,372 after adjusting employee remuneration, tax paid to the government and depreciation for non-current assets in 2013, was Rs. 54,005,262,703 in 2017, it had been decreased by Rs. 1,728,987,321 compared to the year 2016.

3.2 Analytical Financial Review

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

Description	31 December 2017	31 December 2016	Difference Increase/ (decrease)	Difference as a percentage
	Rs.	Rs.	Rs.	
Operator License fees	690,142,880	1,751,344,170	(1,061,201,290)	(61)
Frequency upfront fees	4,509,183,673	367,346,939	4,141,836,734	1,127
Interest Income on fixed deposit	2,027,097,093	1,964,452,870	62,644,223	3
Regulatory expenses	66,857,614	164,191,324	(97,333,710)	(59)
Levy on outgoing local access charges	730,277,739	1,127,678,211	(397,400,472)	(35)
Total Income	54,368,045,117	56,023,955,218	(1,655,910,101)	(3)
Total expenditure	791,573,908	682,234,096	109,339,812	16
Profit before tax of the year	53,576,471,208	55,341,721,121	(1,765,249,913)	(3)

(a) Frequency upfront fees had been increased by 1,127 per cent due to the recovery of frequency upfront fees of Rs. 4,509,183,673 from 5 private institutions during the year under review.

(b) Regulatory expenses had been decreased by 59 per cent due to the decrease of Economic Social Responsibility expenses by Rs. 100,750,000 as compared with the preceding year.

(c) Levy on outgoing local access charges had been decreased by 35 per cent compared to the preceding year and use of smart phones, usage of over- the-top free mobile applications and changes in government tax policy had been caused to that decrease.

3.3 Legal proceedings instituted against the Commission

The following observations are made.

(a) Two external institutions had claimed compensation totaling Rs. 47,346,612,000 from the Commission due to the non-implementation of the frequency project and breach of contract agreement.

(b) Contract agreement dated 28 July 2014 between Telecommunication Regulatory Commission and the Contractor of construction of telecommunication media center at Hambanthota IT Park had been ended at 10 August 2016 and Contractor had complained to the arbitration board against the decision of the Telecommunication Regulatory Commission to close the contract. Even though arbitration board had ordered to the Commission to pay a sum of Rs. 139,931,875 to the complainant as per the decision of the arbitration board, Commission had submitted for further arbitration in 14 December 2017 against that decision.

4. Operating Review

4.1 Performance

4.1.1 Planning

It is full responsibility of the Board of Directors to prepare a corporate plan at least for a period of 3 years and directing the activities to achieve proposed targets accordingly, since the activities of the commission should be managed with the short term and long term vision. However corporate plan and action plan of the Commission had been prepared and approved on 6 February 2018 after exceeding two months from the financial year.

4.1.2 Performance and Review

The following observations are made.

(a) Net safe child Protection programme, installation of system for automate the frequency management division and performing research for telecommunication sector had not been done even during the year 2017 which should be done during the year 2016 and postponed to the year 2017.

(b) Even though introducing procedure for automating frequency observation system had been postponed to the year 2017 which should implemented in year 2016, it had not been implemented. Director General had informed that allocations had not been obtained for this during the year under review, since there were no sufficient technical officers for implement, use and maintain the system.

(c) Even though Cabinet approval had been obtain during the year 2014 for preparing National Equipment Identity Register for the usage of network operators by enabling transfer the details of blacklisted mobile phones between mobile phone network operators by the Commission on behalf of protecting customer, who use mobile phones, relevant activities had not been performed even as at the end of the year under review.

4.2 Management Activities

The following observations are made.

(a) Even though cess fees should be paid before the 15 day of next month 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 of Sri Lanka, cess fees had not been paid by a telecommunication operator for year 2016 and 2017, another operator for the year 2017 and one institute had paid cess fees on 15 March 2018 for October to December. Even though need of adding sections to the Telecommunication Act to enabling legal powers to impose a fine from operators who had defaulted to pay the cess fees or delay in making payments had been informed time to time through audit reports, amendment to the Act had not been done up to now. Further, report under the experts' co-operation programme had not been implemented due to the non-amendment to the Telecommunication Levy Act.

(b) Even though Telecommunication Levy should be paid before the 15 day of the next month in accordance with the Telecommunication Levy Act, No.21 of 2011, levy and surcharge had not been charged from 3 operators and that charging period ranging from 5 months to 3 years.

(c) An area of 50 per cent of land 112 acres, 1 rood and 10.5 perches in extent had been utilized by the divisional secretariat Katana and relevant actions had not been taken for this by the management.

