



STATEMENT OF RESULTS

CONSULTATION ON THREE YEAR STRATEGY & ANNUAL PLAN FOR 2009 - 2010

ECS 16/2010

30 April 2010

UTILITIES REGULATION & COMPETITION AUTHORITY

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A. INTRODUCTION

The Utilities Regulation & Competition (URCA) issued a public consultation on 30 December 2009 on its Three Year Strategy & Annual Plan for 2009 – 2010. The deadline for submission of responses was 15 February 2010.

URCA came into effect on 1 August 2009 as the new converged regulator of the electronic communications sector (ECS) covering radio and television broadcasting, radio spectrum, internet and data, pay-TV and voice telephony. URCA regulates the ECS through the Communications Act, 2009 (“Comms Act”) which came into force on 1 September 2009.

The Draft Annual Plan was published pursuant to section 41 of the URCA Act which requires URCA to publish the said Plan on its website no later than the end of the financial year and must give interested parties the opportunity to comment.

The Draft Annual Plan outlined:

- Broad priorities of URCA for the three years 2009 - 2012;
- URCA’s strategy for the forthcoming financial year;
- A series of key performance indicators which URCA shall use to measure its performance during the forthcoming financial year;
- The level of remuneration to be received by non-executive and executive members for the forthcoming financial year; and
- URCA’s budget for the forthcoming financial year

This is a summary of responses to the consultation. The full text of the submissions can be found at www.urbahamas.bs.

Based on comments received, URCA has made some additions and changes to the Annual Plan. The Final Annual Plan can also be downloaded from URCA’s website.

B. OVERVIEW

The participation by the respondents was very useful in this consultation process. The depth of the responses has provided much for URCA to consider and as such URCA has made some amendments to its Annual Plan before finalization. A summary of these changes is provided in paragraph 23 of Section C.

URCA wishes to thank all respondents for their participation in the consultation process. Responses were received from three companies, namely:

- The Bahamas Telecommunications Company Ltd. (“BTC”);
- Cable Bahamas Ltd. and Caribbean Crossings Ltd. (joint response and collectively referred to hereinafter as “CBL”); and
- Systems Resource Group Ltd. (“SRG”);¹

BTC and CBL welcomed the opportunity to comment on the Draft Annual Plan. All of the respondents expressed varying degrees of concern on areas such as the proposed strategic priorities; timing of projects; level of URCA budget; and the need for additional details in URCA’s budget.

It should be noted that this is URCA’s first Draft Annual Plan and as such, with more experience the Plan will be refined over time to ensure that there is even greater inter-lock between the needs of all stakeholders.

URCA has had to cover a lot of ground in the first year that differs widely from the remit of the Public Utilities Commission (PUC), the predecessor to URCA.

In addition, compared to other jurisdictions in the Caribbean which had a policy approach of phased liberalisation; The Bahamas whilst having some services liberalised, has adopted a policy approach of immediate and full liberalisation of most services (with the exception of cellular mobile) – this, together with the urgency of addressing long-standing regulatory issues, has added to the ambitious nature of the plan.

URCA did not ask specific questions in the consultation document. Therefore, to facilitate the summary of responses section, URCA grouped types of similar comments into categories. Section C of this document sets out these categories along with a summary of the respondents’ comments and URCA’s proposed action and comments.

¹ SRG trades as “IndiGo”.

C. SUMMARY OF RESPONSES RECEIVED

Issue 1: Strategic Priorities

CBL

- (1) CBL raises several concerns on URCA's proposed list of priorities. One of CBL's concerns is the order in which URCA chose to list its strategic priorities. CBL goes further to suggest to URCA what it believes the strategic priorities should be.
- (2) CBL is of the view that URCA omitted two key priorities, namely:
 - a. Enhancing the efficiency of the sector and URCA; and
 - b. Promoting investment and innovation in the sector

which are "main objectives" set forth in section 4 (a) of the Comms Act.

- (3) CBL notes that the statutory objective of "optimizing the use of radio spectrum" is subsumed as an activity under "Promoting competition".
- (4) CBL believes the resolution of Universal Service requirements and funding issues should be a top priority.
- (5) In CBL's view regulation should not be one of URCA's strategic priorities but a power to be exercised by URCA where necessary to achieve the priorities and thus should be removed as a priority per se.

