Telecommunication Regulatory Commission of Sri Lanka - 2019

1.1 Qualified Opinion

The audit of the financial statements of the Telecommunication Regulatory Commission of Sri Lanka for the year ended 31 December 2019 comprising the statement of financial position as at 31 December 2019 and the statement of comprehensive income, statement of changes in equity and cash flow statement for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, was carried 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 provisions of the National Audit Act No. 19 of 2018 and the Finance Act No.38 of 1971. My comments and observations which I consider should be report to Parliament appear in this report.

In my opinion, except for the effect of the matters described in Paragraph 1.5 of this report, the financial statements give a true and fair view of the financial position of the Telecommunication Regulatory Commission of Sri Lanka as at 31 December 2019, and of its financial performance and cash flows for the year then ended in accordance with Sri Lanka Accounting Standards.

1.2 Basis for Qualified Opinion

My opinion is qualified based on the matters described in Paragraph 1.5 of this report.

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuSs). My responsibilities, under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Accounting Standards and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intend to liquidate the Commission or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Commission's financial reporting process.

As per Sub-section 16(1) of the National Audit Act No. 19 of 2018, the Commission is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared.

1.4 Scope of Audit

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit 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.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.

- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

The scope of the audit also extended to examine as far as possible, and as far as necessary the following;

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the Commission, and whether such systems, procedures, books, records and other documents are in effective operation;

- Whether the Commission has complied with applicable written law, or other general or special directions issued by the governing body of the Institute

- Whether the Commission has performed according to its powers, functions and duties; and

- Whether the resources of the Commission had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws.

1.5 Financial Statements

1.5.1 Internal Control over the preparation of financial statements

Entities are required to "devise and maintain" a system of internal accounting controls sufficient to provide reasonable assurance that , transactions are executed in accordance with management's general or specific authorization, transactions are recorded as necessary to permit preparation of financial statements in conformity with the applicable reporting standards , and to maintain accountability for assets, access to assets is permitted only in accordance with management's general or specific authorization, and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Issues with regard to maintenance of key accounting records such as General Ledger, Journal and Journal vouchers, payment vouchers etc. may include under this heading.

1.5.2 Non-compliance with Sri Lanka Accounting Standards

	Non-compliance with reference to the relevant standard	Comment of the Management	Recommendation
(a)	The cost of Rs. 13,334,708,033 applicable to the property, plant and equipment had not been stated in its financial statements at their fair value according to the Sri Lanka Accounting Standards 16. Further, although a Divisional Secretariat had acquired approximately 69 per cent of the 112-Acres 01 Rood and 10.5	It is expected to show the fixed assets at their fair value in the financial statements of the ensuing year and to carry out the revaluation process according to the fixed assets revaluation policy after the draft of the policy is approved by the	That steps should be taken to revalue the asset and account for at their fair value

	Perches land valued at Rs. 45,000,000 belonging to the Commission, the relevant adjustments had not been made in the financial statements.	Commission. The actual condition of the Kadirana land has been depicted in a note in the financial statements. Land acquired by the Katana Pradeshiya Sabha could not be included in the financial statements as the entire class of asset had not been revalued by the end of the financial year as per the accounting standards.	
(b)	Despite being further in use, the fully depreciated fixed assets costing Rs.12,978,983 had not been revalued in terms of Paragraph 51 of the Standards and stated in the financial statements.	It is expected to carry out the revaluation process after the approval of the Commission is received for the draft Fixed Assets Revaluation Policy which has been submitted for the supervision of the Internal Audit Division.	Assets should be revalued and included in the financial statements.

1.5.3 Accounting Deficiencies

	Audit Observation	Comment of the Management	Recommendation
(a)	Depreciation of the Computer and office equipment had been overstated by Rs.2,182,606 in the accounts during the year under review.	That action has already been taken to rectify this in the accounts for the year 2020.	Assets should be properly depreciated and adjusted.
(b)	Due to non-recording of expenses totalling Rs.3,129,627 pertaining to the year under review in the financial statements, the profit of the year had been overstated by that amount.	We agree that the amount of Rs. 3,129,627 has not been recorded as accrued expenses. Action will be taken to properly record the accrued expenditure in the next financial year.	Accurate value of accrued expenses should be included in the financial statements.

