THE RIGHT TO INFORMATION COMMISSION OF SRI LANKA

Hashtag Generation

1st Floor, Collaborate Workplaces,

Vijaya Kumaratunge Mawatha,

Colombo-05.

Appellant

Appeal No:1043/2022 **-Vs-**

Dialog Axiata PLC

475,

Union Place,

Colombo-02

Respondent

Before:

1. **Mr. Dayaratne Lankapura** - Chairman
2. **Ms. Kishali Pinto-Jayawardena (Attorney-at-Law)** - Commissioner
3. **Mr. A.M. Nahiya** - Commissioner

Appearance:

Appellant: Represented on initial dates by Mr. Darshatha Gamage, Ms. Namya Gunawardena, Mr. Jeram De Cooray, and Ms. Fathima Farah Firthoos

Respondent (Dialog Axiata PLC): Represented across various dates by Mr. Lakshmanan Jeyakumar (AAL), Mr. Ishan Razeen (AAL), Mrs. Anusha

Jayathilake (Legal Consultant), and Mr. Lilan Wickramarathne (Senior Corporate Counsel).

Written Submissions Filed:

Appellant: 28.03.2023, 27.07.2023, and 05.10.2023.

Respondent (Dialog Axiata PLC): 27.04.2023 and 03.08.2023.

Dates of Hearing: 15.12.2022, 23.02.2023, 04.05.2023, 12.07.2023, 21.09.2023, 10.09.2025, 08.10.2025, 12.11.2025, 08.01.2026, 19.02.2026, and 04.03.2026.

Decided On: **21.10.2026**

DECISION OF THE COMMISSION

1. FACTUAL AND PROCEDURAL BACKGROUND

On 13.05.2022, the Appellant requested from the Respondent:

(a) certified copies of written directions issued by the Telecommunications Regulatory Commission of Sri Lanka ("TRCSL") requesting the Respondent, as an Internet Service Provider, to restrict social-media platforms and communications applications during March and April 2022; and
(b) certified copies of all written communications exchanged between TRCSL and the Respondent concerning such restrictions during March and April 2022.

By letter dated 19.05.2022, the Senior Corporate Counsel (Group Legal & Regulatory) of the Respondent, Dialog Axiata PLC, refused the request principally on the basis that it is a private Public Limited Company incorporated under the Companies Act, NO.07 of 2007, does not constitute a "Public Authority" within the meaning of the Right to Information Act, No. 12 of

2016 (hereinafter referred to as the "*RTI Act*") . The Respondent directed the Appellant to seek the information directly from the TRCSL.

Dissatisfied with the response, the Appellant appealed to the Designated Officer (DO) of the Respondent on 26.05.2022 and thereafter preferred the present appeal before the Right to Information Commission (hereinafter referred to as the *"Commission"*) on 26.07.2022.

During the inquiry, the Commission required the Respondent to produce documentation relating to its telecommunications licence. The Respondent produced the relevant license material while maintaining its objection to the jurisdiction of the Commission. The parties thereafter made written submissions and the matter was considered on the material placed before the Commission.

Procedural Updates (2022 to 2026):

On 19.05.2022, the Senior Corporate Counsel (Group Legal and Regulatory) of the Respondent, (hereinafter referred to as Dialog Axiata PLC) responded as follows:

> *"RE: APPLICATION FOR INFORMATION UNDER THE RIGHT TO INFORMATION ACT NO 12 OF 2016("RTI ACT")*
>
> *We write with reference to your email dated 13 May 2022 on the captioned subject Matter. We have been advised that the right of citizens to obtain information under the Right to Information Act, No 12 of 2016 is in relation to information which is in the possession, custody, or control of a "Public Authority" as defined in the RTI Act that Dialog Axiata PLC ("Dialog") is not such a "Public Authority" to which the RTI Act applies.*
>
> *Hence, we regret to inform you that Dialog is unable to accede to your request for information under the said RTI Act. In the circumstances may we kindly request you to contact the Telecommunications Regulatory Commission of Sri Lanka ("TRCSL"), copied in this communication, for any further information or clarification in this regard."*

Dissatisfied with the above response, the Appellant lodged an appeal with the DO on 26.05.2022. As the DO failed to respond within the time period stipulated in the Right to Information Act, No. 12 of 2016, the Appellant subsequently preferred an appeal to the Right to Information Commission (hereinafter referred to as the RTI Commission) on 26.07.2022.

