

ACS

Telecommunication Consultants

**Response to Consultation on Approach to Change of
Control Notification under Telecommunications
Licenses**

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Introduction

In the normal course of business many companies face the issue of change of ownership as a result of general trading conditions and other reasons which may include the failure of the company to meet its shareholder or, possibly, regulatory obligations. Change of ownership in itself is not always a concern as it may prevent a company from failure or enhance the company's resources and financial assets.

The regulatory authorities in the islands have two laws to manage the takeover of a company. In general terms the Competition Laws can be applied to ensure that there is no reduction in competition as a result of the takeover and the Telecommunications Laws which require due diligence to ensure that the new owner is of a class suitable to run a licensed system.

Response to the Consultation

The regulatory authorities are responsible for licensing telecommunications providers in the islands under the respective laws. When awarding licenses it is the responsibility of the authorities to ensure that any prospective licensee has both the financial and technical facilities to provide a service that will meet the requirements set out in the laws.

The laws between the islands vary in some ways, but in essence the laws were introduced in order to remove the existing monopoly provision of services and to encourage efficiency and economy that would benefit consumers through competition.

The process of licensing ensures that the applicant has the resources to operate the proposed network and extensive due diligence should be carried out to verify that the information provided in the application is accurate, and that the new owner has both the financial and technical resources to maintain the terms of the licence and the integrity of the network. Licenses make provision for a change of ownership while maintaining the veracity of the licence.

In the event that a proposed takeover of the company then the same due diligence should apply. ACS cannot see that there are any further steps that could be taken either by the regulator or the purchasing company.

With regard to support of the respective States' objectives, licensed operators are all subject to regulation under the jurisdictional laws. This automatically means that all operators must follow any objectives set out by the States in regard to communications strategies that are given to the regulatory authorities through the due legal processes. Therefore, ACS cannot see that any further commitment is necessary or required as part of a takeover.

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