1.5.4 Unreconciled Control Accounts or Reports

	Item	Value as per Financial Statements	Value as per corresponding reports	Difference	Comment of the Management	Recommendation
		Rs.	Rs.	Rs.		
(a)	Turnover subject to Economic Service Tax	15,431,747,032	16,812,468,625	1,380,721,593	This difference is due to the incorporation of an incorrect value in the calculation of March 2019 turnover economic service charges. That the total amount of economic service charges paid in 2019 has been deducted from the income tax liability calculation as a tax credit.	That the balance shown in the accounts should be in line with the balance in the schedules
(b)	Balance of Value Added Tax Control Account	18,649,359	63,459,533	44,810,174	Value Added Tax will be properly accounted for in 2019 and action will be taken to analyse Value Added Tax Account of the preceding years and monitor the difference.	That the balance shown in the accounts should be in line with the balance in the schedules

1.5.5 Lack of Documentary Evidence for Audit

	Item	Amount	Evidence not submitted	Comment of the Management	Recommendation
		Rs.			
(a)	Treasury deposits	354,000,000	Investment certificate	The cheques have been issued to People's Bank Narahenpita Branch Account No. 119100143693169 for this deposit and further information on these deposits has been requested from the Director General of the Department of Public Enterprises on 29 June 2020.	Relevant evidence should be presented to prove it.
(b)	Debtors balance	344,792,045	Balance confirmation letters	All debtors more than Rs.1 million in debt have been sent registered mail informing to directly sent the balance confirmation letters to your institution by 31.12.2019 and arrangements have been made to send copies of those letters to your institution.	The receivable loan balances included in the accounts should be confirmed by written evidence.

1.6 Accounts Receivable and Payable

1.6.1 Receivables

	Audit Observation	Comment of the Management	Recommendation
(a)	There were 02 institutions which should have paid Cess from April 2016 to December 2019 and for the year 2019 as at 18 August 2020. Similarly, the opening Cess balance to be received amounting to Rs.1,610,199 had not been recovered even by 31 December of the year under review.	Action is being taken to recover the Cess from the Supreme SAT (Pvt) Ltd for the year 2019. Required files have been submitted to the Attorney General's Department to recover the unpaid Cess from the year 2016 of the Lanka Broadband Network Limited. Action will be taken to issue licenses to City Cable Links (Pvt) Ltd whose telecommunication licenses have expired from June 2019 and to collect Cess.	Action should be taken to recover the Cess without delay.
(b)	The surcharge of Rs. 813,505 payable by the Sri Lanka Telecom for the late payment of telecommunication development charges had not been recovered.	The Commission has approved the cancellation of this surcharge on 16 January 2019. After receiving the approval of the Treasury to gazette the guidelines regarding the payment of international telecommunication taxes and publishing the said guidelines in the gazette, the surcharge will be cancelled as decided by the Commission.	Action should be taken to recover the surcharge under the existing law.
(c)	Since lease agreements had not been entered into with 03 government institutions, leases could not be recovered from those operators who were using Kokavil antenna and transmission tower	Copies of the agreements regarding the use of the Kokavil transmission tower have been submitted to the Sri Lanka Broadcasting Corporation, the Sri Lanka Rupavahini Corporation and the Independent Television Network and to date, action has not been taken to sign these agreements.	Lease agreements should be entered into with all operators. The amount to be recovered as per the agreement should be recovered.
(d)	A lease balance of Rs. 1,323,856 was due from two contracted operators from the months of August 2019.	A reminder has been sent to the Etisalat company on 20 May 2020 to make payments for the	Leases should be recovered in accordance with the