The Appellant's Written Submission, dated 28.03.2023, has been duly received and is hereby part of the official record. The Appellant contended that the claim made by Dialog Axiata PLC, asserting that it is not a Public Authority, is not acceptable on the following grounds:

(a) Dialog Axiata PLC qualifies as a public body under Section 43(g) of the RTI Act. According to Section 17 of the Telecommunications Act No. 25 of 1991, telecommunication systems in Sri Lanka can only operate under a license granted by the Minister. Since Dialog Axiata PLC operates under a license issued by a government body, it should therefore be regarded as a Public Authority under the RTI Act.

(b) In R. Ananthaseelan v. Merchant Bank of Sri Lanka & Finance PLC, (RTICAppeal/758/2018), the RTI Commission noted that the Merchant Bank of Sri Lanka is a Public Authority and falls within the purview of the RTI Act. In Gamini Kinigama v. People's Insurance PLC, (RTICAppeal/680/2018) decided on 12.03.2019, the RTI Commission considered that People's Insurance PLC is within the scope of the RTI Act. Additionally, in N.D. Namarathne v. Ninewells Private Hospital, (RTIC Appeal/876/2022) decided on 08.11.2022, the RTI Commission did not dismiss the appeal on the ground that Ninewells Private Hospital does not fall within the definition of a Public Authority under the RTI Act.

(c) Furthermore, the Appellant emphasized that information regarding internet shutdowns is vital for holding Public Authorities accountable citing Joseph Perera v. Attorney General (1992) 1 SLR 199, where the Supreme Court of Sri Lanka highlighted the importance of open and free debates on public issues, thereby reinforcing the need for transparency in matters affecting fundamental rights.

However, Dialog Axiata PLC submitted a Written Submission, dated 27.04.2023, contending that it does not fall within the definition of a Public Authority under Section 43 of the RTI Act, summarized as follows:

(a) Dialog Axiata PLC operates as a private business providing telecommunication services; it does not perform a statutory or public function. TRCSL is the designated authority responsible for executing statutory functions under the Telecommunications Act, not Dialog Axiata PLC. The license issued to Dialog Axiata PLC merely permits it to

operate as a private company and charge customers for its services; it does not transform Dialog Axiata PLC into a Public Authority.

(b) Operating a telecommunications network does not constitute a statutory or public function. In De Alwis v. Sri Lanka Telecom and Others (1995) 2 SLR 38**,** the Court rejected the submission that the agreement to provide a telephone line, being based on a statutory duty, falls within the realm of a statutory function rather than a purely contractual matter.

(c) The assertion that a private business qualifies as a Public Authority merely because it holds a government-issued license is legally flawed and contrary to the objectives of the RTI Act. If the Appellant's argument was accepted, it would imply that every restaurant or tavern operating under a license granted by the Municipal Council or Excise Department should also be considered a Public Authority, an entirely unreasonable and absurd conclusion. The Appellant attempts to rely on past RTI Commission decisions to support its claim, but these precedents are not applicable to the present case. In *R. Ananthaseelan v. Merchant Bank of Sri Lanka & Finance PLC,* the question of whether the Merchant Bank of Sri Lanka & Finance PLC fell within the scope of the RTI Act was not raised.

(d) Similarly, in *Gamini Kinigama v. People's Insurance PLC,* the question of whether People's Insurance PLC fell within the scope of the RTI Act was not addressed. Moreover, there is a significant distinction between these entities and Dialog Axiata PLC. The majority shareholder of Merchant Bank of Sri Lanka & Finance PLC is the Bank of Ceylon, holding 75%, and the majority shareholder of People's Insurance PLC is People's Leasing and Finance PLC, also holding 75%. Both Merchant Bank of Sri Lanka & Finance PLC and People's Insurance PLC are effectively state instrumentalities, as their majority shareholders are government controlled. In contrast, Dialog Axiata PLC is a private company, with 82.27% of its shares owned by Axiata Investments (Labuan) Limited.

