



CONTENT REGULATION:

CODE OF PRACTICE FOR THE REGULATION OF CONTENT SERVICES AND AUDIOVISUAL MEDIA SERVICES

Statement of Results to the Public Consultation Document

ECS 05/2012

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UTILITIES REGULATION & COMPETITION AUTHORITY

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1. INTRODUCTION

The Utilities Regulation and Competition Authority (“URCA”) is issuing this Statement of Results on the provisions of the proposed Code of Practice (“the Code”) for Licensees providing audiovisual media services and content services in The Bahamas. Concurrently with the publication of this Statement of Results and pursuant to s. 55(2) of the Communications Act, 2009 (“the Comms Act”), URCA has also published as a separate document its Final Decision setting out the approved provisions of the Code (URCA document reference number ECS 06/2012).

Broadcasting plays a central role in people’s lives, and surveys have revealed that people spend more time watching television than consuming any other form of broadcasting media. Radio is also important to many people in The Bahamas particularly as a source of news and potentially life-saving information during national disasters and emergencies. While the internet continues to grow as a complementary source of news, information and entertainment, it has not yet surpassed the impact and pervasiveness of TV and radio broadcasting. As a consequence of their widespread impact on the lives and opinions of their audiences, radio and television stations have the primary responsibility for ensuring that the material they broadcast reflects community values and standards.

The Bahamas has, for some time, been subject to the concept of regulating broadcasting content. Section 18 of the Broadcasting Act (Ch. 305) up until 1 September 2009 empowered the Minister responsible for the Broadcasting Corporation of The Bahamas (“BCB”) to make Rules governing broadcasting in The Bahamas. Those Rules that were enacted consisted of the Broadcasting Rules, 1992, which applied to BCB only, and the Broadcasting (Licensing) Rules, 1993, which applied to other licensed broadcasters in The Bahamas. Although the Minister had power to sanction broadcasters for breaching the Rules, nothing was ever put in place to monitor and ensure compliance, or to allow members of the public to register complaints against BCB or other broadcasters. These Rules were repealed by implication by section 120(1) of the Communications Act 2009 (“Communications Act”) when it came into force and simultaneously repealed section 18 and other provisions of the Broadcasting Act. The Communications Act stipulated the creation of a new model of content regulation to be implemented by URCA and required that URCA develop and eventually publish a new Code of Practice for content.

Consistent with its statutory remit under s. 30 of the Utilities Regulation and Competition Authority Act, 2009 (“the URCA Act”) which allows URCA, in performing its functions, to “... have regard ... to the desirability of promoting and facilitating the development and use of effective forms of self-regulation and co-regulation” and s.55(1) of the Communications Act which grants URCA “... the power to allow industry groups to develop, in consultation with URCA and taking into account any relevant research conducted by URCA, codes of practice that are applicable to the content provision operations of each of those sections of the industry and to monitor compliance with such codes”, URCA issued a public consultation on 3

February 2010 regarding “Content Regulation: Process for developing Codes of Practice” (ECS 21/2010). The purpose of the public consultation was to set out URCA’s initial proposals to (i) exercise its powers of delegation by establishing an Industry Working Group to develop the new Code; and (ii) assess the potential for the Industry Working Group to play an on-going role in the future development and compliance monitoring of the Code. The results of the public consultation revealed there was general support for URCA’s proposals to establish a co-regulatory approach to the regulation of broadcasting content through an Industry Working Group that would develop Codes of Practice for audiovisual media services in The Bahamas, and which would thereafter play an on-going role in the future development and compliance monitoring of the Code.

