



STATEMENT OF RESULTS

CONSULTATION ON THREE YEAR STRATEGY & DRAFT ANNUAL PLAN for 2012

ECS 14/2012

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UTILITIES REGULATION & COMPETITION AUTHORITY

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1. INTRODUCTION

Under section 41(4) of the Utilities Regulation and Competition Authority Act (URCA Act), the Utilities Regulation and Competition Authority (URCA) is statutorily mandated to publish a draft annual plan on its website no later than the end of the financial year¹, and afford interested third parties the opportunity to comment on the draft plan prior to its final publication. In compliance with this statutory requirement, on December 30, 2011, URCA published its draft Three Year Strategy and Draft Annual Plan for 2012 (Draft Annual Plan) and invited comments from the general public. The deadline for submission of responses was February 3, 2012.

URCA's Draft Annual Plan sets out in detail the programme of work URCA proposes to undertake for the forthcoming financial year commencing January 1, 2012 and ending on December 31, 2012. Further, the Draft Annual Plan also outlines URCA's strategic framework for the years 2009-2012.

The Draft Annual Plan outlined, inter alia, the following:

- URCA's Vision and Values;
- URCA's Strategy and Priorities for 2009-2012;
- URCA's Planned Activities for 2012; and
- URCA's Operating and Capital Budget for 2012.

This Statement of Results document now provides a summary of written responses to the Draft Annual Plan. However, the full text of submissions can be found on URCA's website at www.urbahamas.bs.

¹ "Financial year" is defined in s. 2 of the URCA Act as "a calendar year".

2. OVERVIEW

URCA thanks the respondents to this consultation for their contributions. The comments and suggestions received have greatly assisted in refining URCA's Final Annual Plan for 2012.

URCA's Final Annual Plan for 2012 has been informed by a thorough process of consultation with written responses received from The Bahamas Telecommunications Company Ltd. (BTC) and Cable Bahamas Ltd. and its subsidiaries² (collectively referred to as CBL). All responses and feedback from these stakeholders have been considered prior to publishing the Final Annual Plan.

BTC, in its response, welcomed the opportunity to comment on URCA's Draft Annual Plan for 2012 and commended URCA for the release of the document, which in BTC's view marked a significant milestone in the evolution of the electronic communications sector. CBL, in its response, also expressed their continued support for URCA in its role as an independent regulator.

As with the previous two Draft Annual Plans published for 2010 and 2011, URCA did not ask specific questions in this consultation document. Rather, to facilitate the summary of responses received, URCA has categorized the stakeholders feedback in accordance with the headings found in the Draft Annual Plan's Table of Contents. The following section, "Summary of Responses Received", summarizes the key comments made by BTC and CBL and details URCA's responses to those comments.

² Caribbean Crossings Ltd. and Systems Resource Group Limited.

3. SUMMARY OF RESPONSES RECEIVED

3.1 Strategy and Priorities for 2009-2012

BTC

BTC expressed concern over what it believes to be “over-regulation” exhibited by URCA. It stated that public consultations occur in rapid succession and frequently overlap in some instances, placing an incredible strain on its internal resources and finances.

BTC also commented that there was no evident progress of the establishment of the Utilities Appeal Tribunal (UAT).

URCA’s Response

URCA notes BTC’s comments and regrets that BTC would characterize any overlaps in public consultations as “over-regulation”. URCA advises that its approach to effective regulation has been and will continue to be to balance the needs of all of its stakeholders while prioritizing the policy objectives set out by the Government in the Electronic Communications Sector Policy (ECSP). URCA does this by setting a regulatory agenda for the year based on its assessment of the needs of the sector, a review of those ECSP objectives that can realistically be accomplished during the ensuing year and by having regard to the timing of projects and the ability of the industry to respond. URCA will continually assess and review its policies and the effectiveness of the work that it undertakes. The completion of the Annual Plan assists with improving URCA’s approach to regulating the electronic communications sector (ECS) in The Bahamas. The Annual Plan will also allow URCA to evaluate policy decisions to ensure that they are being carried out in a manner that will benefit all ECS stakeholders.