On 04.05.2023, when the matter was heard before the Commission, both parties were represented by their respective legal counsel. The Commission noted that the Appellant had relied upon Section 43(g) of the RTI Act and had drawn the attention of the Commission to the term "Service." In order to ascertain the position held by Dialog Axiata PLC under the license issued by the TRCSL, the Commission directed Dialog Axiata PLC (which had been named by the

Appellant as the Public Authority in this appeal) to furnish all correspondence exchanged in relation to issuing the license, between Dialog Axiata PLC and the TRCSL, along with the license issued by the TRCSL for the perusal of this Commission.

Thereafter, on 12.07.2023, the Dialog Axiata PLC submitted the cover letter regarding the granting of the license to the Dialog Axiata PLC by the TRCSL, as well as all ancillary documents, including correspondence thereto.

Dialog Axiata PLC further stated that the submission of the said documentation was made without prejudice to the fundamental jurisdictional objection raised at the very outset that the RTI Commission could not exercise any jurisdiction over the party named as the Respondent. Both parties were informed by the Commission that the matter had been called on the day strictly for the purposes of submitting documentation relevant to the license granted to Dialog Axiata PLC, as intimated by the minute of the Commission dated 04.05.2023. The parties were further informed that oral hearings did not take place, as written submissions could be filed instead. The Appellant was permitted to file additional written submissions by 26.07.2023 on any remaining contested issues, and Dialog Axiata PLC was allowed to file its counter-submissions by 03.08.2023, with copies provided to each other.

Accordingly, the Appellant filed written submissions on 27.07.2023, arguing that the other information requests submitted to the TRCSL and another telecommunications and internet service provider, which did not progress to the appeal stage before the RTI Commission, are irrelevant to the present matter. The Appellant contended that whether or not those requests reaching the appeal stage had no bearing on their right to appeal against Dialog Axiata PLC. However, in response, Dialog Axiata PLC submitted written submissions on 03.08.2023, stating that when the Appellant initially requested the information, Dialog Axiata PLC directed them to approach the TRCSL, the appropriate regulatory authority. Although the Appellant complied, the TRCSL refused disclosure on national security grounds. The Appellant's subsequent attempt to obtain the same information from Dialog Axiata PLC is procedurally improper and legally untenable, as access had already been denied by the competent authority. Moreover, the request was also made to Sri Lanka Telecom PLC and was rejected on similar grounds. As Dialog Axiata PLC is not a public authority, the attempt to obtain the information from them appears to have been made in bad faith *(mala fide)*. On 21.09.2023 both parties agreed to conclude the inquiry based on the written submissions filed, and the decision of the Commission was reserved.

Subsequent Administrative Hearings (2025 to 2026):

The matter was called on administrative dates including 10.09.2025, 08.10.2025, 12.11.2025, 08.01.2026, 19.02.2026, and 04.03.2026. On 08.01.2026, the Respondent moved for dismissal on grounds of non-prosecution, which the Appellant opposed via E-mail communication, affirming its desire to pursue the appeal and citing short notice. On 19.02.2026 matter called and reserved for determination on the preliminary jurisdictional question. On 04.03.2026, the Commission reserved the matter for final determination.

2. CONSIDERATION OF THE COMMISSION

1. Preliminary Questions

Under Section 43(g) of the RTI Act, a "Public Authority" is defined to include a private entity or organization carrying out:

- **(A)** A **Statutory function or service**; **OR**
- **(B)** A **Public function or service**;

subject to the threshold statutory condition that the entity has entered into a contract, partnership, agreement, or licence from the Government, its agencies, or a local body.

The primary question before the Commission at this preliminary stage is whether the nature and character of the Respondent, Dialog Axiata PLC, satisfies Component **(A)** or Component **(B)** above, having entered into an operating licence with the Government via the TRCSL pursuant to Section 17 of the Sri Lanka Telecommunications Act, No. 25 of 1991 (as amended).

2. Distinct Sequential Architecture of Section 43(g)

The Commission emphasizes that Section 43(g) contains a strict, two-stage sequential architecture:

> **1. The Entity Test (Threshold Jurisdiction):** First, the Commission must ascertain whether the entity itself qualifies as a "Public Authority" based on whether it performs a statutory or public function or service under a governmental contract, agreement, or licence.

2. The Activity Limitation (Scope of Disclosure): Once jurisdiction over the entity is established, the statutory proviso restricts the obligation of disclosure *"only to the extent of activities covered by that statutory or public function or service."*

At this stage, the Commission will not proceed to examine the substantive question of disclosure but will confine itself strictly to the question of " Threshold Jurisdiction" .