URCA's Proposed Further Action/Comments

- (6) The order in which strategic priorities listed in the draft Annual Plan (In order, as reflected on pages 9-10 of the Draft Annual Plan, these are Implementing Regulatory Safeguards, Promotion of Competition, Public Interest, Consumer Protection, and Institutional Capacity Building) does not necessarily reflect a higher importance of one strategic priority over the other. The numbering of the strategic priorities was for presentational purposes only and not an order or ranking of the priorities.
- (7) Section 4 of the Comms Act provides the overall objectives for the ECS. URCA, in carrying out its functions under section 7 of the Comms Act, performs these functions for the purposes of achieving the electronic communications policy objectives. In URCA's judgment, by implementing regulatory safeguards at this critical stage of liberalisation, is a way of addressing efficiency and innovation. It is anticipated that with the liberalisation of the ECS, new entrants in the market would be efficient and incentivize existing licensees to be

efficient. URCA is therefore of the view that it does not have to include the two priorities suggested as key by CBL in its final Annual Plan.

- (8) There appears to be some confusion by the respondents between the strategic priorities and the projects proposed to achieve the strategic priorities. Section 4 (a) of the Comms Act states as one of the main objectives to further the interests of consumers by promoting competition. Subsection (iv) makes reference to the optimal use of state assets including radio spectrum. URCA is of the view that the spectrum activities as listed in the draft Annual Plan are necessary to achieve the overarching objective of promoting competition. Therefore, the spectrum activities do not need to be outlined as a specific strategic priority for URCA and will not be reclassified in the final Annual Plan.
- (9) URCA considers that, in the same way that promoting competition can help achieve some of the objectives under the Comms Act, implementing regulatory safeguards and the associated remedies are critical for competition to flourish and by extension promote investment and innovation in the sector. Some activities, such as ex ante obligations for SMP operators, are outlined in the Comms Act at Section 40. URCA will not remove implementing regulatory safeguards as a strategic priority from its final Annual Plan.

Issue 2: Number and Timing of Projects

BTC

- (10) BTC proposes that URCA spread the overly ambitious number of projects planned for Q2 (twice as many) to Q3 and Q4. BTC would like the consultation on Quality of Service to be put off until Q4 instead of Q2 to allow them to deal with the many other issues scheduled for Q2. Further BTC suggests that the public consultation on the Codes of Practice could be rescheduled to Q3 or Q4 to allow licensees to be in a better position to respond to such critical and sensitive issues.

CBL

- (11) One of CBL's concerns is the lengthy list of proposed consultations under the various priorities. CBL is concerned that URCA did not take into account the inability of industry stakeholders to participate in all of these initiatives in a meaningful way as a result of "process overload".
- (12) CBL suggests that number portability should be addressed earlier than what is proposed in the draft Annual Plan with a framework in place by the end of Q3 2010.
- (13) In CBL's view the full market review should be a top priority for URCA and placed on a faster track than that proposed in the Draft Annual Plan. CBL thinks that URCA should prioritize those markets that require immediate review rather than attempting to review all markets at once. This process as suggested by CBL can commence no later than Q3 2010.

- (14) CBL would like URCA to provide the basis for timing of major initiatives and an explanation how the various projects interrelate as dependencies and in terms of timing.

SRG

- (15) SRG believes that the public consultation on infrastructure sharing (scheduled for Q3) should take precedence over spectrum refarming and new spectrum bands (scheduled for Q2).
- (16) SRG suggests that the investigation of anti-competitive behavior should be given priority and that URCA should be prepared to make preliminary rulings with orders to cease and desist while proceeding with further investigations.