URCA notes BTC’s comments on the UAT, a separate and independent body whose members, in accordance with section 3 of the Utilities Appeal Tribunal Act, were appointed by the Governor General acting on the advice of the Judicial and Legal Service Commission. URCA’s remit in relation to the formation and operation of the UAT is limited to the levying and collection of Tribunal Fees, based on a budget to be formulated and presented to URCA by the UAT. URCA has not yet received a budget from the UAT. Once this has occurred, URCA will notify all licensees in advance of the implementation of the new fee structure.

3.2 Implementing Regulatory Safeguards

BTC

BTC expressed the opinion that the retail price regulations imposed on it are impractical, inflexible and consist of protracted timelines. BTC further stated that it believes it has been singled out by URCA through the imposition of retail price regulations, which it contends amounts to overbearing monitoring and potentially renders the level playing field principle non-existent.

BTC also contends that URCA has placed excessive demands on it through its Accounting Separation and Cost Accounting Reports, an Efficiency Study, and the Retail Price Regulations while taking an alleged “lenient” position regarding CBL’s untying obligations for Broadband Internet from Cable TV.

BTC commented that URCA’s planned public consultation on Significant Market Power (SMP) in Call Termination will not be given appropriate attention as it is not scheduled to commence until June 2012. BTC further noted that it is important for URCA to conduct the public consultations on Call Termination and Universal Service Obligations in 2012, and that these consultations should be given greater importance, considering the stage of development of the communications sector and the need to ensure that regulation is proportionate and fit for purpose.

CBL

CBL commented that URCA’s efficiency may be impeded due to URCA’s involvement in operators’ management issues. CBL believes that the process of implementing retail pricing rules is “invasive, time consuming, arbitrary and expensive”. CBL also referred to the 2009 Committee for the Privatisation of BTC and its recommendation for ‘price cap regulation’. CBL further noted that the current retail price rules were intended to remain effective for six (6) to twelve (12) months and proposed that URCA progress towards a more transparent price regulation process, such as price caps.

In contrast to BTC’s position on URCA’s public consultation on SMP in Call Termination, CBL proposed that URCA should give this project a very low priority or postpone it. CBL contended that the issue should only be addressed if and when problems arise in respect of the pricing of fixed termination by operators other than BTC.

With regard to the Efficiency Study on BTC, CBL strongly supports this as a project for URCA during the first quarter of 2012, on the basis that BTC’s prices should reflect the costs of a reasonably efficient operator. CBL is of the opinion that the results of the study would result in benefits for competition as well as benefits to consumers.

URCA's Response

URCA notes BTC's comments and wishes to assure BTC that in all instances, URCA seeks to operate in a manner that is fair, transparent and non-discriminatory. URCA's goal is to carry out the ECSP objectives in accordance with section 7 of the Communications Act. In doing so, and based on the applicable market conditions, it will at times be the case that more projects would be applicable to or have a greater impact on one stakeholder than another.

As previously indicated by URCA³, the pricing framework was designed to ensure that SMP licensees have the ability to respond to changing circumstances and incentivize them to operate in a pro-competitive manner, while protecting the interests of persons in The Bahamas in relation to electronic communications services. URCA considers that its pricing framework was and remains appropriate for its original purpose.

In response to CBL's recommendation that URCA implement a system of price cap regulation, URCA again notes that it addressed this issue in the Statement of Results relating to the 2011 Annual Plan. URCA pointed out that before a system of price caps could be imposed, onerous key information would first be required, namely a detailed business and cost model for the regulated services for the duration of the cap.

URCA is not opposed to incentive-based regulation and a price cap regime would be considered by URCA subject to first undertaking extensive consultation and engagement with the industry. The current regime for retail price regulation is an interim one that will remain in place until operators provide information required to carry out a reassessment of the regime. An interim regime was necessary in order to protect the industry as well as consumers. URCA recommends that the operators submit a detailed proposal for a new price cap regime in the final quarter of this year and URCA will have regard to it in its Draft Annual Plan for 2013.