3. DETAILED EXAMINATION UNDER SUBHEADINGS (A) AND (B)

A. Statutory Function or Service

1. The Proper Statutory Inquiry

The private corporate status of Dialog Axiata PLC does not, by itself, determine whether it falls within Section 43(g) of the RTI Act. The statutory inquiry is a functional one. Section 43(g) expressly encompasses private entities carrying out statutory or public functions under State licences.

2. Statutory Source of Respondent's Operations

The telecommunications system does not operate merely by virtue of private contractual freedom. The authority to operate is conferred within a statutory licensing regime established by the Sri Lanka Telecommunications Act, No. 25 of 1991, as amended ("Telecommunications Act"). Section 17(1) provides:

> *"Subject to the provision of section 20, no person shall operate a telecommunication system in Sri Lanka except under the authority of a licence granted by the Minister in accordance with subsection (2)."*

The statutory prohibition is reinforced by Section 19(1), which makes it an offence to operate a telecommunication system without a licence under Section 17. The legal character of the Respondent's operation is therefore materially different from an ordinary private commercial undertaking. The State has reserved the legal authority to operate a telecommunications system and has made the lawful exercise of that activity conditional upon a statutory licence.

3. The Licence Is Not Merely a Private Contractual Arrangement

The Commission is cognizant of the decision of the Court of Appeal in *De Alwis v. Sri Lanka Telecom and Others* (1995) 2 SLR 3*8 (De Alwis). De Alwis* concerned the availability of prerogative writ jurisdiction in circumstances involving a telephone subscription, failure to settle bills and disconnection of the telephone facility. The reported case therefore concerned whether the particular impugned conduct was founded upon a contractual relationship or involved the exercise of statutory power.

The later formulation of the principle in *De Alwis* has been expressed in the following terms:

> *"The matter to be decided by this Court initially is whether relief that is being sought pertains to the agreement P7 and whether the decision contained in the letters ... is essentially founded purely on contract and decision to terminate the agreement was within the context of the contractual relationship between the parties and not in the exercise of the powers of statutory authority."*

The present inquiry is materially different. This Commission is not being asked to determine whether a particular contractual dispute between a telecommunications operator and a subscriber is amenable to judicial review. It is required to determine whether a private entity is carrying out a statutory or public function or service under a governmental licence for the purposes of Section 43(g) of the RTI Act.

That statutory question did not arise for determination in *De Alwis*. Moreover, the information presently sought does not concern an ordinary dispute over a subscriber's account, billing or contractual entitlement. It concerns written directions issued by the TRCSL and communications exchanged between the TRCSL and the Respondent concerning restrictions imposed upon social-media platforms and communication applications.

The distinction is fundamental. *De Alwis* therefore does not establish that a privately incorporated telecommunications operator is outside Section 43(g). It establishes, at most, that where a particular act is founded purely upon a private contractual relationship and not upon statutory power, a public law remedy may not arise. That proposition does not answer the distinct statutory question now before the Commission.

4. The Statutory Regulatory Obligations

The Telecommunications Act does not merely authorise the Respondent to trade. It empowers the State to prescribe the conditions upon which telecommunications systems may be operated. Section 17(6)(c) and (d) requires the licence to set out the terms and conditions subject to which it is granted and to require the provision of specified telecommunications services. Section 17(7)(b)(i) and (ii) further contemplates conditions requiring an operator, *inter alia*:

> *"to comply with any direction given by the Authority as to such matters as are specified in the licence"* and *"except with the consent of the Authority to do or refrain from doing such things as are required to be done or required not to be done under the licence."*

The Act therefore contemplates a continuing relationship of **regulatory supervision, compliance and direction** between the TRCSL and the licensed operator. This is precisely the context in which the present information request arises. The information sought concerns communications between the statutory regulator and the licensed operator concerning restrictions imposed upon communications platforms. It is therefore directly connected to the regulatory relationship created by the Telecommunications Act and the licence.