The Industry Working Group consisted of persons representing content provision operations from each section of the broadcasting industry and met with URCA between 29 June 2010 and 17 February 2011. During this period, URCA and the Group reviewed various Codes from countries around the world – including major global territories, other members of the Commonwealth and other Caribbean countries, in order to determine what issues needed to be addressed in the Bahamian Codes and to review international best practice in each area. Between 18 February and 22 June 2011, URCA compiled and drafted the Working Group’s recommendations into a fit-for-purpose Bahamian Code, incorporating the standards proposed in s. 53 of the Communications Act. URCA and the Industry Working Group then met from 23 June 2011 to 18 August 2011 to review the draft Code and satisfy themselves that it was applicable and fit-for-purpose for each section of the broadcasting industry in The Bahamas, including the proposed processes for monitoring compliance with the Code.

1.1 The Consultation Process

In Clause 29 of its public consultation entitled ‘Content Regulation: Process for Developing Codes of Practice’ (ECS 02/2010) issued on 3 February 2010, URCA stated that it “... *envisages a further consultation on the draft Codes and complaints-handling procedures once they have been developed, ahead of the final publication of the Codes*”. On 9 November 2011, URCA initiated a public consultative proceeding (see ECS 19/2011) in relation to a draft Code of Practice for the Regulation of Content Services and Audiovisual Media Services, so that members of the public, Licensees, stakeholders and other interested parties would have an opportunity to comment on the draft Code of Practice and complaints-handling procedures that are to be observed by Licensees providing audiovisual media services and content services in The Bahamas ahead of the final publication of the Code of Practice under s.53(1) of the Communications Act. The deadline for submission of responses was 30 December 2011.

Section 53(1) of the Communications Act requires URCA to issue codes of practice that are to be observed by Licensees providing audiovisual media services in The Bahamas. Section 53(2) of the Act provides a list of the types of standards that may be included in the codes, as follows:

- (a) methods of ensuring the protection of children from exposure to programme material which may be harmful to them;
- (b) promoting accuracy and fairness in news and current affairs programmes;
- (c) preventing the broadcasting of programmes that simulate news or events in a way that misleads or alarms the audience;
- (d) in the case of Codes of Practice developed for broadcasting –
 - (i) time devoted to advertising;
 - (ii) standards requiring advertisements to be distinguished from programme content;
 - (iii) the kinds of sponsorship announcements that may be broadcast;
 - (iv) the kinds of sponsorship announcements that particular kinds of programmes may carry;
- (e) captioning of programmes for the hearing impaired;
- (f) teletext and ancillary services;
- (g) party political broadcasts;
- (h) sports and national events broadcasting;
- (i) must carry regulations;
- (j) national emergency and disaster conditions.

In developing codes of practice, s. 53(3) of the Act also requires the following matters to be taken into account:

- (a) the portrayal in programmes of –
 - (i) physical and psychological violence;
 - (ii) sexual conduct and nudity;
 - (iii) the use of drugs, including alcohol and tobacco;
 - (iv) matter that is likely to incite or perpetuate hatred against, or vilifies, any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or physical or mental disability;
- (b) the use in programmes of offensive language.

URCA and the Industry Working Group recognised that a Code that addresses only audiovisual media services (as envisaged by s. 53 of the Communications Act) may create an artificial distinction between providers who broadcast or distribute content which originates or is compiled in The Bahamas, and the significant majority of content available in The Bahamas which originates in pre-packaged form from outside of The Bahamas. URCA also proposed in the consultation document to exercise its powers under s.

52 of the Act to regulate other content services which are intended for reception by subscribers of carriage services or by broadcasting in The Bahamas. The Code was therefore drafted to be appropriate for both audiovisual media services and content services generally, and URCA intends to initiate and carry out the process to consider whether it should issue a determination under sections 99 and 100 of the Act applying the Code to all content services provided in The Bahamas.

