Co-Regulatory Approaches to Regulation:

Content Regulation and Number Portability in The Bahamas

by Vincent Wallace Whitfield and Stephen Bereaux



CONTENT REGULATION IN THE BAHAMAS

- Piecemeal approach towards broadcasting and content regulation through primary and subsidiary legislation over the years
- Legislation primarily directed at Broadcasting Corporation of The Bahamas as sole broadcasting entity
- 1993/1994 licensing of 2 privately owned radio stations and introduction of cable TV
- Broadcasting Regulations were created, but not known if they were ever applied



COMMUNICATIONS ACT 2009

- URCA's obligations under Communications Act
- Requires URCA to issue codes of practice [s. 53; s. 52]
- Gives URCA the power
 - to allow Industry Groups potentially to play a major role in the development of codes for content provision
 - to help monitor compliance [s. 55]



CO-REGULATORY MODEL FOR THE BAHAMAS

Statutory Co- Self Regulation Regulation

- Benefits of co-regulatory approach
 - Collaboration between industry and regulator
 - Commitment by WG members to participate constructively in the process



ROLES OF URCA AND INDUSTRY WORKING GROUP

Role of URCA

- Manage and administer Working Group
- Provide research material which aided group's discussions
- Consult on full draft of Code and complaints-handling process
- Publish codes and complaints handling process

Role of Industry Working Group

- Be focused and goal-oriented
- Share their views
- Seek consensus



HIGH-LEVEL PRINCIPLES OF THE CODE

Objectives:

- Meet standards and expectations of residents of The Bahamas through a combination of:
 - Positive rules, e.g. Promoting accuracy and fairness
 - Negative rules, e.g. Restrictions on some content
 - Information and tools to empower viewers and listeners
- Ensure level playing field for broadcasters
- Reflect impact of convergence

Overarching themes:

- Freedom of expression
- Respect
- Context



CATEGORIES FOR CODE OF PRACTICE

Categories for inclusion in Code of Practice

General laws and standards

- Law and order
- Harm and offence
- Crime and violence
- Contests and promotions
- Positive rules
- Operational rules

Advertising

Advertising and sponsorship

Miscellaneous

- Listed events
- Access services (subtitling, etc)
- Ancillary services (e.g. teletext)
- Competition issues

News, factual and political broadcasts

- Accuracy and impartiality
- Fairness and privacy
- Elections and referendums
- Natural emergencies and disasters

Children

- Protection of young people
- Advisory assistance, classifications

Social values

- Taste and decency
- Discrimination and denigration
- Religion



CONTENT CODE TIMELINES



1 September 2009

Communications Act comes into effect.



2 June 2010

Statement of Results issued supporting proposal for coregulatory approach.



18 February – 9 June 2011

URCA drafts Bahamian Code based on WG's recommendations.



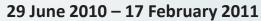
9 November – 30 December 2011

Public Consultation on draft Content Code.



3 February - 12 March 2010

Public Consultation on Process for developing Codes of Practice.



Working Group meetings to review Codes from other countries and international best practice.



23 June - 18 August 2011

URCA meets with WG to review draft Code and ensure its suitability to The Bahamas.



2 March 2012

Statement of Results and final version of Content Code published.



2009 to 2012

Composition of Industry Group Members

Proposed Composition (9)

- URCA
- ZNS/Broadcasting Corp.
- Cable Bahamas
- Private radio/TV x 2
- Independent producers
- Mainstream public opinion
- Minority views
- Family Islands x 2
- Young people

Final Composition (10)

- URCA
- Public Service Broadcasters
- Content/On-demand AVMS
- Private radio/TV
- Independent producers
- Ministry of Education
- Internet TV/audio webcasts
- Family Islands broadcasters
- Teletext services



Role and Functions of Industry Group

- Delegated and advisory responsibility for content provision operations of each section of broadcasting industry
- Licensees nominate persons to serve
- URCA appoints Members for 3 years
- Monitors Licensees' compliance with Content Code
- Prepares report on IG's activities for inclusion in URCA's Annual Report



NUMBER PORTABILITY

 Number Portability is defined as "a facility whereby subscribers who so request can subject to the numbering plan retain their telephone number on a public network, independently of the licensee providing the service at the network termination point of a subscriber".



LEGISLATIVE CONTEXT

- Communications Act, s. 80, requires URCA to consult and make a determination on number portability.
- When required to do so, Licensees must provide operator to operator number portability, where technically feasible, and according to requirements prescribed by URCA.



CONSULTATION ON NUMBER PORTABILITY

- Public consultation commenced on 15 April 2011 discussing key policy, procedural and technical issues:
 - Determine the scope of number portability (service provider, service, and geographic);
 - Determine the technical method to be used;
 - Number Portability database(s) for The Bahamas;
 - Timing of implementation;
 - Procedural issues regarding implementation.



STATEMENT OF RESULTS

- Issued on 16 November 2011:
 - NP on fixed networks as soon as economically and technically feasible
 - NP for mobile communications in place and operational in time for introduction of competition in mobile communications in The Bahamas.
 - Fixed NP solution must also be technically compatible and adequately robust and scalable for mobile NP.



WHY USE A CO-REGULATORY APPROACH FOR NUMBER PORTABILITY?

- High degree of intervention in networks and business processes plus very high degree of understanding of networks and operations required
- Formation of joint industry/regulator Number Portability Working Group (NPWG) to make recommendations on and oversee implementation of NP



FORMATION OF THE NP WORKING GROUP

- NPWG is an URCA-appointed body under s. 39 and s. 40 of the URCA Act, subject to rules and terms of reference set by URCA
- Comprises up to 4 representatives from URCA [1 of whom is chairperson] and two (2) representatives from each licensee which has been granted telephone numbers by URCA.





- Propose detailed work-plan within sixteen (16) weeks of formation.
- Make recommendations
- Assist in implementing fixed number portability
- Formulate procedures and processes
- Prepare NP guidance and procedures documentation for users/operators



DECISION-MAKING MODEL

- Makes decisions by consensus where possible, or by votes of operator members (URCA has no votes)
- URCA decides any matter remaining deadlocked for more than 7 days without a recommendation by the NPWG but may consider representations by individual members of the NPWG



ACHIEVEMENTS TO DATE

- 30 April 2012 NPWG recommended:
 - Technical method for implementation
 - Timeframes and work-plan for fixed number portability implementation;
 - Proposals for a NP Admin. Service.
- 24 September 2012 Shortlist of NP administration service bidders.
- October 2012 Recommendations for final selected vendor



LESSONS LEARNED

- Co-regulatory approach useful in regulatory decision-making where information asymmetry makes operators repositories of knowledge and expertise.
- In time sensitive/competing interests situations, regulator must control, progress and, if necessary, override group deliberations to avoid deadlock and undue delay.



QUESTIONS

Any Questions?



THE END

Thank You for participating!