5. Statutory Objects and Statutory Resources

The public character of the telecommunications service is further demonstrated by Sections 4 and 5 of the Telecommunications Act. Section 4 ensures

> *"The statutory objectives include the provision of reliable and efficient national and international telecommunications services; protecting and promoting the interests of consumers and users and the public interest in relation to charges, quality and variety of services; and maintaining and promoting effective competition."*

Section 5(v) of the Telecommunications Act expressly empowers the TRCSL to ensure

> " *the conservation and proper utilisation of the radio frequency spectrum by operators and other organisations and individuals who need to use radio frequencies.'"*

The statutory objectives include ensuring the provision of reliable and efficient national and international telecommunications services; protecting and promoting the interests of consumers and users and the public interest in relation to charges, quality and variety of services; and maintaining and promoting effective competition.

The regulatory framework is therefore expressly directed towards **national interest, public interest, consumer protection, reliability, efficiency and competition**. The Respondent's commercial status does not displace these statutory objectives. Rather, its commercial operation takes place within a statutory structure expressly designed to regulate a service affecting the public at large. The Commission is therefore of the view that the nature of the business engaged in by the Respondent qualifies as a statutory function or service within the meaning of Section 43(g) the RTI Act.

B. Public Function Or Service

1. Is The Public-Function Limb Independently Satisfied

Independently of Component (A), the Commission will now proceed to discuss whether the Respondent's operations satisfy the "public function or service" limb of Section 43(g).

2. Treatment of the AIA Insurance Decision and Material Distinction

The Commission notes the decision of the Court of Appeal in *AIA Insurance Lanka Ltd. v. Right to Information Commission and Others*, CA (Writ) Application No. 410/2024 (decided 30.07.2025) (*"AIA Insurance"*), observed as follows:

> *"...since the Petitioner's business does not fall into the category of a public corporation, it also does not have any element of public law which attracts the scope of Section 43 of the Right to Information Act. This is due to the nature of the contracts that the Petitioner is permitted to engage in, in terms of Section 12 of the Regulation of Insurance Industry Act (as amended), which only allows the Petitioner to enter into life insurance contracts (described as 'Long Term Insurance' Business), not general insurance contracts, under which third-party insurance is a necessary element. The Petitioner is not permitted to engage in any third-party insurance in that sense, which attracts the Motor Traffic Act. Therefore, it is very clear that no public element is involved in the business."*

The core principle underpinning Section 43(g) is that for an entity to be brought within the scope of the RTI Act, there must be a distinct **public flavour**. The reason the specific insurance company in *AIA Insurance* was not covered under Section 43(g) was the complete **absence of that public flavour** in its long-term life insurance business and internal processes concerning an agent.

A clear material distinction exists between *AIA Insurance* and the present matter. Telecommunications operations inherently possess an unmistakable public flavour. The Respondent operates under a statutory licence to provide essential public communication infrastructure, utilizing State-controlled radio-frequency spectrum subject to continuous regulatory oversight, compliance obligations, and directions issued by the TRCSL. Therefore, the material distinction lies in the presence of this essential public flavour and the direct statutory nexus, bringing the Respondent cleanly within the scope of Section 43(g).

3. Enhanced Appellate Guidance: The *Hiru TV Case, CIPM Case,* and Constitutional Jurisprudence

The Court of Appeal's decision in *M.J.K. Dissanayake v. Asia Broadcasting Corporation (Pvt) Ltd.*, CA/RTI 0003/2024 (decided 05.03.2026) (*"Hiru TV Case"*) provides direct and decisive appellate guidance on the application of Section 43(g) to licensed private entities.

In the *Hiru TV Case*, the Commission had held at first instance that the private broadcasting company was a "Public Authority" under Section 43(g) because it operated under a governmental licence and utilized public radio frequencies held in trust by the State for the benefit of the public. On appeal, the Court of Appeal unequivocally affirmed the Commission's decision and reasoning. The Court of Appeal expressly held that private corporate status is not a bar to Section 43(g) jurisdiction, stating:

> *"...a private entity or organization which is carrying public function or service under a license from the government or its agencies subject to Right to Information Act, can be considered as public authority."*

In analyzing the underlying rationale of Section 43(g), the Court of Appeal emphasized:

> *"Section 43(g) of the Act is based on the rationale that broadcasters perform a 'public function or service' by utilizing public frequencies licensed by the State (Ministry of Mass Media/Telecommunication Regulatory Commission)."*

This public-function framework is further reinforced by recent appellate jurisprudence in *Chartered Institute of Personnel Management v. Right to Information Commission & Others, CA/WRT/0566/2024 (decided 10.07.2026)* (*"CIPM Case"*), where the Court of Appeal affirmed the RTI Commission's order and established pivotal appellate principles regarding the

jurisdictional reach of Section 43 of the RTI Act. Re-affirming *Chamara Sampath v. Neil Iddawala (CA/RTI/0004/2021)* and the *Hiru TV Case*, the Court of Appeal held that Section 43 must be construed liberally and purposively to give effect to Article 14A. The Court observed that statutory provisions defining a "Public Authority" cannot be given a narrow or restrictive construction to enable entities to *"take cover in order to avoid providing the information asked for unless such information can be denied in terms of Section 5 of the RTI Act"*.