URCA's Proposed Further Action/Comment

- (17) As a general point, the Annual Plan refers to “starting timeframes” in the various tables in Section 4 of the Draft Annual Plan. This is to give indicative guidance to the industry on when URCA begins its work, or begins a consultation; the process can often take 4 - 6 months (or longer, depending on the issue) – this covers preparation, consultation, time for interested parties to respond, analysis of comments and reaching a final decision, determination, results, etc. This assumes no requests to extend deadlines from interested parties, and other inter-dependencies which may impact on URCA's workload.
- (18) As such, whilst URCA accepts that some quarters may seem heavier in terms of workloads, or a feeling of “overload” on overall consultations planned for the year, the industry should try to bear this general comment about timing in its own preparations.
- (19) URCA has noted all of the concerns with respect to the number and timing of the various proposed projects. It is typically the case that some licensees may wish for URCA to accelerate the timing of a particular project, whilst other licensees may wish URCA to delay the timing of the same project; the role of a regulator is to balance the needs of all stakeholders and URCA attempts to do so by looking at the regulatory agenda for the year, the timing of projects not only on URCA's workload but also the ability of the industry to respond.
- (20) URCA notes CBL's comments that the market reviews should be a top priority. URCA has scheduled the start of a consultation process on the methodology for market review for the 3rd Quarter. It should be noted, however, that there will be an additional cost of conducting additional market reviews this financial year (having done the interim reviews in the same year and only just beginning the compliance process for obligations arising out of the Section 116 process).
- (21) In response to comments from SRG about anti-competitive concerns, URCA's Competition Guidelines (ECS COMP. 4 - 9/2010) were released in March 2010. URCA also has the powers under section 96 of the Comms Act to issue Interim Orders which are to be followed by full

investigations. However, it is difficult to predict the timing of a complaint and the nature of the complaint. The published Competition Guidelines outline the process that URCA will follow. Therefore, such activities of URCA shown as on-going in the Final Annual Plan have been removed.

(22) URCA has reconsidered the number and timing of projects in the Final Annual Plan to address concerns about the overall consultation load for the year; assessing the timing of certain projects to ensure that a particular quarter is not over-loaded, or in some cases, delaying the project until 2011.

(23) A list of projects that have been re-prioritised are as follows (reference below are to the Draft Annual Plan):

- Dispute Resolution – Table 2 – this has been removed altogether as it duplicated a similar project in Table 4 on Establishing complaint handling and dispute resolution procedures. In addition, the aforementioned project in Table 4 has been moved from Q2 to Q3 of 2010.
- Following the publication of the Spectrum Plan in Q1, URCA will focus its efforts during Q2 on the opening of new bands. As a result, refarming of spectrum (Table 3) has now moved from Q2 to Q3 of 2010.
- Many of the consumer projects have been re-scheduled from either Q2 or Q3, to Q4 of 2010 (such as publication of price and service quality benchmarking reports).
- In response to concerns raised by respondents, work associated with consultation(s) on Number Portability will be accelerated from Q4 to Q3 2010.
- Consumer surveys (covered in Table 4) were scheduled for Q2, are now considered on-going – this reflects the fact that many projects require consumer surveys and inputs, as is the case of surveys already conducted by URCA to inform its work on Public Service Broadcasting.
- The project to develop a framework for competitive allocation mechanism was largely driven by the needs of further liberalization of cellular mobile services. Due to the delays in the privatisation of BTC (compared to when URCA developed the Draft Annual Plan), and the impact this has on URCA's work on further mobile licences and spectrum, URCA has deferred this until 2011.
- The work associated with establishing a Consumer Advisory Committee has been rescheduled to 2011.
- URCA has also decided to defer work on public consultation on Quality of Service until 2011. This does not reflect on the importance of service quality – instead, it is a reflection of, first, collecting relevant data over time to get a better understanding of

trends, and also assessing the impact of competition in the market affecting quality, before consulting on service quality issues.

- URCA has removed the “ongoing” projects from the Annual Plan as they are considered obligatory as governed by the Comms Act and URCA has no control on the timing of them.
- Finally, URCA has already starting its work on Content Regulation. However there is some slippage in setting up the Working Group (from Q1 to Q2) – as a result, the public consultation on Codes of Practice is more likely to begin in Q3 of 2010.

Issue 3: Publication of the Draft Annual Plan

CBL

- (24) CBL suggests that URCA publish the draft annual plan and budget at least 3 months before the close of each financial year end. This would allow URCA to have an approved plan in place at the start of the relevant financial year.

URCA’s Proposed Further Action/Comment

- (25) Whilst ideal, it is simply not practical for URCA to publish its draft annual plan at least 3 months before the financial year end. URCA also needs time to prepare the draft plan and budget estimates. If the preparation is done too early in the year then the plan may not be a reasonable reflection for the forthcoming year. URCA will continue with the current time table for publishing its Draft Annual Plan, but recognizing the concerns raised will endeavour to accelerate this if reasonably practicable.

Issue 4: Publication of the Annual Report

CBL

- (26) CBL notes that it appears that URCA does not intend to publish an annual report for 2009. CBL advocates that an annual report even if informal would be useful of future benchmarking purposes.