		period from August to December 2019, from among the lease payments for the year 2019. Likely, reminders have been sent to Mobitel on 26 November 2019 and 17 February 2020 to make the relevant payments for the period from September to December 2019.	lease agreements
(e)	A sum of Rs. 81,813,102 was due from 05 operators using the Kokavil antenna and transmission tower for electricity bills and the recovery of the of 74,627,891 included in the above sum, which was due from Independent Television Corporation , Sri Lanka Broadcasting Corporation and Sri Lanka Rupavahini Corporation from the year 2012 to the year 2015 was uncertain.	Reminders have been sent to the Mobitel for unpaid electricity bills in October and December. Notifications about the arrears of payments of the Sri Lanka Broadcasting Corporation, Sri Lanka Rupavahini Corporation and the Independent Television Network have been sent to those institutions and the Ministry of Mass Media by letters dated 30.06.2020 and 13.07.2020 respectively. All operators operating at the centre have been informed to obtain separate electricity, out of which the Sri Lanka Broadcasting Corporation, the Sri Lanka Rupavahini Corporation and the Independent Television Network have not taken action to complete this task.	A proper methodology should be introduced to recover the money and accordingly, due amount should be recovered expeditiously.
(f)	The debt balance continued to exist over 2 years as at the end of the year under review was Rs. 373,700,914 and it included debt balances continued for more than 38 years. Likely, the debt balance due from the Sri Lanka Broadcasting Corporation and 08 institutions was Rs.145,254,449 and Rs.197,130,954 respectively. In addition, recovery of Rs. 8,184,000 due from the Ministry of Provincial Council and Local government and the loan balance of	That a system has already been put in place to recover money from the Sri Lanka Broadcasting Corporation and that the possibility of eliminating the charges recovered before starting the Commission from the books will be examined and steps will be taken to eliminate those values from the books. The Ministry of Provincial Councils and Local	Expeditious action should be taken to recover the outstanding loan balances.

	04 institutions existing before the commencement of the Commission amounting to Rs.5,613,513 remained uncertain.	Government will be informed about this unsettled amount and action will be taken accordingly. A case is pending in the Colombo Civil High Court regarding the radio frequency license granted to Electrotex Ltd.	
(g)	No action had been taken to settle the loan balance of Rs.2,158,081 that had been excessively recovered during the year under review.	That the overpayments will be further analysed and possible steps regarding that matter will be taken subject to the decision of the Commission	The excessively recovered debt balance should be settled.
(h)	Although a private building leased by the Commission had been returned in 2015, the key money of Rs. 1,350,000 paid for the building had not been recovered.	Since the original file on the building had been submitted to FCID, action was taken to obtain a copy of that file. Accordingly, the file and the required documents were submitted to the Legal Division and instructions were sought to take necessary action. The legal division informed that action should be taken in this regard after the completion of the work done by the Commission to Investigate Allegations of Bribery or Corruption or other legal entities.	Recovery of the deposit amount to be charged should be made without being delayed until the completion of the investigation.
(i)	The Commission had failed to recover the overpayment of Rs. 424,000 made to a female officer as incentive during her interdiction period as stated in the disciplinary order dated 29 August 2019 and due to the delay in the payment of gratuity to this dismissed officer, a surcharge of Rs. 166,500 had also been paid.	According to the disciplinary order issued on 29.08.2019, Mrs. A.K.A. Silva was informed to repay the overpayment of Rs. 424,000, but she defaulted the payment. Since the Commissioner General of Labour had informed that the employer has no legal capacity under the Gratuity Payments Act to deduct overpayments when calculating the gratuity, the calculation of gratuity had been made on those	It should be the responsibility of the officers to make accurate calculations and make immediate payments.

			orders. As inquiries from the relevant parties were made to obtain legal advice for this purpose and calculation was made on the advice given by the Legal Division and the Financial Division, A surcharge had to be paid based on the time spent for the calculation of gratuity.	

