



**INTERIM ORDER ISSUED  
PURSUANT TO SECTION 96 OF THE COMMUNICATIONS ACT, 2009**

**ECS 30/2017**

**Issue Date: 21 December 2017**

**1. Issuance of Interim Order**

This Interim Order is issued by the Utilities Regulation and Competition Authority (URCA) pursuant to Section 96 of the Communications Act, 2009 (Comms Act) this 21<sup>st</sup> day of December 2017 to **Paramount Systems Ltd.**

**2. Rationale for issuance of this Interim Order**

On 15 December 2009 URCA granted an Individual Spectrum Licence (ISL) to use the radio frequency referred to as 103.5 MHz ("the Frequency") to Frank Rutherford and Phillip Smith (deceased) ("the Initial ISL").

On 18 December 2009 URCA granted a Class Operating Licence Not Requiring Registration (COLNRR) to use frequency 950.8125 MHz to Frank Rutherford and Phillip Smith (deceased) ("the Initial COLNRR").

An Application for Change of Control made by way of Simplified Merger Notification dated 14 February, 2017 was submitted by Paramount, which involved Frank Rutherford, Blossie Smith, and Brickell Management Group on behalf of Newman (the Change of Control Application).

URCA considered the application and issued its decision on 15 June, 2017, (the Decision) whereby an amendment of the Initial ISL Licence and the Initial COLNRR was made as a result of the Change of Control Application, and on 15 June 2017 URCA issued an Individual Spectrum Licence (the

Second ISL) and a Class Operating Licence Not Requiring Registration issued to Paramount (the Second COLNRR), authorising the exclusive use of the Frequency, and the operation of a radio broadcasting station.

Subsequent to the making of the Decision, a dispute arose regarding the licences whereby Navette Broadcasting & Entertainment Co. Ltd. (Navette) claimed to have an interest in the Initial ISL and the Initial COLNRR.

By letter dated 25 October, 2017 Paramount submitted a complaint to URCA alleging that Navette:

- (a) Illegally used frequency 103.5FM ("the Frequency"), which Paramount is licenced to use; and
- (b) Deliberately created noise on the Frequency to prevent use of and interfere with Paramount's use of the Frequency.

As a result of the complaints received from Paramount, URCA carried out investigations, and on completion of its investigation on 9 November 2017 URCA found that Navette is in continued use of the Frequency without a licence, and is therefore considered to be in breach of s.16 of the Comms Act. URCA is seeking to address Navette's breaches through regulatory action in accordance with the Comms Act.

On 9 November, 2017 Navette filed an Application for Judicial Review in the Supreme Court, which Application was heard on 13 December 2017, and dismissed by the Supreme Court on the ground that jurisdiction lies with the Utilities Appeal Tribunal (UAT). On 14 December, 2017, Navette filed an Application for leave for extension of time to Appeal to the UAT. The Application was heard on 21 December, 2017, and dismissed by the UAT on the ground that the application is out of time. The UAT also noted that the Licensee and Navette as Operator agreed via the agreement between the parties to settle any dispute which may arise via binding and final decision of an arbitration.

Having regard to the likely delays which would likely be occasioned as a result of the need for URCA to address the alleged breaches by Navette, and which may be occasioned by the UAT and/or the Courts in addressing any Appeals by Navette concerning their Supreme Court and UAT

applications, URCA has considered the possible hardship which may be suffered by Paramount as a result of the disputes pertaining to the Decision, and in particular the continued prejudicial use of the Frequency by Navette.

Further, URCA considers that the said conduct of Navette is of sufficient urgency to warrant the issuance of this Interim Order, due to the risk of continuing hardships and serious and irreparable damage to Paramount.

For the reasons above, URCA has decided to issue this Interim Order to address the possible harm to Paramount while URCA's investigation and regulatory actions, and the appeal proceedings, are pending.

**7. Interim Order**

**NOW IT IS HEREBY ORDERED AS FOLLOWS:**


- (i) Paramount is authorised to use the frequency 105.3 FM (the "Interim Frequency") subject to all other terms and conditions as set out in the Second ISL, as amended by the Annex hereto, on a temporary basis for the duration of this Interim Order.
- (ii) Paramount shall promptly vacate the Interim Frequency upon the expiry of this Interim Order.

**8. Duration of this Interim Order**

This Interim Order shall remain in effect for a period not exceeding **three (3) months** from the date of issuance unless extended, either in whole or in part, by URCA.

**9. Sanctions for Failure to Comply with this Interim Order**

Failure and/or refusal to comply with this Interim Order may result in enforcement action taken by URCA under Part XVII of the Communications Act, 2009.



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**Stephen Bereaux**  
**Chief Executive Officer**

**ANNEX**  
Interim Frequency

The Interim Frequency means, unless otherwise specified below, the radio frequency band consisting of the centre frequency and assigned bandwidth specified in the table below.

Table A: Point to Multipoint

	Location		Frequency (MHz)		Specific permissions or restrictions	Duration
	Base Station	Island	Centre Frequency	Bandwidth		
1.	DEWGARD PLAZA, MADEIRA STREET	NEW PROVIDENCE	105.3	0.200	BROADCASTING FM RADIO RESTRICTED TO NEW PROVIDENCE	This assignment shall come into force on the Effective Date of the Interim Order issued to Paramount Systems Ltd. on <b>21 December, 2017</b> , and shall be valid for the duration of said Interim Order.