URCA is mindful of BTC's challenges with regard to its preparation and submission of separated accounts. URCA however, points out that the Accounting Separation requirement is an ongoing obligation placed on those operators that have been designated as having SMP, BTC being one of them. URCA will continue to review BTC's submitted accounts to ensure that the operator has properly prepared the accounts in accordance with the Final Accounting Separation (A/S) Guidelines for BTC (ECS 12/2010, issued on April 22, 2010) and URCA's Final Decision and Required Changes on BTC's A/S Framework (issued to BTC on December 21, 2010). Furthermore, when applying the

³ Statement of Results to URCA's public consultation on the Annual Plan for 2011 issued on April 12, 2011 (ECS/06/2011)

methodology for determining SMP, URCA will continue to be fair and transparent in its approach.

URCA notes both BTC's and CBL's comments in relation to the timing of the public consultation on SMP in Call Termination. URCA advises that there are projects that were initiated in 2011 but not completed and have been carried over into 2012. The commencement of the public consultation on SMP in Call Termination in June 2012 is to allow for those projects that have been carried over into 2012 to be completed in the first half of the year, having regard to ongoing work, existing and future projects and manpower resources within the organization.

URCA considers that it is still appropriate for it to proceed with the public consultation on SMP in Call Termination. URCA does not agree that this issue should only be addressed if and when problems arise in respect of the pricing of fixed termination by operators other than BTC as there is a potential risk of operators not declared as having SMP in Call Termination operating opportunistically by charging unreasonable rates or causing delay in interconnection rates. URCA's position, in this regard, is supported by international experience where the potential exists for a new entrant into the market to impose excessive charges for interconnection on existing operators, thereby distorting competition. This would have the effect of leaving consumers unprotected. Based on the above-reasoning, while having regard to other processes to be undertaken by URCA during 2012, URCA is prepared to proceed with this project with a projected start date of June 1, 2012.

Regarding Universal Service Regulations, URCA will make its position clear on this matter in the upcoming consultation. However, URCA will develop an implementation plan in order to give effect to enforce the existing Universal Service Obligations specified in the Comms Act.

Additionally, URCA is satisfied that the Efficiency Study of BTC's cost structure is necessary to ensure that BTC's charges reflect efficient costs. This is a core principle underpinning the access and interconnection framework in The Bahamas.⁴

3.3 Promoting Competition

BTC

BTC commented on a reluctance of local businesses "of significance" investing in the Bahamian telecommunications sector and called on URCA to proactively encourage local investment in the sector with edu-sales programmes targeted at such businesses. BTC

⁴ Final Guidelines, Access and Interconnection (ECS 14/2010 issued on 22 April 2010)

also suggested that URCA, along with collaborative efforts by the Ministry of Finance and the Chamber of Commerce, create a programme that will attract significant local investment into the sector.

CBL

CBL commended URCA on the steps it has taken thus far with a goal of making Number Portability a reality in The Bahamas. CBL also noted a five month delay between the deadline for responses to the Public Consultation on Number Portability and the publication of the Statement of Results. It further called on URCA to eliminate entry barriers to the sector by taking every opportunity to expedite the implementation of number portability.

URCA's Response

URCA notes BTC's feedback on the issue of promoting competition. URCA's role in promoting competition is expressly defined in section 4 of the Communications Act, 2009 (Comms Act). One main objective of the electronic communications policy is to further the interests of consumers by promoting competition and in particular:

- (i) to enhance the efficiency of the Bahamian electronic communications sector and the productivity of the Bahamian economy;
- (ii) to promote investment and innovation in electronic communications networks and services;
- (iii) to encourage, promote and enforce sustainable competition; and
- (iv) to promote the optimal use of state assets, including radio spectrum.