1.7 Non-compliance with Laws, Rules, Regulations and Management Decisions etc.

	Reference to Laws, Rules, Regulations etc.	Non-compliance	Comment of the Management	Recommendation
(a)	Section 11 of the Finance Act No. 38 of 1971 and Section 8.2.2 of Pubic Enterprises Circular No. PED / 12 of 02 June 2003.	Without approval of the Minister of Finance, the Commission had invested Rs. 1,200,000,000 in fixed deposits during the year under review.	The Director General has sent a letter to the Ministry of Finance on 09.06.2011 seeking approval for short term investments.	Action should be taken to obtain prior approval for the investments.
(b)	Inland Revenue Act No. 24 of 2017 and Public Enterprises Circular No. 03/2016 dated 29 April 2016.	The Commission had paid Rs.9,163,291 as Pay As You Earn Tax out of its funds during the year under review without deducting such tax from the salaries of the relevant officer	Pay As You Earn Tax is collected from the relevant officials and remitted to the Inland Revenue Department. Nevertheless, the tax deducted from these officers is reimbursed to the officers by the Commission. Enquiries were made from the Attorney General's Department regarding the legal status of reimbursing deductions thus made from the employees. The reply of the Attorney General's Department dated	According to the Inland Revenue Act No. 24 of 2017, Pay As You Earn Tax should be deducted from the relevant officials and remitted to the Inland Revenue Department and that amount cannot be reimbursed.

			26th December 2018 E/31/18/TRC stated that there is no legal impediment to reimburse the Pay As You Earn Tax to the employees.	
(c)	Telecommunication Tax Act No. 21 of 2011	Even though the Telecommunication tax should have been paid before the 15th of the next month, a sum of Rs.6,358,657 was due from one institution by 18 August 2020.	Action has been taken to seek advice from the Attorney General's Department to recover the unpaid telecommunication taxes.	Telecommunication tax should be recovered in terms of Telecommunication Tax Act.
(d)	Public Enterprises Circular No. PED/12 dated 02 June 2003.			
	Section 9.14.2	Although the concurrence of the Secretary to the Treasury is required through the Department of Public Enterprises for the scheme of recruitment, the Commission had approved the scheme of recruitment without obtaining relevant concurrence.	In terms of Section 9.3.1 of the Public Enterprise Circular No. PED / 12 of 02 June 2003, the scheme of recruitment of the Commission had been approved with effect from 01.05.2014 in accordance with Commission Decision No. 2K14.206.07.	Action should be taken to obtain concurrence of the Treasury in terms of Section 9.14.2 of the Public Enterprises Circular No.PED/12 dated 02 June 2003.
(e)	Paragraph 1 of the Management Services Circular No.39 dated 26 May 2009	Without the recommendation of the Salaries and Cadres Commission and the approval of the Department of Management Services, a sum of Rs. 126,488,209 had	According to Section 22C(2) of the Telecommunications (Amendment) Act of Sri Lanka, staff allowances have been paid with the approval of the Commission and the Commission is	In terms of Management Services Circular No.39, recommendation of the Salaries and Cadres Commission and the approval of the Department of Management Services

		been paid to the staff as incentives, bonuses, rental allowances and allowances for unavailed leave during the year under review.	empowered to determine salaries and allowances by the said Act. Further concurrence thereon has been expressed by the Attorney General's Letter No. E / 164/07 / TRC dated 15 August 2007 and the Letter No. E /165/07/ TRC and 24 September 2007.	should be obtained.
(f)	Letter of the National Salaries and Cadres Commission N0. NSCC/3/ABC/24 dated 01 June 2007.	Due to making overpayment at Rs. 6,000 in excess of the approved monthly transport allowance of Rs. 2,000 for non-staff grade officers, a sum of Rs. 8,196,000 had been overpaid during the year under review.	According to the decision of the Commission No. 2KX.189.15(17) dated 11 March 2010, the payment of transport allowance of Rs. 6,000 for non-staff grade officers had been approved.	Action should be taken to pay only the allowance approved as per the letter of the National Salaries and Cadres Commission.

2. Financial Review

2.1 Financial Results

The operations of the Commission for the year under review had resulted in a surplus of Rs.37,883,540,711 as compared with the corresponding surplus of Rs. 45,706,552,824 for the preceding year, thus observing a deterioration of the financial results by Rs.7,823,012,113. This deterioration was mainly due to decrease of the licence fees income, telecommunication levy income, telecommunication development charges income and levy on outgoing local access charges by Rs. 11,261,338,834.