4.3 Operating Activities

Even though agreement had been entered with the foreign Company in year 2014 for the implementation of Digital Terrestrial Broadcasting Network Project, this project had not been implemented even up to 16 July 2018. As reasons for non-implementation of the project, Director General informed that Cabinet approval had not been given which gives responsibility to the Commission by legally relates to the project and project implementation entity (DBNO) had not been established up to now.

4.4 Transactions of contentious nature

The following observations are made.

(a) Even though Cabinet approval should be obtained to give donations as per Section 8.3.8 of the Public Enterprises Circular, No.PED/12 dated 2 June 2003, a sum of Rs. 300,000 and Rs. 500,000 had been paid for the annual general meeting of the Sri Lanka Administrative Service Union and Sri Daladha Perahera of Jayawardhanapura Kotte Rajamaha Viharaya respectively.

(b) 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. 32,192,177 and Rs. 7,160,400 had been paid in 2015 to the producer and director respectively on approval of the Commission and out of the money expensed for the film a sum of Rs. 26,400,000 had been returned by the film director as at 12 January 2018. Tele drama had not been telecasted even as at audited date of 16 July 2018 and original copy was taken back by the Commission. However a sum of Rs. 5,792,177 and Rs. 7,160,400 should be recovered for the film and tele drama respectively.

(c) Even though the rented building in London place by the Commission had been returned in year 2015, deposit money amounting to Rs. 1,350,000 had not been obtained even as at 16 July 2018.

(d) A sum of Rs. 7,999,125 had been expensed from the commission fund for family get together of officers of the commission for year 2017.

4.5 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 299, the actual cadre was stood at 206. There were 98 vacancies and 5 in excess. Even though Director General had informed that the essential recruitments have been made and changes to be done to the approved cadre, organizational structure and rules of recruitments being done, those activities had not been completed even as at 16 July 2018.

(b) Two posts of Assistant Accountant in permanent basis and one Project Consultant post in contract basis had been recruited which were not included to the approved cadre.

(c) Monthly salary of Rs. 114,400 and fuel allowance amounting to Rs. 22,000 had been paid for a one year from 9 October 2017 in respect of the post of project consultant in ad hoc basis for a person who fulfilled the qualifications for project assistant post.

5. Sustainable Development

5.1 Achievement of Sustainable Development Goals

The following observations are made.

(a) Every public institution should act in compliance with the United Nations Sustainable Development Agenda for the year 2030 and with respect to the year under review, Telecommunication Regulatory Commission of Sri Lanka had been aware as to how to take measures relating to the activities under purview of their scope.

(b) When achieving the targets of covering telecommunication activities within every rural area by 2030 for promoting telecommunication information technology based on the sustainable development goals, milestones had not been identified which were essential to monitor the relevant activities.

(c) Financial provisions had not been identified based on the sustainable development goals and targets to achieve the sustainable development goals in year 2016 and 2017.

6. Accountability and Good Governance

6.1 Tabling of Annual Reports

Annual Report for the year 2015 and 2016 had not been tabled in Parliament even as at 16 July 2018 as per Section 6.5.3 of the Public Enterprises Circular, No. PED/12 dated 2 June 2003.

6.2 Budgetary Control

The following observations are made.

(a) Even though draft budget should be approved before 3 months of starting the financial year as per Section 8(1) of the Finance Act, No.38 of 1971, it had been approved on 14 February 2017.

(b) The variance ranging from 11 per cent to 79 per cent were observed between the budgeted values and the actual values. Further 9 expenses amounting to Rs. 53.5 million were not included to the budget. Accordingly, it was observed that budget had not been used as an effective management control.

6.3 Unresolved Audit Paragraphs

The following observations are made.

(a) Even though order was given to submit a report to the Committee within one month including profits obtained through the use of the entity's funds for the construction without obtaining a loan as per order No. 9 issued by the Committee of Public Enterprises dated 23 June 2016, it had not been presented even as at 16 July 2018.

(b) Even though Committee on Public Enterprises was emphasized on 23 June 2016 to perform the internal audit in respect of the construction of Lotus Tower, it had not been done even as at 16 July 2018.

6.4 Procurement and Contract Process

6.4.1 Procurement

The following observations are made.

(a) The following matters were revealed when checking the procurement plan.

(i) Even though procurement plan should be prepared and approved before starting the year, procurement plan prepared for the year 2017 had been approved on 28 November 2017 after spending 11 months from the starting of the financial year.

(ii) Out of the procurements checked, two procurements amounting to Rs. 50,769,759 had not been included to this procurement plan.

(iii) Procurement time schedule had not been prepared and act accordingly as per Section 4.2.3 of the Procurement Guideline.