Having regard to the foregoing, BTC's suggestion for URCA to bring investors into the sector does not fall within URCA's statutory remit and the policy objective under the Comms Act to promote competition. URCA recognizes that there is a separate entity in The Bahamas established for the purpose of promoting and fostering investment in the country, and it contends that it is ultimately the function of this investment body to lead the charge "to bring investors into the sector" and not URCA. Whilst URCA can play a role in promoting competition by explaining business opportunities, policies and regulations governing the ECS marketplace, BTC should be mindful that there are a number of factors that will determine entry and investment into the sector including size of the market, expected return by the investor and general macroeconomic consideration.

The delay in publishing the Statement of Results for the public consultation on Number Portability was necessary in order to effectively address the differing positions put forward by stakeholders in the public consultation process and to ensure that Number Portability is properly implemented. The further work that URCA undertook during this

period included carrying out additional research on international practices and experiences, participation in workshops both internally and internationally, consultation with experts and other regulators in similar jurisdictions, and further deliberation amongst the Board and URCA colleagues. URCA firmly believes that any dilatory steps taken on its part was in the best interest of the ECS.

URCA also believes it is important to note that an exact publication date for the Statement of Results for the public consultation on Number Portability was not given. While a deadline for responses to the consultation was set for June 10, 2011 notably, responses were not received from CBL and BTC until June 24, 2011. Almost immediately thereafter, on June 27, 2011 URCA published on its website the responses received and allowed for further submissions to be made in response to the comments received. The deadline for these submissions was stipulated as July 8, 2011. URCA made no indication as to when the Statement of Results would be published and did so within a period of time that was reasonably practicable having regard to the submissions received.

URCA further notes CBL's comments that URCA expedite the prompt implementation of Number Portability within The Bahamas. URCA considers that while promptitude is desirable, it is also important to ensure that the implementation of Number Portability in The Bahamas is effective. The establishment of the Number Portability Working Group by URCA will assist in the guidance of this project and its implementation within a reasonable timeframe. URCA considers a feasible timeframe for implementing Number Portability in The Bahamas to be within sixty-four (64) weeks from the formation of the NPWG, as previously indicated in URCA's Statement of Results on the Public Consultation on Number Portability published on November 16, 2011.

3.4 Consumer Protection

BTC

BTC was receptive to URCA's activities and projects on consumer protection, education and awareness. However, it proposed that interaction with consumers through educational programs can assist URCA in better understanding the needs of consumers.

URCA's Response

URCA notes BTC's response regarding consumer protection and reiterates URCA's intent to continue to promote consumer protection as indicated in the Draft Annual Plan at sections 3.3 and 4.3. To this end, URCA has listed projects in its Draft Annual Plan that outline URCA's pragmatic approach to developing and enforcing consumer protection policies.

3.5 Institutional Capacity Building

BTC

BTC expressed continued support for the building of skills and expertise at URCA so that the country and the organisation would eventually benefit from the available pool of knowledge and regulatory technical expertise. BTC proposed that URCA consider highlighting professional career opportunities in regulation as a part of its marketing programme to Bahamian residents so that secondary school students in particular would be aware of the opportunities available when considering areas of study for tertiary level education.

In addition, BTC contended that URCA relies heavily on external consultants and proposed that URCA should ensure that staff members receive knowledge transfer and training through cross training and shadow learning from the external consultants at all times.

BTC also suggested that URCA's Human Resources Strategy displays a critical imbalance with regard to the technical expertise deemed essential to adequately and effectively address the regulatory mandates of the sector.

URCA's Response

The building of institutional capacity remains a top strategic priority within URCA. This is evident through URCA's ongoing development of and commitment to initiatives and training programmes to ensure that staff members are sufficiently skilled and trained to carry out URCA's functions, including general competency and managerial skills, formal certification and leadership development.

URCA has taken steps to minimize its reliance upon external consultants. In December 2011, URCA commenced the recruitment process for a Human Resources Manager, Senior Case Officer (Technical) and Assistant Case Officer (Economics). In addition to these initiatives, URCA has decreased this year's budget for professional services while increasing staff costs, which reflects the goal of having more tasks performed within URCA. The transfer of knowledge from consultants to URCA staff through development and training remains an on-going policy initiative.