The Court established that the various sub-sections of Section 43 operate as independent, standalone provisions. Thus, an entity's exclusion under one specific provision (such as Section 43(j) or (k) for lack of direct state funding) does not preclude it from qualifying as a Public Authority under another standalone limb, such as Section 43(b) or 43(g). Furthermore, the Court of Appeal explicitly dismissed "floodgate" objections raised against bringing non-governmental incorporated bodies within the ambit of the RTI Act. the Court held that where an entity derives its legal personality, status, or public functions under written law passed by Parliament,

> *"it is not irrational or unreasonable to expect such an institution to act in a transparent manner and be accountable for its action, which are the ideals that the right to information regime seeks to foster."*

The Commission is not inclined to accept the argument of the Respondent that "floodgate situations" will result if Respondent is held to be a Public Authority in terms of Section 43(g) of the RTI Act.

Crucially, the Court of Appeal as well as this Commission drew upon the foundational constitutional principles established by the Supreme Court in the "*Broadcasting Authority Bill Determination (SD 1/9715/97)*." In that decision, the Supreme Court established that airwaves and radio frequencies are public property held in trust by the State for the public. Consequently, when the State grants a licence to a private entity to utilize these public resources, the entity's operations are imbued with a public trust and a public character.

This public-trust doctrine is firmly grounded in comparative and domestic public law authorities relied upon in the *Hiru TV* decision. In *Secretary, Ministry of Information & Broadcasting v. Cricket Association of Bengal (1995 AIR 1236)*, it was established that airwaves and electronic communication media are public property that must be utilized for the public benefit under statutory regulation. Furthermore, domestic jurisprudence in *Bennett Rathnayake v. Sri Lanka*

Rupavahini Corporation (1999) 2 Sri LR 93, the Supreme Court ruled that the power to control airwaves is held in trust for the public, requiring fair procedure and public service and in

Fernando v. Sri Lanka Broadcasting Corporation (1996) 1 Sri LR 157, the Supreme Court held that Article 14(1)(a) includes the "right to know" and access information from diverse sources, justifying the public property character of communication channels.

As recognised in *R v. Panel on Take-overs and Mergers, ex parte Datafin plc [1987] QB 815*, where a private body is woven into the fabric of public regulation or performs a function with an essential "public element", its operations are governed by public-law standards.

In *U.N.S.P. Kurukulasuriya v. Sri Lanka Rupavahini Corporation (SC FR 556/2008),* the Supreme Court held that the rights of the viewers and listeners are paramount. This was reinforced by Indian Supreme Court rulings in *Sanjoy Narayan v. High Court of Allahabad (2011) 9 SCALE 532* and *ABC v. Commissioner of Police (2013),* which affirmed that media entities operate as repositories of public trust and perform public functions.
This approach is consistent with international human rights standards. The Court affirmed that under *Article 19 of the Universal Declaration of Human Rights (UDHR),* freedom of expression encompasses the right to seek, receive, and impart information. This aligns with *Stanley v. Georgia 394 US 557 (1969),* which recognized the fundamental right of the public to receive information. Domestically , the Supreme Court in *Environmental Foundation v. UDA (2009) 1 SLR 123* established an implicit right under Article 14(1) and Article 12(1) to secure information in the public domain. Furthermore, in *Chamara Sampath v. Neil Iddawala (CA/RTI/0004/2021),* the Court of Appeal held that RTI Act must be interpreted in a liberal, purposive manner, ensuring disclosure wherever public interest outweighs potential harm. Where a licensed private operator exercises public communications functions engaging the public domain, Section 43(g) must be construed in alignment with these constitutional and international guarantees.

