

URCA Publishes Guidance on Merger Control

18 September 2009

The Communications Act 2009 (the “**Comms Act**” or “**CA 2009**”), which came into force on 1 September 2009, includes competition provisions that will apply to the electronic communications sector. The Utilities Regulation and Competition Authority (URCA) will publish a series of guidance notes to assist licensees, consumers and other interested stakeholders understand how it is intended that these competition provisions will apply in practice.

The initial series of guidance notes will cover the following subjects:

- ECS COMP. 1. Merger control – procedural guidance
- ECS COMP. 2. Merger control – substantive guidance
- ECS COMP. 3. Merger Control – Regulation on Fees
- ECS COMP. 4. Who is affected by the rules? The concept of “undertaking”
- ECS COMP. 5. Market definition – its role in competition and in regulation (for the determination of operators with significant market power)
- ECS COMP. 6. Anticompetitive agreements and practices – substantive guidance
- ECS COMP. 7. Abuse of a dominant position – substantive guidance
- ECS COMP. 8. Guidance on the level of fines

Today, 18 September 2009, URCA has published the first three (3) documents, ECS COMP1, ECS COMP 2, ECS COMP 3. The remaining guidance notes will be published in the next few weeks. These documents can be downloaded from URCA’s website www.urbhama.bs

The guidance note, ECS COMP. 1, addresses the procedural aspects of merger control. The guidance note, ECS COMP. 2, addresses the substantive aspects of merger control. The regulation on merger control fees – ECS COMP3, provides guidance on the level of fees that URCA will charge for merger control.

It is illegal to complete a relevant merger prior to obtaining URCA’s approval (see section 70 of the Comms Act). The guidances indicate URCA’s current thinking but should not be taken as a statement of law. Relevant persons should always consult the relevant legislation and seek legal and professional advice where appropriate.