3.6 URCA's Effectiveness Evaluated

BTC

BTC commented that it finds the long silences before the publication of some Statement of Results following the conclusion of a public consultation frustrating. It suggested that URCA should state in its consultation documents when a decision could be expected and if the indicated timeframes are missed, then URCA should provide the public with an update on the status or progress of the Statement of Results. BTC further commented that URCA's effectiveness should be evaluated by an independent and objective body that would solicit the views of the sector to enhance the value of the evaluations.

BTC also referred to Table 8 of the Draft Annual Plan entitled "URCA Key Performance Indicators 2012", pointing out that the Legal, Economic and Engineering functions of the organizations were not included in the table, and queried how these functions are assessed and what the level of performance was in 2011.

CBL

CBL commended URCA on efficient and effective regulation remaining amongst its guiding principles for the electronics communications industry. CBL further commented that efficient administration should be a core focus of URCA's Vision, Mission Statement and Values, and should also be incorporated and featured in all aspects of URCA's priorities and functions. CBL proposed that the industry should have an opportunity to provide an appraisal of its general interaction with URCA outside of the "cut and thrust" of the day-to-day regulatory process.

URCA's Response

URCA notes BTC's suggestion for the regulator to be evaluated by an independent body and CBL's suggestion that the industry should have an opportunity to provide an appraisal of URCA. URCA would welcome an annual evaluation by its licensees and it would also consider the benefits of having an independent body evaluate its effectiveness, although there is currently no provision for such an evaluation under either the URCA Act or the Comms Act. However, URCA also acknowledges that the costs involved in an evaluation or appraisal of URCA's effectiveness by an independent body would have to be borne by the operators.

In response to BTC's query as to why the Legal, Economic and Engineering functions were not included in URCA's list of Key Performance Indicators for 2012, URCA states that these combined functions are referred to under the 'Statutory/Regulatory' heading found in Table 8 of the Draft Plan.

URCA further notes that in each of its public consultations, the deadline for comments and the date on which the responses will be published is clearly indicated in the consultation document. Additionally, a publication date for the Statement of Results document is not always practical as there is always the possibility of respondents requesting an extension of the deadline to submit comments, and the time taken to prepare a Statement of Results is often impacted by the nature and scope of the comments received. This would have the effect of delaying the publication of the Statement of Results document. Hence, the current approach allows room for interested parties to request and receive additional time to respond to URCA's consultation documents if necessary. In line with URCA's strategy to evaluate its effectiveness, URCA has set as one of its Key Performance Indicators (KPI's) the time for publishing a Statement of Results within 30 days, 31-60 days, or more than 60 days following a consultation. The results of the KPI's will be published by the end of April 2013 as part of the 2012 Annual Report.

3.7 URCA's Budget

BTC

BTC expressed support for URCA's initiatives aimed at educating consumers and at up-skilling of staff, to effectively reduce the regulator's dependence on external consultants. However, BTC commented that funding for these initiatives are not in the forefront of URCA's 2012 budget.

BTC also pointed out that despite URCA's commitment to training and educating consumers, the 2012 allocation for Conferences, Training and Travel only increased by 1%, which BTC considered as relatively small. BTC noted that sponsorship of a regional conference later this year would further reduce the amount spent on training staff.

BTC expressed its concern in the increase in operating licence fees from 1.165% to 2.22% and questioned whether the reduction of the Executive Members' Compensation from \$470,388 in the 2011 budget to \$362,634 in URCA's 2012 budget included provision for a new CEO.

BTC was also concerned about the increase in rent for URCA's premises and commented that it expected URCA to negotiate or renegotiate the best rental terms available for its rent, considering the depressed real estate market.

BTC questioned the 21% increase in Non-Executive Board Members Honoraria and Expenses, which reflects additional sums to be paid to the Members for additional time spent outside of regular Board meetings and BTC wanted elaboration on this expenditure.