At the close of the response period, URCA had received a total of seventy-two responses to the public consultation, three of which were from Licensees. Sixty-seven members of the general public and two religious organisations also submitted written feedback on the consultation.

| Responses were received from the following before the close of the consultation: | |
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| 1. Jacqueline Bain | 37. Giovanni Johnson |
| 2. Abigail Moss | 38. Glen Rolle |
| 3. Alexine Moss | 39. Grace Cooper |
| 4. A. Sawyer | 40. Ira Bethel |
| 5. Alan Symonette | 41. Jacintha Goffe |
| 6. Andrew Roberts | 42. Kenyatta Nairn |
| 7. Yvette Rolle | 43. Keva Poitier |
| 8. Janis Dean | 44. Kim Welcome |
| 9. Joy D. | 45. Lekita Chambers |
| 10. Joette Curry | 46. Lynden Nairn |
| 11. Keisha Dean | 47. Marva Mackey |
| 12. Bahamas Telecommunications Company Ltd. (BTC) | 48. Maximo Hillhouse |
| 13. The Broadcasting Corporation of The Bahamas (BCB) | 49. Melanie Poitier |
| 14. Cable Bahamas Group of Companies (CBL) | 50. Melissa Bain |
| 15. Bahamas Christian Council (BCC) | 51. Myrna Wilson |
| 16. Bahamas Coalition of Evangelical Pastors (BCEP) | 52. Nathan Sawyer |
| 17. Calvin Dean | 53. Nevillett Pearce |
| 18. Carol Adderley | 54. Oralee Johnson |
| 19. Cedric Moss II | 55. Pandora Butler |
| 20. Cherry Ferguson | 56. Pastor Mario Moxey |
| 21. Chevano Cooper | 57. Patrice |
| 22. Cynthia Thompson | 58. Paul Moss |
| 23. D.A. Rolle | 59. Paula Deleveaux |
| 24. D. Augustus Moncur | 60. Perry Cancino |
| 25. Daniel Bayssassew | 61. R.E. Hall |
| 26. Daniel Moss | 62. Rev. Antonio Beckford |
| 27. Danielle Nairn | 63. Rose Bradshaw |
| 28. David Humes | 64. Schneider Prophete |
| 29. Dawn Sands | 65. Shelly Nairn |
| 30. Demetra Rolle | 66. Shemika Miller |

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| 31. Denise Ingraham | 67. Susie Darville |
| 32. Derek Smith | 68. Vernal Cox |
| 33. Dionne Curry | 69. Weslon Kelly |
| 34. Dr. Myles Munroe | 70. Linda Thompson |
| 35. Erma Cartwright | 71. Angeline Moss |
| 36. Faye Bascom | 72. Anthonne Wallace |

URCA wishes to express its appreciation for the large number of written submissions received from all of the respondents who took the time to carefully study and respond to the consultation document. Their participation was most helpful in informing and refining this Statement of Results and the Final Decision on the creation of a publishable Code of Practice for content regulation in The Bahamas. The full text of each response can be found at www.urcabahamas.bs in the News Section under the ‘Responses to Public Consultations’ tab.

This document and the Final Decision conclude URCA’s public consultative proceeding on the Code of Practice for the Regulation of Content Services and Audiovisual Media Services. Within the document, URCA summarizes the comments raised by respondents and sets out URCA’s final decision relative to the development of a Code of Practice for content regulation in The Bahamas.

In reaching a final decision in this proceeding, URCA was guided by the key principles and objectives underpinning regulation and competition in the Electronic Communications Services sector, the Communications Act and the substantive responses to the consultation.

URCA’s failure to comment on a specific response should not be taken to mean that URCA has not considered the response or that it is unimportant or without merit.

1.2 Structure of the remainder of this document

The remainder of this document is structured as follows:

Section 2: Responses to Consultation Questions – This Section of the document contains summaries of the individual responses to each of the consultation questions, URCA’s comments on each response and URCA’s final decisions.

Section 3: Revised Code of Practice – This Section contains the Code of Practice with all amendments, deletions and insertions as a result of changes to individual clauses arising from responses to the consultation questions and changes that URCA considered were necessary after reviewing the Communications Act or the revised document. Amendments and insertions

are denoted by underlining the relevant text (e.g., Industry Group) while deletions are denoted using strikethrough (e.g., ~~industry working group~~).