URCA's Proposed Further Action/Comment

- (27) URCA plans to issue its 2009 annual report. In accordance with section 41 of the URCA Act, URCA must publish its Annual Report on or before 30 April (i.e. four months after the year-end) and shall arrange at least one oral hearing to present the annual plan and report.

Issue 5: URCA's Performance

BTC

- (28) BTC suggests that URCA add these two KPIs to the process of evaluating URCA's effectiveness:
- a. Annual evaluation of URCA by service providers, and
 - b. Annual independent survey of URCA's performance and effectiveness by a recognized audit firm.

CBL

- (29) CBL is of the view that efficiency and effectiveness need to be integrated into all aspects of URCA's priorities and functions.

URCA's Proposed Further Action/Comment

- (30) URCA would welcome annual evaluation by its licensees and will engage further with them at the end of the financial year. URCA would also consider the benefits of having an annual independent survey by an internationally recognized audit firm. However, licensees need to bear in mind the cost of an annual independent survey. As such, URCA is considering these comments and assessing the appropriate frequency of such surveys.
- (31) URCA is mindful of being efficient and effective in carrying out its functions as laid out in section 7 of the Comms Act. URCA's intent is to provide value for money for all of our stakeholders. Section 33 (2) of the URCA Act requires the audit committee to submit a report to the board on (i) URCA's performance against its annual plan; and (ii) the extent to which URCA's deployment of its financial resources has delivered value for money. Therefore, the audit committee has a very important role to play in the oversight of URCA's fiscal responsibility.

Issue 6: Level of URCA Budget

BTC

- (32) BTC notes its outlay to the URCA budget is excessive and exceeds previous annual payments. BTC's fees to URCA have more than doubled compared to the fees paid to URCA's predecessor, the PUC.
- (33) In BTC's view, URCA's fees are excessive by international standards and make it difficult for BTC to operate a profitable business. BTC infers that high fees are likely to discourage investment in the sector and that it is still required to make significant other payments in the normal course of operations (custom duties, taxes, etc.).
- (34) BTC is of the opinion that the allocation for professional services (consultants/advisors) is excessive and wonders if this is an effective use of funds. BTC encourages URCA to ensure that knowledge transfer to Bahamian professionals occurs to reduce such allocations, in the future, as staff is up-skilled.
- (35) BTC is concerned that there is no allocation for the Utilities Appeal Tribunal (UAT) in the URCA budget.

CBL

- (36) CBL proposes that the budget should be sufficiently detailed, compared to other regulators, e.g. the United Kingdom (OfCom), to allow interested 3rd parties to carry out meaningful evaluation.

SRG

- (37) SRG believes that URCA's budget is excessive compared to other regional communications and utility regulators.

URCA's Proposed Further Action/Comment

- (38) URCA notes the comments on the budget being excessive and placing burdens on licensees. URCA is mindful that it has to be an efficient and effective regulator and offer value for money. There is the addition of new responsibilities (broadcasting, competition) which adds to the higher costs (through advisory costs) during the first 16 months. In addition, URCA has outlined an ambitious agenda, reflecting the concerns of many licensees to address long-standing regulatory issues as quickly as possible – infrastructure sharing and number portability are examples of this.

