Tonga

COMMUNICATIONS (SIGNIFICANT EVENTS EXEMPTION) DECLARATION 2024

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COMMUNICATIONS (SIGNIFICANT EVENTS EXEMPTION) DECLARATION 2024

COMMUNICATIONS ACT [CAP 15.01]

IN EXERCISE of the powers conferred by section 29 of the Communications Act [Cap 15.01], the Minister responsible for Communications hereby makes the following Declaration -

PART I — PRELIMINARY

1 Short Title and Commencement

(1) This Declaration may be cited as the Communications (Significant Events Exemption) Declaration 2024.

(2) This Declaration shall come into force on the date it is published in the Gazette.

2 Purpose

The purpose of this Declaration is to allow Starlink Pacific Islands LLC. Limited (**"**Starlink**"**)**,** a satellite operator of a communications facility to be exempt from regulatory arrangements for providing a communications service to the public for the expected and limited duration of time a significant event takes place in the Kingdom.

3 Interpretation

(1) Subject to subsection (2), unless the context otherwise requires, terms used in this Declaration have the same meaning as in the Communications Act [Cap 15.01].

(2) In this Declaration, unless the context otherwise requires -

"Starlink" means the Starlink Pacific Islands LLC. Limited with Company Registration Number 9006562, in the context of this exemption, owner or operator of a communications facility that intends to provide a communications service in relation to a significant event; and

"significant event" means a distinct and organised public event in the Kingdom or of national significance which takes place only for an expected and limited duration of time in the Kingdom.

PART II — SIGNIFICANT EVENTS

4 Determination of significant events

(1) The Regulator shall determine what constitutes a significant event.

(2) In determining a significant event referred to in subsection (1), the Regulator shall have regard to the following factors –

(a) whether it is a public event of State or national significance;

(b) the duration of the event;

(c) whether the event has an international contingent or a significant international media presence;

(d) held at a limited number of identifiable places within Tonga;

(e) if the event involves the use of communications facility that is subject to regulatory arrangements; and

(f) if suitable risk mitigation strategies are in place to avoid any possible interference or non-compliance issues.

5 Obligation to notify

(1) Notwithstanding PART III, Starlink, by written notice, shall notify the Regulator of its intention to import communications facility into Tonga for the sole purpose of providing a communications service for the limited duration of time a significant event is expected to take place in the Kingdom.

(2) The written notice in sub-section (1) shall contain –

(a) the particulars of Starlink;

(b) the details of the significant event;

(c) the frequency of the significant event;

(d) details of the communications facility;

(e) details of the communications service; and

(f) such other information as the Regulator may request.

PART III — EXEMPTION

6 Exemption

(1) Section 26(a) of the Communications Act [Cap 15.01] does not apply to-

(a) a communications facility that is used solely to provide a communications service to the public in relation to a significant event; and

(b) any other communications facility owned by Starlink, provided that the communications facility is not used to provide any communications service to the public other than a communications service specific to a significant event.

(2) Section 26(b) of the Communications Act [Cap 15.01] does not apply to Starlink who provides a communications service in relation to a significant event.

(3) Pursuant to section 29 of the Communications Act [Cap 15.01] and section 5(2), the Minister shall grant an exemption to Starlink with the following conditions -

(a) This exemption shall be for a duration of 6 months from the date of the publication of this Declaration on the Government Gazette;

(b) Payment of a fixed administration fee of $5000, to cover spectrum licensing of its users;

(c) Starlink, as a foreign investment registered company to fulfil local tax obligations;

(d) Starlink to disclose details of the terminal users including location, name and terminal version on a monthly basis;

(e) Starlink to facilitate sales directly to the public efficiently while also consider negotiating with local network operators on a business re-seller arrangement in an efficient manner; and

(f) To facilitate within the duration of this license a local payment method to facilitate local businesses and payment.

Made at Nuku'alofa this **18th** day of **July** 2024

Hon. Fekitamoeloa Utoikamanu
Minister responsible for
Communications