



**OFFICE of the  
REGULATOR**

Please address all correspondence to  
the Regulator  
Private Bag, Apia, Samoa

Tel: +685 30282  
Fax: +685 30281  
Email: [admin@regulator.gov.ws](mailto:admin@regulator.gov.ws)

Ref: Reg/BRO/01/19/11/29

06th November 2019

ALL General Mangers  
Licensed TV Broadcasters  
**SAMOA**

Dear Sir/Madame,

**ORDER OF THE REGULATOR NO. 2019/T84 AND NOTICE OF INTENTION TO  
APPLY FOR PENALTIES AGAINST NON-COMPLIANT LICENSED TV  
BROADCASTERS**

Please find attached the Order of the Regulator No.2019/T84 for your urgent attention and implementation by the given date.

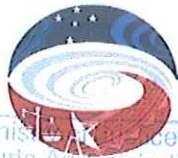
By way of section 68 of the Broadcasting Act 2010 and section 76 of the Telecommunications Act 2005 the Order of the Regulator has been filed with the Supreme Court and is effectively now a Supreme Court Order.

As such you are hereby notified of my intention to apply for penalties against your entity upon non-compliance to this final Order on the matter; furthermore non-compliance to the Order will consequentially mean non-compliance to the Supreme Court Order and therefore you will be subjected to Contempt of Court.

Respectfully

Fa'alelei Sua  
**ACTING REGULATOR**

**Attach: Order of the Regulator No. 2019/T84**



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## ORDER OF THE REGULATOR No.2019/T84

### DIGITAL PLATFORM BROADCASTING TARIFF

#### BACKGROUND

1. On 19<sup>th</sup> March 2019 the Samoa Digital Communications Limited (“SDCL”) submitted its tariff proposal to the Office of the Regulator (“OOTR”) for consideration; tariff proposed was ST\$40,000 per month, to be paid by 7 TV Broadcasters utilising SDCL’s Digital Platform to Broadcast digitally.
2. On 16<sup>th</sup> August 2019 the Regulator concluded its finding on the appropriate tariff to be levied. Regulator’s finding was premised on factors including Capital Investment \$6m, Weighted Average Cost of Capital (*considering Samoa inflation, Equity market risk premium, country risk premium, company specific risk premium, cost of equity, corporate tax etc.*), Depreciation of assets, Operating Expenses (*incurred actual costs and forecasted business plan*) and Demand (*7 TV Broadcasters*) and the TV Broadcasters ability to pay. The tariff was calculated by way of inputting figures through OOTR’s developed cost model. The Tariff determined by the Regulator is ST\$35,759 per month.
3. However, consequential to discussions between SDCL and Government (intervening on behalf of TV Broadcasters); SDCL submitted a new tariff and arrangement to the Regulator. The new arrangement in essence provides:
  - SDCL will accept waiving tariff charges for the period commencing 1<sup>st</sup> November 2019 ending 31 January 2020;
  - SDCL has accepted at its own cost to subsidise the official tariff as determined by the Regulator for a grace period of six (6) months upon achieving 95% coverage;
  - SDCL will accept ST\$23,473 per month from each TV Broadcaster currently active in the market commencing 1<sup>st</sup> February 2020;
  - The tentative date that SDCL expects to achieve 95% coverage is 1<sup>st</sup> Feb 2020;
  - In light of the tariff above, SDCL has agreed to waive capital costs (depreciation), interests and financial obligations for period commencing 1 November 2019 and ending 31<sup>st</sup> July 2020;
  - SDCL agrees to a review of the subsidised tariff upon expiry of six (6) months stated above;
  - Tariff determined by the Regulator **ST\$35,759 per month** shall be restored and applied after 6 month subsidy period pending OOTR review of a revised tariff (higher or lower \$35,759);
  - SDCL shall take on board all obligations in relevance to operating, maintaining, upgrading and sustaining of the Digital Platform for non-disruption in digital connection and coverage
  - Analogue to be switched off on the 31<sup>st</sup> January 2020

#### ORDER:

##### Approved Tariff

4. The Regulator hereby approves **ST\$23,473 per month** as the tariff to be levied on TV Broadcasters commencing 1<sup>st</sup> February 2020 for 6 months ending on 31<sup>st</sup> July 2020;

5. The analogue system shall be switched off 31<sup>st</sup> January 2020;
6. The OOTR shall review the tariff after 6 months commencing 1<sup>st</sup> August 2020;
7. Whereas, the tariff **ST\$35,759 per month** verified by OOTR shall be restored and applied by 1<sup>st</sup> August 2020 until OOTR determines revised tariff;

Connection Requirement

8. As such, all Licenced Broadcasting Service Providers (TV) are required to connect to the Digital Platform as soon as possible but no later than Friday 15<sup>th</sup> November 2019.

Duration of the Order

9. This Order will expire on the earlier of the:
  - Regulator revoking this Order; or
  - Making of a new Order by the Regulator with respect to the tariff.
10. Failure to comply with this Order shall result in the OOTR taking appropriate legal action by way of prosecution for non-compliance to the law and/or the revocation of broadcasters licence in accordance with sections 27 and 66 of the Act.



Lefaoali'i Unutoa Auelua-Fonoti  
**REGULATOR**

Dated this Wednesday 6 November 2019 (Also the Effective Date)