- (39) In general, URCA provided a comparison of its fees, as a percentage of relevant turnover, in its Final Determination on Class Licences, Exemptions and Types of Fees (ECS 24/2009). This showed that the annualized URCA fee of 1.1 per cent was neither unreasonable nor excessive compared with either regional or other small-island regulators.
- (40) SRG has provided a comparison of regulatory fees in other jurisdictions in the Caribbean. Respectfully, this analysis is not a like for like and the differences are outlined as follows:
- (i) No other regulator is in its first year of liberalization of the communications sector in addition to dealing with a new and different regime. Experience from newly liberalised markets suggests that regulators typically experience a higher set of costs, and therefore correspondingly set a higher level of licence/ regulatory fees, in comparison with latter years of liberalisations. Therefore, comparing the level of URCA fees for 2010 with level of licences fees in other regional markets now sends the wrong signal; what would be more appropriate is to analyse licence/regulatory fees from other jurisdictions during Year 1 of liberalisation and change in regulatory regime.
 - (ii) URCA is a licensing authority, issues and monitors spectrum matters, is a competition authority (including merger analysis), is a regulator for both broadcasting and telecoms; it regulates all aspects of SMP regulation (or dominant operator regulation in other markets), manager of the separate Universal Service Funds (USFs) for pay TV and basic telecommunications, and is the numbering administrator. In contrast:
 - The Barbados FTC does not issue licences; deal with neither spectrum matters nor broadcasting. It also does not have responsibility for universal service, numbering and shares regulatory responsibility with the Telecoms Unit within the Ministry of Finance, Investment, Telecommunications and Energy.
 - The utility regulator (OUR) in Jamaica does not deal with spectrum matters (there is a separate agency for this – Spectrum Management Authority), nor deal with broadcasting (there is a separate agency for this – Broadcasting Commission); there is also a separate agency to manage the universal service fund, and competition issues (Fair Trading Commission).
 - (iii) Comparison of population does not support any conclusions either way. What is important is the scope of responsibilities, extent of competition, stage of liberalisation, etc. when making comparisons among regulators.
- (41) As this is a transition period for URCA, the costs for advisory services, and overall costs, are likely to be high, due to the change in regulatory regime. URCA anticipates that with

knowledge transfer and experience, its budget will stabilize and costs will decrease in real terms over the medium term.

- (42) The UAT once established will develop its own budget for its operations in accordance with schedule 3 of the UAT Act. URCA will only act as a billing and collection agent for the UAT.

Issue 7: Request for additional budget information

BTC

- (43) BTC urges URCA to publish the licence fees paid by each licensed operator as well as the operators exempt from paying licence fees.

CBL

- (44) CBL requests a line by line comparison to PUC's actual for the 13 month period July 1, 2008 – July 31, 2009 along with explanations for variations. CBL wants further disaggregation of several expense categories including compensation for non-executive and executive members, and staff; full compensation packages for each board member; staff count per department and compared to PUC; and details on capital expenditure.
- (45) CBL would like the changes in responsibility from PUC to URCA to be identified and the net impact on the budget assessed. Also, CBL claims that the impact of licence exempt or non-registerable class licences (PUC revenue, cost of administration, net effect of deregulation on staffing and other costs) on URCA's budget is unclear.

SRG

- (46) SRG notes that URCA does not provide its headcount but the executive and staff costs along with rent and utilities suggest a high level of staffing and rental square footage to house them.

URCA's Proposed Further Action/Comment

- (47) There is no statutory requirement placed on URCA to publish licence fees paid by each licensed operator. Section 3 of URCA's Licensing Guidelines (ECS 15/2009) clearly identifies the criteria for licence exempt and non-registerable class licences. URCA has been transparent in the framework for licensing by the publication of its Licensing Guidelines and its subsequent consultation on Class Licences, Exemptions and Types of Fees (ECS 24/2009). Therefore, URCA will not publish the licence fees paid by each licensee nor publish the licensees exempt from paying licence fees.

- (48) URCA notes the request for additional details on its budget. After reconsideration, URCA has provided additional details on headcount, comparison with the PUC's actual (audited) expenses for the 13 month period, and capital expenditure.
- (49) URCA has also provided some additional information on non-executive honoraria and expenses, executive and staff compensation. URCA is satisfied that the level of detail provided in the final Annual Plan is compliant with section 41(2) (d) of the URCA Act.

Issue 8: Role of the Board – Governance procedures for budgets

CBL

- (50) CBL has made a number of comments about the broad degree of discretion that the Act bestows upon URCA in setting licence fees; relatively little external oversight; and recommended that URCA implement tender procedures and document steps that URCA shall take to derive best value for money.

URCA's Proposed Further Action/Comment

- (51) The Board has oversight of the budget at several stages before publication of the Draft Annual Plan and publication of URCA Fees for the next financial year.
- (52) Whilst no formal external oversight is envisaged in the URCA Act, it is for this very reason that there is a requirement to publish the plan in draft for consultation. Whilst it is normal practice for other regulators in The Bahamas to publish Annual Reports, URCA is the only authority that publishes its plan for the next financial year.
- (53) Licensees should not downplay the role of the audit committee as mandated by section 33 of the URCA Act. The URCA Act requires the board to appoint a chairman of the audit committee who is independent of URCA, i.e. not a non-executive or executive member or member of staff of URCA. Section 33 (2) of the URCA Act requires the audit committee to submit a report to the board on (i) URCA's performance against its annual plan; and (ii) the extent to which URCA's deployment of its financial resources has delivered value for money. Therefore, the audit committee has a very important role to play in the oversight of URCA's fiscal responsibility.
- (54) URCA has also adopted various approaches to manage costs:
 - (i) Advisory costs – a combination of formal Request for Proposal (RFP) have been used in conjunction with Framework Agreements. Going forward, URCA intends to further improve its efficiency by adopting more formal tenders to establish panels of experts.