The reasoning of both the Commission and the Court of Appeal in the *Hiru TV and CIPM* applies directly, and with equal force, to the telecommunications sector. The Respondent, Dialog Axiata PLC :

(a) is a private corporate entity operating under a statutory licence issued under Section 17 of the Telecommunications Act;

(b) utilizes State-controlled public resources in the form of radio-frequency spectrum allocated and managed by the TRCSL;

(c) provides essential public communication infrastructure to the populace; and

(d) operates under continuous statutory regulatory oversight.

Accordingly, following the binding *ratio* of the *Hiru TV Case, CIPM Case,* and the Supreme Court's constitutional jurisprudence on public resources, the Respondent is performing a public function under a State licence, bringing it squarely within the definition of a Public Authority under Section 43(g) of the RTI Act.

4. Distinguishing Threshold Jurisdiction from Substantive Disclosure

The Commission reiterates the necessity of maintaining a clear separation between threshold entity jurisdiction under Section 43(g) and substantive document disclosure. Establishing that Dialog Axiata PLC is a "Public Authority" for the purposes of Section 43(g) does not automatically compel the disclosure of every record requested. The Respondent retains the full legal right to invoke applicable statutory exemptions under Section 5 at the substantive stage of the appeal.

4. CONCLUSIONS ON STATUTORY / PUBLIC FUNCTIONAL SERVICE

For the foregoing reasons, the Commission concludes as follows:

Statutory Functional and /or Service

The operation of a telecommunications system by Dialog is authorised and governed by the statutory licensing framework established by the Telecommunications Act. Section 17 makes a licence a prerequisite to operating a telecommunications system and provides for the terms and conditions under which the licensed service is provided. The Commission therefore concludes that there is a sufficient basis to treat Dialog's licensed telecommunications operations as a statutory service for the purposes of Section 43(g), subject to the precise terms of the Act and licence.

Public Functional and /or Service

The provision of telecommunications services under that licensing framework also has the requisite public character for the purposes of Section 43(g). The public-interest objectives of the Telecommunications Act, the TRCSL's continuing regulatory responsibilities and the functional approach affirmed in *Hiru TV* support that conclusion.

The relevant function is the licensed provision of telecommunications services, assessed in the context of the Telecommunications Act. The statutory framework makes the licence a legal prerequisite and subjects the service to continuing regulatory oversight.

The Act identifies public-interest objectives concerning reliability, efficiency, consumer interests, service quality, and competition. The TRCSL's statutory role extends beyond the initial grant of a licence and includes regulatory supervision within the framework of the Act. The reasoning in *Hiru TV* confirms that private corporate form is not conclusive where the entity performs a public function or service under a State licensing framework.

This construction gives full effect to both parts of Section 43(g): it recognises that a private entity may fall within the definition of "public authority" when carrying out a statutory or public function or service under a qualifying governmental arrangement, while preserving the express limitation that the Act applies only to the extent of activities covered by that statutory or public function or service. The latter limitation is to be applied at the separate activity-scope stage and does not collapse the entity-level jurisdictional inquiry into the question of disclosure of particular records.

5. OTHER OBJECTIONS RAISED BY THE RESPONDENT

The Commission considers the objections raised by the Respondent regarding the failure of the Appellant to proceed with the appeal process in respect of the information asked for from the TRCL and Sri Lanka Telecom PLC, and rejects the said objections as devoid of merit. The Commission will not enter into speculation as to why the Appellant did not proceed with the appellate process in respect of those information requests, but will consider the instant appeal on its own merits.

6. DETERMINATION AND ORDER

1.The preliminary jurisdictional objection raised by the Respondent, Dialog Axiata PLC, is hereby **overruled**.

2.The Commission determines that **Dialog Axiata PLC is a "Public Authority" within the meaning of Section 43(g) of the Right to Information Act, No. 12 of 2016**, solely to the extent of activities covered by its statutory or public function or service under its telecommunications licence.

3.This determination is restricted strictly to the threshold question of jurisdiction under Section 43(g).

4.The Commission hereby determines that the matter be **fixed for arguments on the substantive question as to whether the information can be released or is exempt under Section 5 ,** and directs the Office of the Commission to fix a date for the hearing on the merits accordingly.

The Office of the Commission is directed to fix a specific date and time for the hearing on the substantive merits of the appeal, and to issue formal Notice of Hearing together with summons to both parties accordingly.

The Director General is directed to convey the decision to the Appellant, the Information Officer, and the Public Authority.