



# **QUARTERLY REPORT OF THE BOARD**

*COVERING THE PERIOD 1 JANUARY – 31 MARCH 2010*

**ECS 18/2010**

5 May 2010

**UTILITIES REGULATION & COMPETITION AUTHORITY**

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## 1. Introduction

As part of URCA's continuing commitment to accountability and transparency, the Board is pleased to publish its second Quarterly Report, covering the period January – March 2010.

## 2. Summary of Key Actions – Operations

- PricewaterhouseCoopers (PWC) were selected by the Audit Committee as the auditors for URCA and approval of their appointment was received from the Attorney General, the Minister responsible for URCA. PWC were the legacy auditors for the PUC and therefore selected on the basis of providing continuity, during a year of transition for the Authority, rather than through an open tender process. URCA's Chairperson, as a former partner of PWC, did not participate in the selection process over conflict of interest concerns.
- The Board approved the opening of new bank accounts for the ease of receiving fee payments, enhancing accountability and timely remittance of Communications Licence and Spectrum Fees to Government.
- During the period 1 January 2010 to 31 March 2010, URCA collected and remitted to Government \$14.5 million for Communications and Spectrum fees.
- Consistent with URCA's strategy for staff retention and develop its human resources initiatives, the Board approved a new compensation framework that is both performance and market driven. This Pay for Performance Management System is complemented with new internal procedures for objective setting and performance reviews.
- Each month, the Board reviews URCA's management accounts and financial performance.
- The Board has been regularly apprised on the progress of plans to relocate URCA to new office premises.
- The Board has been regularly updated on various queries from licensees, and actions to resolve and collect URCA Fees or Communications Licence Fees.
- The Board approved changes in the internal organisation design and reporting lines of URCA, to improve accountability, right-size the organisation in terms of the skills required in the Policy & Regulation team, and develop an organisation that is fit-for-purpose to take on new sectors when required to do so. In addition, the Board agreed on various measures to improve internal processes and automation.
- The Board approved the appropriation of \$3,000,000 from URCA's reserves for utilisation in preparing for regulating the water and energy sectors, given that the Government has

already begun some work in this area. These reserves were not generated from the Communications sector.

- The Board agreed that further improvements could be made in the process for selecting external advisors and took action on the selection methodology and approach in this area.

### **3. Summary of Key Actions – Regulatory**

The Board approved the following regulatory measures and actions:

- Publication of Interim Codes covering Political Broadcasts (ECS 01/2010) – this became urgently required due to the bye-election in the Elizabeth constituency that was held on February 16 2010.
- Public Consultation on the process for developing Codes of Practice on Content Regulation (ECS 02/2010) through co-regulation utilising an industry Working Group.
- Final Determination on Significant Market Power (SMP) to close the process under section 100 of the Communications Act and continue the proceedings under section 116 of that Act (ECS 04/2010).
- National Spectrum Plan, as approved by the Prime Minister being the Minister responsible for the electronic communications sector (ECS 06/2010). The National Spectrum Plan has been designed to comply with the Government’s Electronic Communications Sector Policy and to inform users and other stakeholders of the following key points:
  - The efficient management of radio spectrum in The Bahamas throughout the duration of the plan, including the categorisation of spectrum as either “Premium” or “Standard”, in line with the Comms Act;
  - Any aspects of the current spectrum allocation which URCA is considering changing or amending and the likely timing of such changes; and
  - The intent to conduct public consultations in connection with proposed changes or amendments.
- Position Paper on the Types of Obligations to be Imposed on Operators with SMP (ECS 07/2010) to update interested parties on URCA’s latest thinking, following submissions and latest data received, any re-examination of the SMP markets or selection of obligations.
- The remainder of URCA’s Competition Guidelines (ECS COMP. 04 to ECS COMP. 09) covering:
  - Who is covered by the competition provisions? The concept of “undertaking” (ECS COMP.4.)
  - Market definition – its role in competition law (ECS COMP.5.)
  - Anticompetitive agreements – substantive guidance (ECS COMP.6.)
  - Abuse of a dominant position – substantive guidance (ECS COMP.7.)
  - Guidance on the level of fines for breaches of Part XI of the Communications Act (ECS COMP.8.)
  - How to make a competition complaint – guidance on URCA’s investigation procedure (ECS COMP. 9.)

- Guidance on Licence Fees and Payment Methods.

The Board has been regularly updated on:

- Investigations of complaints about spectrum interference.
- Investigations into complaints of anti-competitive conduct.
- Plans for consultation and industry engagement in relation to Public Service Broadcasting (PSB) and Content Regulation.
- Work being done by the Government and the Inter-American Development Bank (IDB) on Energy and Water reform, including URCA's contributions to this reform process.
- All litigation currently in the courts and efforts being made to resolve the issues.

#### **4. Subsequent Events**

Since 31 March 2010, the Board approved the following regulatory measures and actions:

- Interim Codes of Practice for Broadcasting Content (ECS 10/2010);
- Final Decision on Obligations Imposed on Operators with Significant Market Power (ECS 11/2010);
- Final Accounting Separation and Cost Accounting – Guidelines for BTC (ECS 12/2010);
- Final Accounting Separation and Cost Accounting – Guidelines for CBL (ECS 13/2010);
- Final Access & Interconnection Guidelines (ECS 14/2010);
- Regulation of Retail Prices for SMP Operators – Rules (“Retail Pricing Rules”) (ECS 15/2010);
- Statement of Results from the consultation on the Draft Three Year Strategy and Annual Plan for 2009-2010 (ECS 16/2010);
- URCA's Final Three Year Strategy and Annual Plan for 2009-2010(ECS 17/2010); and
- URCA's Annual Report for 2009.