(b) Only the Value Added Tax should be separately identified as per Standard Bidding Document and other taxes and fees should be showed by adding to the bid price. This guideline had not been included to the bid document.

(c) Competitive bid prices were called to obtain the Microsoft Office 365 license 2016/2017 and bids were presented by 5 entities. The procurement had been awarded to an entity who submitted the bid amounting to Rs. 4,866,988 with Value Added Tax by recommending it had fulfilled the all requirements. Following observations are made in this regard.

(i) While recommending an entity on 15 September 2017 by the technical evaluation committee after evaluation, rejecting that recommendation on 20 September 2017 and informed to the technical evaluation committee to select qualified bidder out of the remaining bidders by the procurement committee by giving reasons as that entity presented the bid contrary to the conditions was questionable during the course of audit.

(ii) Even though bid should be rejected without detail evaluation by considering the major deviations of not giving material bid security as per bid conditions and not having required qualification as per Section 7.8.4 of the Procurement Guideline, that entity had been selected as winning bidder and procurement had been awarded on 28 September 2017.

(d) Bids had been called from 3 government institutions on 14 August 2017 to obtain employee life and medical insurance of the commission for year 2017/2018 and general insurance for property, plant & equipment and 2 two entities had presented the bids. In here, lowest bid presented by Sri Lanka Insurance Corporation amounting to Rs. 49,663,655 had been selected. Following observations are made in this regard.

(i) Even though all bidders who participated to the bidding process should present a bid security as per the bid conditions, procurement awarded entity had not presented such a security.

(ii) Even though performance security of 10 per cent of the bid value should be presented as per conditions of the bid documents, it had not been presented.

6.4.2 Deficiencies in contract administration

Lotus Tower Project

Lotus tower construction contract had been awarded to the two Chinese Companies as per Cabinet decision No. 10/2473/401/031 dated 29 October 2010 and Company had entered in to the agreement amounting to US $ 104,300,000 on 3 January 2012. Contract should be completed by 912 days from 12 November 2012 to 12 May 2015 as per agreement. Following observations are made in this regard.

(a) Payment of commitment fees for the loan

(i) First loan amount had been disbursed on 19 August 2013 by a EXIM bank which is a private bank of china and disbursement period of total loan amounting to American US $ 88,655,000 will be end as at 18 August 2016. However out of the total loan amount, only US $ 43,746,097 representing 49 per cent had been disbursed as at that date, since progress of the construction was in lower level. Accordingly, additional commitment fee had been paid for the unutilized loan amount for the period of 19 August 2016 to 27 October 2017 was amounting to US $ 322,984 due to the non-implementation of project construction works as at scheduled date.

(ii) Even though total loan amount disbursed by the EXIM bank had been limited to the US $ 67,259,754 due to the expiration of loan agreement, commitment fees amounting to US $ 636,508 had been over paid due to the use of total loan amount for the calculation of commitment fees from the initiation.

(b) Transfer the ownership of the land

(i) Even though action had not been taken to transfer the land by the entity as per Cabinet decision No. CP/ 11/2262/501/026/TBR dated 14 December 2011, land had not been transferred to the Commission by the Urban Development Authority.

(ii) Even though it was mentioned that the Urban Development Authority should take immediate action to obtain initial ownership of the lands belongings to department of post, Sri Lanka port authority and railway department within 6 months and transfer that lands to the Telecommunication Regulatory Commission within one year as per the Section 3 of the Memorandum of Understanding entered in to 23 January 2012 between Telecommunication Regulatory Commission of Sri Lanka and Urban Development Authority contrary to the Cabinet decision but action had not been taken even as at 16 July 2018.

(c) Delay in construction

(i) Even though approval had been given for extend the contract period up to October 2017 as per Commission decision No. 2K15.217.02(2) dated 28 August 2015 after the expiration of contract period of construction of Lotus Tower, construction had not been completed even as at 31 July 2018.

(ii) Delay damages for a day was 0.05 per cent from original agreement value and maximum delay damages was 10 per cent of the contract value. Accordingly delay damages could be charged only for 200 days.

(d) Installation of Elevators and Escalators

(i) While recommending "OTIS" and "KOYO" brand names by the Project Consultancy Unit for elevators and escalators through letters dated 19 September 2014 and 17 October 2014, reason for recommending " Fujitec" brand name for the elevators and escalators excluding L4 & L8 by project consultancy committee report dated 11 December 2014 had not been revealed to the audit. Director General of the entity had informed that Telecommunication Regulatory Commission cannot express an agreement or refusal in respect of that.