- (ii) Following the end of its first financial year, where a new Board is leading an organization and regulatory landscape in rapid transition, outcomes of statutory audits, and recommendations from the Audit Committee, will provide further insights into how to improve processes and efficiency.
- (iii) Further work has also begun to automate business and operational processes.

Issue 9: Other budget concerns

BTC

- (55) BTC proposes that URCA stagger payment of fees to quarterly or semi-annually rather than annually in advance as this is considered onerous on licensees.
- (56) In BTC's view a cap on URCA fees should be established so that URCA's budgeted revenues do not become limitless. BTC further suggests that any unused funds from licence fees would be credited to BTC as implied in section 40 (2) of the URCA Act.

CBL

- (57) CBL asserts that there is no justification for URCA requiring payment of the fees in advance.

SRG

- (58) SRG states that the licence fees are excessive and that the fee structure will inhibit investment in the sector and disadvantage consumers.

URCA's Proposed Further Action/Comment

- (59) URCA is not in a position to comment on the Comms Fee as this is mandated by the Comms Act.
- (60) Most regulatory and other fees are payable in full in advance (e.g. Business Licence, motor vehicles registration, drivers licence). The Communications and the URCA fees are no exception to this.
- (61) Licensees have a choice of paying URCA fees fully in advance or paying quarterly (in advance) with interest.
- (62) It would not be appropriate to establish a cap on URCA fees. The URCA budget is determined annually, then using the estimated turnover for all licensees (using latest available financial information), a licence fee is estimated. The licence fee may not be the equivalent of 1.104% each year as it is driven by URCA's budget, and also the estimated turnover for all relevant licensees. Therefore, there are no provisions to bill and collect on a

defined % licence fee regardless of what URCA's budgetary needs are from year to year. URCA is mandated by section 40 (2) of the URCA Act to retain any excess sums collected for application to the following financial year(s).

Issue 10: URCA's Vision

BTC

- (63) BTC recommends that URCA expands its vision to include a principle for licensees to secure a reasonable return on investment for their shareholders while providing high quality service to consumers.

URCA's Proposed Further Action/Comment

- (64) URCA is mindful that it has to balance the interests of all stakeholders including consumers and licensees. Section 40 (3) (b) of the Comms Act addresses the rate of return of the relevant licensee.

Issue 11: URCA's mission statement

BTC

- (65) BTC offers that URCA include the following two principles as emanating from the mission statement:
- a. A dispute resolution mechanism that is transparent, proportionate, non-discriminatory and timely, and
 - b. Effective appeals procedure so that licensees who disagree with regulatory decisions have recourse.

URCA's Proposed Further Action/Comment

- (66) URCA will consult on a dispute resolution mechanism in the future which should encompass the principles as suggested.
- (67) The role of the Utilities Appeal Tribunal (UAT) is to hear and determine appeals of regulatory decisions issued by URCA in accordance with section 5 (1) of the UAT Act.

Issue 12: Promoting competition

BTC

- (68) BTC wants URCA to balance the need of new entrants access to existing infrastructure without “piggy backing” off the established network providers. BTC is of the view that if the balance is not properly managed any imbalance may act as a deterrent to new investment by larger licensees.

URCA’s Proposed Further Action/Comment

- (69) URCA is mindful to balance the objectives of promoting investment and innovation in the sector while encouraging and promoting sustainable competition as set out in section 4 of the Comms Act – therefore, barriers to entry need to be regulated.

Issue 13: Monitoring, enforcement and investigation activities

CBL

- (70) CBL strongly urges URCA to include a major initiative to detect and control the unlawful provision of electronic communications services without a proper licence so as to protect consumers and ensure a level playing field for licensed operators and potential entrants.