Moreover, BTC suggested there are areas in URCA's 2012 budget requiring greater visibility of the components going into the planned expenditure and referred specifically to 'Conference, Training and Travel' outlined in the budget. BTC stated that it had difficulty in determining whether the increase in this item by \$63,480 from the 2011 budget is allocated to staff training and travel or whether the increase is for sponsorship of the regional conference and proposed that more notes should be provided in the budget to explain year-on-year variances.

CBL

CBL was concerned with the projected increases in URCA's budget while the size of the sector is in apparent decline. CBL further noted that URCA's budget continues to grow, thereby putting economic pressure on the operators in the sector.

CBL also commented on the 21% increase in Non-Executive Board Members' Honoraria and Expenses, as well as the increase in the budget for Conferences, Travel and Training and proposed a reduction in these expenses to at least the figures found in the 2011 budget. CBL further suggested the minimisation of travel costs through alternatives such as conference calls and webinars.

URCA's Response

URCA notes the general comments on the increases in its budget over previous years. However, URCA considers that this increase reflects URCA's need to have adequate funding to meet its regulatory mandate and to ensure that it delivers the best possible service to stakeholders within the ECS. URCA considers it noteworthy that despite the overall increase in the 2012 budget, these increases have been offset by the decrease in other items from the 2011 budget including Executive Members Compensation, Professional Services, Office Services and General and Administrative Expenses. URCA will continue to strive to manage its budgeted expenditures without compromising on the quality and efficiency of its operations.

URCA notes CBL's recommendation that URCA should manage the costs associated with business travel for Non-Executive Board Members through conference calls and webinars. URCA advises that it has conducted some Board and Audit Committee meetings via teleconference in the past, but due to the volume of regulatory and policy matters to be considered each month and the timing of certain activities during the year (such as the annual audit, the annual public meeting and preparations for the Annual Plan and Annual Report), URCA has conducted many more face-to-face meetings than might have originally been contemplated.

URCA further notes BTC's comments that the allocation for Conference, Training and Travel in this year's budget is relatively small, especially considering URCA's sponsorship of a regional conference later on this year. In response, URCA considers that it has made adequate provision in the budget for the regional conference and this is reflected in the increase of the figure from last year's budget.

URCA considers that BTC's assessment of the increase in operating licence fees from 1.165% to 2.22% is incorrect. As indicated in URCA's Fee Schedule ECS 25/2011 revised on December 30, 2011, the 2012 fee for individual operating licences greater than or equal to \$0.5m in annual relevant turnover is 1.22% of the annual relevant turnover.

Additionally, the reduction of the Executive Members' Compensation in the 2012 budget from the 2011 budget does include provision for a new CEO.

Regarding BTC's comments and concerns over the increase in rent for URCA's premises, URCA refers to the 'Rent & Utilities' item in the budget and advises that when considering this increase, rent should not be isolated from utilities. The figure indicated in the 2012 Draft Annual Plan takes into account projected increases in other utilities expenditure to support URCA's operation, including electricity and telephone costs. Additionally, the lease agreement entered into by URCA in 2009 provides for a yearly increase in the amount of rent payable. The budget therefore reflects these yearly increases in rent and utilities.

The additional time spent outside of Board meetings mentioned in the Draft Annual Plan reflects additional sums to be paid to members (other than the Chairperson, whose remuneration does not include a variable element) for additional time outside of regular Board meetings, as may be required for URCA affairs. In such instances, URCA would be responsible for the additional costs associated with these added requirements. More particularly, with the upcoming regional conference to be held in The Bahamas later this year, the Non-Executive Board Members may from time to time attend additional Board meetings to assist with the preparation of hosting the conference.

BTC's comments that URCA should provide a greater level of explanation in the notes to explain year-on-year variances in the budget have been seriously considered by URCA. URCA is satisfied that it has complied with the statutory requirements in section 41(2) of the URCA Act regarding the level of detail that it has provided in its Annual Plan. However, URCA will continue to have regard to BTC's comments in drafting future Annual Plans with a view to extending disclosure beyond the statutory requirements where it would enhance the usefulness to stakeholders and users.