2.2 Trend analysis of the main income and expenditure items.

The declining the telecommunication levy revenue by Rs. 9,283,607,990 due to reducing the telecommunication levy from 25 per cent to 11.25 per cent according to the revisions made on 05 November 2018 and 01 December 2019, exemptions of levy on outgoing local access charges with effect from 11 June 2019, and increasing the use of smart phones and over the top free mobile applications had also contributed to the decline in revenue.

Out of the total expenditure of the Commission, 89 per cent had been spent on administrative and operating expenses and it had included 55 per cent on staff salaries and allowances. However, only 10 per cent of the total expenditure had been spent on telecommunications regulation, the main purpose of the establishment of the Commission.

3. Operating Review

3.1 Uneconomic Transactions

	Audit Observation	Comment of the Management	Recommendation
(a)	Although the tower had not been handed over to the Commission, expenditure of Rs.11,325,012 had been incurred for the official opening ceremony of the Lotus Tower on 16 September 2019.	Noted.	Uneconomic transactions should not be made and business activities should be commenced without further delay.
(b)	For the management activities and provision of food and beverages for the Lotus Tower Opening Ceremony held on 16th September 2019 in Colombo, a sum of Rs.7,072,472 had been paid without entering into an agreement and those procurements had not been included in the 2019 Procurement Plan or the Revised Procurement Plan	In preparing the budget plans for the year 2019, the Special Projects Division, the relevant section, had not taken a proper decision regarding the opening of the Lotus Tower and had not made any allocation. Therefore, this procurement had not been included in the 2019 procurement plan and it could not be included in the revised procurement plan which was revised in the middle of the year.	All contracts implemeted during the year should be included in the procurement plan and those activities should be carried out under proper control and contracts should be awarded through the agreements as per the Procurement Guidelines.

3.2 Deficiencies of the Contract Administration

	Audit Observation	Comment of the Management	Recommendation
(a)	Water Proofing of the concrete roof of the Mobile Operations Building at Kokavil Center had been directly entrusted to the Central Engineering Consultancy Bureau (CECB) in 2017, but heat insulation work had not been estimated and therefore, the request made for the maintenance had not been fulfilled. A new contract for this renovation been awarded to a private company on 19 June 2019 at Rs.1,116,350 without	Since there was no Technical Officer in the company at that time, the engineering and consultancy service was obtained from the Central Engineering Consultancy Bureau. That institute too had failed to include the section on heat insulation work. I is also informed that care will be exercised to avoid	Action should be taken to carry out contracts according to the procurement schedule and bids should be evaluated in accordance with the Procurement Guidelines.

	considering the qualifications of the contractor in the year 2018 and work had been completed in the year under review. The Commission had not acted in accordance with the procurement schedule and therefore, it had taken nearly 03 years to complete this task.	these shortcomings in future procurement activities.	
(b)	Construction of new building of the Commission --		
(i)	According to the Cabinet Decision No. අමප/16/1604/701/022 dated 24 August 2016, approval been granted to renovate the existing head office of the Telecommunications Commission of Sri Lanka. Nevertheless, while stating that approval of the Cabinet was received to spend Rs.502 million to “construct a new building” to the Commission and it was reduced to Rs. 344 million in consultation with consulting firms, the Director General had informed the Secretary to the President on 10 July2018 to appoint the necessary committees for that purpose.	Noted.	Relevant officials should be responsible for submitting incorrect information.
(ii)	However bids had been called for this purpose with an estimate of Rs. 200 million by renaming the contract as "Extension to Main Building of the Commission" without an approval and the above appointed committees had dealt with the activities of this contract as well. Further, as action had not been taken in accordance with a proper plan, a sum of Rs.33 million had been estimated for the additional cost.	Through the addition of technical features and introduction of a new toilet system and canopies to the front of the building, the use of the building is expected to increase.	Approval should be obtained in accordance with the Procurement Guidelines and the Commission should implement the contracts in accordance with a proper plan.
(iii)	The contract had not been completed by 14 February 2020, the scheduled date for the	Agree.	Since approval for an extension of time has not been granted,