Section 4: Conclusion and Next Steps.

2. RESPONSES TO THE PUBLIC CONSULTATION

2.1 Summary of Responses to Consultation Questions

In this Section, URCA addresses each of the responses submitted in respect of the questions posed in the Consultation Document.

Question 1:

Do you agree with URCA’s proposals in Part 1 of the draft Code of Practice regarding definitions and interpretation, purpose of the Code, the regulatory framework, compliance with the Code and review of the Code? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 1 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| CBL | CBL proposed that s.53 of the Communications Act relating to audiovisual media services and s.53(2) setting out the standards which may be included in the Code were exhaustive and challenged the restrictions on advertising in Part 6 as being outside of URCA’s statutory authority. | URCA disagrees with CBL and considers that the list of standards in s. 53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). | No action necessary. |
| Bahamas Christian Council | The BCC generally agreed with Part 1 of the draft Code of Practice. | URCA acknowledges and is grateful for the comments from the BCC, the BCEP and the BCB | No action necessary. |

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| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council’s responses to this question. | expressing general agreement with the proposals in Part 1 of the draft Code. | |
| BCB | The BCB agreed with the proposals in Part 1 of the draft Code, the outline of the purpose of the Code, the regulatory framework, requirement to comply and review clauses, generally accepted the definitions and interpretation of terms in the Code. | | |
| BTC | BTC contended that, unlike in the EU framework, URCA had not sought to distinguish (a) video on demand (non-linear service), which is included as part of the definition of audio visual media services, from (b) traditional television ('linear') service. BTC contended that video on demand is treated differently with more restrictions on linear services as non-linear service is provided on request and users are able to exercise the appropriate controls compared to linear services. | <p>URCA responds to BTC’s comments as follows:</p> <ul style="list-style-type: none"> • URCA is not subject to the European Audiovisual Media Services (AVMS) Directive. Consequently, URCA considers it appropriate for the draft Code to ensure maximum consistency with the Communications Act, which explains the various definitions in Clause 1.1 of the draft Code. • While the EU Directive distinguishes between linear and non-linear services, as BTC argues, in practice almost all of the European “television-like” on-demand content that is covered by the AVMS Directive will already have been shown on linear television and will therefore already have | No action necessary. |

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| | | <p>complied with the stricter linear rules.</p> <ul style="list-style-type: none"> As little or no Bahamian-originated non-linear content currently exists, URCA considers that the Code will mostly apply to linear content. URCA and the Industry Group are required, under Clause 1.5, to periodically review the Code, and URCA has already identified the issue of non-linear content as a key area where the Code may need to change in the future. | |
| CBL | Except for Clause 1.2(b), CBL commented that the remainder of Part 1 is reasonable. | URCA acknowledges and notes that, with one exception, CBL found the proposals in Part 1 of the draft Code to be reasonable. | No action necessary. |
| Shemika S. Miller | The respondent agreed with co-regulation and the empowerment of Bahamians via emphasis on their complaints and feedback. | URCA acknowledges and is grateful for the respondent's comments agreeing with the concepts of co-regulation and empowerment in the draft Code. | No action necessary. |
| Cross-reference to draft Code | Clause 1.1 (definition of 'audiovisual media service') | | |
| Draft Code provision | Audiovisual media service has the meaning given in section 2 of the Communications Act, namely a service for the provision of material with a view to its being comprised in signals conveyed by means of a network which is under the editorial responsibility of the service provider of that service. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable | URCA considers that the | URCA will amend the definition |