3.8 Other Regulatory Projects and Activities

Electronic Communications Sector Policy (ECSP) for 2012-2015

BTC

BTC commended URCA on its intentions of recommending a revised draft Sector Policy to the Minister with a goal of positioning ICTs as a driver for advancing the socio-economic well-being of residents in The Bahamas.

CBL

CBL expressed the view that the ECSP should be given early priority by URCA as there are a number of concerns it believes only The Bahamas Government can address, such as the payment and level of fees being levied on operators.

URCA's Response

URCA acknowledges the above comments made by both operators. URCA considers the ECSP to be of great importance as it describes the Government's sector policy objectives which include, inter alia, enhancing the social well-being of residents of The Bahamas, enhancing the efficiency of the Bahamian communications sector and the productivity of the Bahamian economy and promoting investment and innovation in communications networks and services. The Sector Policy will also assist in setting strategic and business priorities for URCA. Therefore, URCA agrees that the Sector Policy should be given early priority and it is currently being developed with an aim for completion by June 29, 2012.

Market Review

CBL

CBL proposed that URCA now focus its attention on whether the markets in which CBL were deemed to have SMP as a transitional matter were properly defined and assessed in line with the approved methodology. CBL continued by stating that the full market reviews should consider whether there is a need for the onerous obligations that have been imposed on CBL. CBL invited URCA to promptly revisit the market for PayTV.

URCA's Response

CBL's comments concerning a market review are noted. URCA considers that one of its objectives is to develop a systematic approach to market reviews that will give due weight to the interest of all stakeholders in order to deliver effective regulation.

Although important, URCA does not agree that a new market review is necessary at this present time. A market review has already recently been completed and another will be done in the future. Arguably, because the market has not changed fundamentally since the last review and competition has been very slow to develop, URCA considers that a market review at this time might not lead to a different outcome from the previous one. Accordingly, URCA is not proposing to proceed with a new market review in the short term.

URCA considers it worth emphasizing that when URCA initially conducted the market review in 2009/2010, it had regard to the criteria specified in section 39(3) of the Comms Act. Furthermore, when URCA imposed SMP obligations on the operators, it did so in a fair and equitable manner, and also based upon the criteria established in the Comms Act. Additionally, URCA consulted extensively with both operators and had due regard to their comments. Consequently, the SMP obligations were substantially modified to reflect the operators' concerns.

3.9 Other Issues

URCA's Selection of Benchmark Countries

BTC

BTC proposed that URCA should select sample countries with caution since the operating environment in The Bahamas is peculiar, and it is difficult to achieve the same level of efficiencies when compared to operating in an environment of a single land mass. BTC proposed that appropriate caveats should be made when comparing The Bahamas to most countries.

URCA's Response

URCA notes BTC's comments in relation to URCA's selection of benchmark countries. However, URCA advises that its selection of benchmark countries provides a brief overview of The Bahamas' performance in key markets for electronic communication services compared to other jurisdictions. The country comparisons give an indication as to how The Bahamas compares with other countries in the region or elsewhere regarding access to electronic communications services. The brief information presented was not meant to measure BTC's efficiency relative to other countries or operators. There is a separate consultation on the efficiency of BTC's cost structure and URCA looks forward to constructive feedback from the industry.

4. CONCLUSION AND NEXT STEPS

The publication of this Statement of Results document formally concludes the public consultation on URCA's Three Year Strategy and Draft Annual Plan for 2012. URCA once again thanks the stakeholders for their feedback on the Draft Plan. The range of issues raised in this consultation process has allowed for the Plan to be further refined and will greatly assist in the development of future Annual Plans.

In addition to publishing this Statement of Results, URCA intends to comply with the provisions of section 41(5), (6) and (7) of the URCA Act and will publish its Final Annual Plan for 2012 on its website along with its Annual Report for 2012 by 30 April 2012. Further, URCA will arrange for at least one public oral hearing to be conducted to present the Annual Plan and Annual Report and to answer questions from interested parties to be answered. The date and time for the public oral hearing will be published on URCA's website and in the media.