	completion, but approval had not been obtained to extend the period by 10 days, although the consultancy firm had recommended such extension.		liquidated damages should be charged on the recommendation of the consultants
(c)	Lotus Tower Project -------------------------- As per the Cabinet Decision No.10/2473/401/031 dated 29 October 2010, the Telecommunications Regulatory Commission and two Chinese companies had entered into a contract agreement on 03 January 2012 for contract for the construction of the Lotus Tower. The contract value of this project was US$.104,300,000 and according to the agreement, the contract was to be completed in 912 days from 12 November 2012 to 12 May 2015, but the Commission had approved to extend the contract period up to 31 October 2017. The Telecommunications Regulatory Commission of Sri Lanka had entered into a loan agreement with EXIM Bank on 17 September 2012 to procure funds for this construction contract. According to the loan agreement, it had been agreed to award 85 per cent of the contract value, or US $.88.655 million and the loan was to be completed by 18 August 2016.		
(i)	As per the Cabinet Decision No. අමප/11/2262/501/026/TBR dated 14 December 2011, the 2.59 hectares land in which the Lotus Tower was constructed should have been handed over to the Commission by the Urban Development Authority. Nevertheless, it had not so been handed over.	Relevant documents will be submitted to the Line Ministry for obtaining Cabinet approval to acquire the land directly from the Department of Land Commissioner General.	Acquisition of land should be carried out without delay.

(ii)	Due to non-compliance of the construction contract according to the schedule, only 76 per cent of the loan amount or US $.67,259,758 had been released. Nevertheless, insurance, agreement and management charges had to be paid for the entire loan. Accordingly, the insurance premium, agreement and management charges of US $.2,911,633 paid in proportion to the unpaid loan amount, had become a fruitless expenditure.	Noted.	Relevant parties should be responsible for the insurance premiums, agreement fees, and management charges incurred for the loan amount that could not be obtained due to construction delays.
(iii)	According to the financial feasibility report of this project, it had been planned to earn an annual income of Rs. 1,685 million from the operation of this project from the year 2015. Nevertheless, due to the delays in the project activities, the expected annual income had been lost.	Arrangements are being made for the commencement of commercial activities by a state-owned company.	Expeditious action should be taken to prevent the loss of revenue incurred due to failure of the institute to recognize that it is unable to initiate commercial activities.
(iv)	Although the Commission had no powers to establish a company under the Telecommunications Regulatory Commission Act, approval had been granted under the Decision No. 5.4 viii of the Cabinet Decision No.10/2473/401/031 dated 29 October 2010 to establish a Management Consultancy Company under the ownership of the Commission. Therefore, by the Cabinet Decision No. අමප/ 19/2305/103/140 dated 11 September 2019, the General Treasury had been authorized to establish a state-owned company to manage the commercial activities of the Lotus Tower in Colombo, but it had not been so done even by the date of audit.	Arrangements are being made for the commencement of commercial activities by a state-owned company.	Expeditious action should be taken to initiate commercial activities.

(v)	In terms of Section 8.7 of the Construction Contract Agreement, the one day penalty for delay was 0.05 per cent of the contract amount, and the maximum was 10 per cent of the contract amount. Accordingly, the penalty for delay to be levied on the contractor amounting US $10,430,000 had been withheld by the Commission from the amount due to the Contractor. But recommendations thereon had not been made by the Project Consultant.	According to the contract agreement, the penalty for delay of US $ 10,430,000 was recovered from the contractor.	Consultant's recommendations should be sought for the withheld penalty for delays of the contractor.
(vi)	The contract for the construction of the Lotus Tower was supposed to be completed and handed over on 31 October 2017, but it had not so far been handed over. Accordingly, it was observed that the delay period as on 31 August 2020 was 1035 days but the levy of late charges had been limited to 200 days as per the contract agreement.	According to the contract agreement, the penalty for delay of US $ 10,430,000 was recovered from the contractor.	Relevant parties, including the contractor, should be responsible for the loss of government revenue due to non-completion the of the contract and for other expenses, including additional consultancy fees.
(vii)	Although it was planned to pay the loan instalments from the project income, due to the non-completion of the construction work of the project as planned, US $ 39,335,307 had been paid by the Commission as loan instalments and interest by 31 December 2019. Due to the payment of loans and instalments, the remittance made to the Consolidated Fund in 2017, 2018 and 2019 had decreased by Rs. 30,400 million in relation to the year 2016.	Noted.	Relevant parties, including the contractor, should be responsible for the loss of government revenue due to non-completion the of the contract and for other expenses, including additional consultancy fees.
(viii)	Due to obtaining a loan for the construction of the Lotus Tower, the Commission had to bear an additional amount of Rs. 23,775,376 comprising the agreement fees, management fees, insurance premiums, and the interest as on 31 December 2019.	Agree	It is the responsibility of the responsible officials to take steps to minimize the additional costs involved in obtaining loans so that the government receives the maximum benefit.