(ii) Even though Commission had given the approval to award to the "Fujitec" on 29 March 2016 for implementation of 8 elevators and 8 escalators including

L4 and L8, recommendation had not been obtained from the Project Consultancy Unit.

(iii) Suggestions given by the two president consultants and information included in the report called from University of Peradeniya for selecting sub-contractor for the installation of elevators and escalators by spending Rs. 1,000,000 had not been considered.

(iv) Contract had been awarded on 31 March 2016, after spending 2 years and 8 months which started in August 2013 for selecting sub-contractor for elevators and escalators and that delay in procurement had been mostly affected on delay in construction of Lotus Tower.

(v) Even though installation of 6 elevators and 8 escalators should be completed before 30 April 2017, only that equipment had been supplied to the work place as at 28 June 2017. Even though installation and implementation of all elevators and escalators should be completed as at 30 September 2017, it had not been completed even as at 11 May 2018.

(e) Payment of consultancy fees

Approval had been given for obtaining the consultancy service as per Commission decision No. 2K13.DC.199H dated 6 February 2013 for Commission paper No. DC/1994 which presented based on the Cabinet decision No. 10/2473/401/031 dated 27 October 2010. Accordingly, agreement had been signed for obtaining consultancy services between Telecommunication Regulatory Commission of Sri Lanka and University of Moratuwa on 15 February 2013 and agreed to pay 1.5 per cent of the contract value amounting to Rs.198, 691,500 as consultancy fees. Following observations are made in this regard.

(i) Cabinet approval had not been taken for payment of this consultancy fees.

(ii) It had been agreed to pay additional consultancy fees amounting to Rs. 3 million per month from November 2015 contrary to the above agreement. A sum of Rs.240 million had been paid to the University of Moratuwa as at April 2018.

(f) Payment of Tax in respect of Lotus Tower Project

(i) Even though it had been informed that the responsibility of the Telecommunication Regulatory Commission of Sri Lanka and Contractor should be identified clearly within the contract agreement in respect of tax payment as per letter of Attorney General of Attorney General department dated 8 September 2011 which addressed to the Director General of the Commission, without identifying in that manner, it had been mentioned that during the execution of the contract, the contractor shall be free from any taxes, levies, duties and other charges levied inside the territory of Sri Lanka as per Section 23.2 and the employer shall be responsible for all the taxes, levies and duties imposed related to performance of the contract, in accordance with the Sri Lanka Law and Regulation as per 23.3 of the contract agreement.

Director General of the Commission had informed to the audit that the agreement or refusal cannot be stated in this situation in respect of this and consultancy service had being obtained from the Attorney General department in respect of legal status of the relevant sections.

(ii) Even though payment should be done within the contract value of US $ 104,300,000, in addition to that as per the above sections contractor had claimed from the Commission to recover Rs. 87,394,566 of Income tax and Rs. 11,175,734 of Pay As You Earn tax paid to the Inland Revenue department. However financial provision had not been taken for the payment of such a tax amount.

(g) Process after the completion of construction of Lotus Tower
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(i) Even though approval had been given by the Cabinet decision No. 10/2473/401/031 dated 27 October 2010 to implement the following proposals, it could not be able to implement those proposals, since Telecommunication Regulatory Commission of Sri Lanka not having powers to establish a Company as per Telecommunication Act of Sri Lanka, No. 25 of 1991 and Telecommunication (Amendment) Act, No. 27 of 1996.

- To negotiate and hand over the management of the proposed Colombo TV tower and entertainment center to a Management Consultancy firm.

- To form a Public Quoted Company " Colombo TV Tower and Entertainment Center" owned by Telecommunication Regulatory Commission of Sri Lanka and list in the Colombo Stock Exchange and issue 30 per cent of the share capital to the public through an Initial Public Offering.

(ii) Even though it had been implement to lease out the Colombo Lotus Tower to the Property Management Company, since there was no powers to establish a Company in the Telecommunication Act, Cabinet approval had not obtained for that even as at 16 July 2018.

(h) Cabinet approval and ownership of the land had not been obtained even as at 16 July 2018 for construction of Vehicle Park which proposed to be construct based on the funds of Telecommunication Regulatory Commission of Sri Lanka not exceeding investment of Rs. 4 billion.

8. Systems and Control

Deficiencies in systems and controls observed were reported to the Director General 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) Budgetary Control	Budget had not been used as an effective management control.
(b) 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.
(c) Revenue Control	Failure to obtain approval for sufficient legal provisions on the collection of revenue.
(d) Payment of Allowances	Payment of allowances on the decisions of the Commission for incentive, bonus, and house rent allowance without approval of the Treasury.
(e) Contract Administration	Delay in the construction of Lotus Tower.