Proposed Action/Comment

- (71) URCA continues to monitor and enforce compliance with the Comms Act. URCA encourages and welcomes the assistance of the industry and stakeholders to bring enforcement issues to its attention.

Issue 14: Relationships with URCA and between licensees

BTC

- (72) BTC is of the view that URCA should ensure that a cordial and respectful relationship exists between its staff and service providers as well as between service providers. URCA is urged to use all tools and resources so that all stakeholders abide by international best practice to ensure fair dealings in the sector.

URCA's Proposed Action/Comments

- (73) URCA will continue its efforts to develop cordial and respectful working relationships with its licensees. URCA must carry out its duties in a manner that is transparent, fair and non-discriminatory at all times to ensure the advancement of the electronic communications sector in The Bahamas. However, it is the responsibility of each licensee to develop and maintain a cordial and respectful relationship with other licensees.

Issue 15: Consumer Advisory Committee

BTC

- (74) BTC cautions URCA on the selection of committee members to ensure transparency and non-discrimination due to limited population size and personal agendas.

URCA's Proposed Further Action/Comment

- (75) URCA has noted BTC's concern and will be mindful to select Consumer Advisory Committee members that have the best interests of consumers at heart.

Issue 16: URCA Data Bank

BTC

- (76) BTC recommends that URCA develop and manage a data bank to include:
- Industry KPIs
 - Licensees' financial information
 - URCA's budget inclusive of licence fees paid by each licensee and a list of licensees that are fee exempt

URCA's Proposed Further Action/Comment

- (77) It is URCA's intent to collect and publish industry statistics and develop an appropriate method of transparently making that available to all stakeholders.

Issue 17: Industry Overview

CBL

- (78) CBL is unsure what conclusions URCA wants the reader to draw from the industry overview. CBL opines that there should be no inference that regulatory intervention is needed to improve the take-up of broadband in The Bahamas.

URCA's Proposed Further Action/Comment

- (79) URCA provided the Industry Overview to highlight the current state of play of the ECS in The Bahamas. URCA's intent was not to draw any conclusions at this time. URCA will regularly collect, review and analyse data on the ECS which will better assist URCA in the regulation of the sector. See URCA's further action/comment to Issue 16 on future action.

Issue 18: Reference to Anecdotal evidence

BTC

- (80) BTC notes URCA's assumptions based on "anecdotal evidence" that consumers are dissatisfied with the levels of customer care and service quality received from the major service providers. BTC urges URCA to reserve its comments until proper surveys are conducted.

CBL

- (81) CBL suggests that URCA should avoid making references to unsubstantiated claims such as references to "anecdotal evidence" of customer dissatisfaction. CBL further recommends that surveys conducted by URCA should focus on identifying demand-side factors that may be impeding further broadband take-up in The Bahamas.

URCA's Proposed Further Action/Comment

- (82) URCA has noted the concerns about the inference to "anecdotal evidence" and this has been amended in the Final Annual Plan. URCA did not draw any conclusions from this anecdotal evidence but rather made the reference to provide context for our work planned in relation to conduct quantitative and qualitative market research and surveys.

D. OTHER ISSUES

- (83) Respondents to this consultation raised some points which did not address specific areas in the consultation. URCA has considered these points and its response to them is set out below.

BTC

- (84) BTC wants the costs involved for an incumbent operator to implement number portability to be considered.
- (85) URCA will take into account all comments raised during the public consultation on number portability in the future.

SRG

- (86) SRG asserts that it has brought interconnection matters to URCA's attention following the passing of the Comms Act on 1 September 2009 and has yet to see any resolution.
- (87) URCA notes and acknowledges SRG's point. However, SRG is aware of the SMP proceedings which include interconnection obligations and the matters raised by SRG will be dealt within the context of the RAIO obligations and the Access & Interconnection Guidelines (ECS 14/2010).

E. CONCLUSION AND NEXT STEPS

As this is URCA's first draft Annual Plan, it is a learning experience for the industry and URCA. Therefore, URCA really appreciates the feedback received from respondents on the draft Annual Plan. With time and experience, URCA expects to improve and refine its future draft Annual Plans. URCA has amended its Plan accordingly and published the Final Annual Plan.

As in accordance with section 41 of the URCA Act, URCA will arrange at least one oral hearing to present the Annual Plan and Annual Report and allow questions from interested third parties to be answered. URCA will publish the date and time for the oral hearing in the media.