3.3 Human Resource Management

	Audit Observation	Comment of the Management	Recommendation
(a)	The organizational structure of the Commission, the cadre and the scheme of recruitment had not been revised and the total number of vacancies by the end of the year under review was 66.	As the progress was about 40 per cent as at 31 September 2019, action was taken through a consulting firm since the relevant work could not be successfully completed within this institution itself.	Essential recruitments and required changes to the organizational structure and the scheme of recruitment should be made immediately.
(b)	Two officers who had been recruited in 2015 for the post of Assistant Accountant which was not included in the approved cadre of the Commission had been paid salaries, housing allowances, incentives and transport allowances of Rs. 1,939,975 during the year under review without approval	The other 02 approved posts will be revised again or approved under No. 01 above.	Action should be taken to obtain the approval of the Department of Management Services for the two posts of Assistant Accountant.

4. Accountability and Good Governance

4.1 Annual Action Plan

	Audit Observation	Comment of the Management	Recommendation
(a)	According to the revised Action Plan, 42 activities had not been fully completed and the progress thereof had ranged from 10 per cent to 80 per cent.	Unavoidable reasons had contributed for the failure to fully complete 42 activities and remain their progress in a range from 10 per cent to 80 per cent. Arrangements will be made to focus necessary attention at the progress reviewing to proceed with the activities by minimizing this situation as far as possible.	Planned activities should be completed in accordance with the plan.

(b)	Although budgetary provision of Rs.678,550,000 had been made for the regulatory expenses, actual expenditure was Rs.78,881,625 only. Even though Rs.600 million had been allocated for the Implementation of National Equipment Identification Registry – NEIR) programme, it had been eliminated from the Action Plan. Accordingly, the regulation of the telecommunication, which is the prime objective of the establishment of the Commission was contentious.	Elimination of this activity from the Action Plan was done on a decision made by the Commission at the progress reviewing conducted in the second quarter.	Action should be taken to achieve the objectives of the Commission by incurring planned regulatory expenses.
(c)	A well-equipped laboratory planned to be established in the year 2018 for checking telecommunication terminal equipment for which provisions of Rs.25 million was allocated during the year under review had not been established even in the year under review due to cash flow difficulties.	In the implementation of this pregramme, it was reported that the current assets were insufficient and therefore, it could not be carried out as expected. It was required to implement the circulars issued by the Government through the Ministry of Finance due to the situation prevailed in the country and it had also been influential to the above condition.	Planned activities should be carried out.
(d)	Although it had been planned to install the Automation System (ADMS) of the Spectral Management Division in the years 2018 and 2019 which was supposed to be put in place in 2016, it was postponed without implementing.	In addition to obtaining the approval of the Commission in the year 2019 for the installation of the Spectral Management Division Automation System (ASMS) which was supposed to be carried out in the year 2016, the preparation of final project layout and the finalization of the matters relating to the selection of the relevant officers have been completed.	The automation system of the Spectral Management Division should be immediately installed.

4.2 Sustainable Development Goals

Audit Observation	Comment of the Management	Recommendation
In achieving the target of covering telecommunication activities in every rural area by 2030 for the promotion of telecommunication information technology based on the sustainable development goals, it was not observed that the extent of coverage of the milestones required to regulate the relevant functions had been identified.	Based on the Sustainable Development Goals, it is expected to cover telecommunication activities in every rural area by 2030, covering other districts as well for the development of telecommunication and information technology.	In achieving the target of covering telecommunication activities in every rural area by 2030, the extent of coverage of milestones should be identified to regulate the relevant activities.