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| | | <p>definition of 'audiovisual media service' can be improved by including the definition of a 'cable system' as defined in s. 2 of the Copyright Act (Ch. 323).</p> | <p>of 'audiovisual media service' as follows:</p> <p>“Audiovisual media service has the meaning given in section 2 of the Communications Act, namely a service for the provision of material with a view to its being comprised in signals conveyed by means of a network which is under the editorial responsibility of the service provider of that service <u>and includes a “cable system” as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.”</u></p> |
| Cross-reference to draft Code | Clause 1.1 (definition of 'authorised officer') | | |

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| Draft Code provision | New provision | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable. | URCA considers that it should include a definition of 'authorised person' being the general manager or chief executive officer or other designee of a Licensee to whom URCA and complainants can submit Code compliance and other matters for resolution. | URCA will add the following definition of 'authorised officer' in Clause 1.1: " Authorised officer refers to the general manager or chief executive officer of the Licensee, or any person authorised by that person on matters relating to compliance with this Code." |
| Cross-reference to draft Code | Clause 1.1 (definition of 'carriage service') | | |
| Draft Code provision | Carriage service has the meaning given in section 2 of the Communications Act, namely any service consisting in whole or in part or the conveyance of signals by means of a network, except in so far as it is a content service, including the provision of ancillary services to the conveyance of signals and conditional access or other related services to enable a customer to access a content service. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable | URCA considers that the definition of 'carriage service' can be improved by including the definition of a 'cable system' as defined in s. 2 of the Copyright Act (Ch. 323). | URCA will amend the definition of 'carriage service' as follows: " Carriage service has the meaning given in section 2 of the Communications Act, namely any service consisting in whole or in part or the conveyance of signals by means of a network, except in so far as it is a content service, including the provision of ancillary services to the conveyance of signals |

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| | | | and conditional access or other related services to enable a customer to access a content service <u>and includes a “cable system” as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.”</u> |
| Cross-reference to draft Code | Clause 1.1 (definition of ‘content service’) | | |
| Draft Code provision | Content service has the meaning given in section 2 of the Communications Act, namely a service either for the provision of material with a view to its being comprised in signals conveyed by means of a network or that is an audiovisual media service. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable | URCA considers that the definition of ‘content service’ can be improved by including the definition of a ‘cable system’ as defined in s. 2 of the Copyright Act (Ch. 323). | URCA will amend the definition of ‘content service’ as follows: “ Content service has the meaning given in section 2 of the Communications Act, namely a service either for the provision of material with |

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| | | | <p>a view to its being comprised in signals conveyed by means of a network or that is an audiovisual media service <u>and includes a “cable system” as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.”</u></p> |
| Cross-reference to draft Code | Clause 1.1 (definition of ‘Copyright Act’) | | |
| Draft Code provision | New provision | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable | URCA considers that it should add a definition of the Copyright Act into Clause 1.1 as a result of references to that Act in the amended definitions of ‘audiovisual media services’, ‘carriage services’, ‘content services’ and ‘on-demand audiovisual media services’. | URCA will amend Clause 1.1 to insert the following definition of the Copyright Act: “ Copyright Act means the Copyright Act (Ch. 323).” |

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| Cross-reference to draft Code | Clause 1.1 (definition of 'on-demand audiovisual media service') | | |
| Draft Code provision | On-demand audiovisual media service has the meaning given in section 2 of the Communications Act, namely a content service provided to allow the user to view programmes at the moment selected by the user at his or her individual request on the basis of a catalogue of programmes selected by the audiovisual media service provider. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable | URCA considers that the definition of 'on-demand audiovisual media service' can be improved by including the definition of a 'cable system' as defined in s. 2 of the Copyright Act (Ch. 323). | URCA will amend the definition of 'on-demand audiovisual media service' as follows: On-demand audiovisual media service has the meaning given in section 2 of the Communications Act, namely a content service provided to allow the user to view programmes at the moment selected by the user at his or her individual request on the basis of a catalogue of programmes selected by the audiovisual media service provider <u>and includes a "cable system" as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary</u> |

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| | | | <u>transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.”</u> |
| Cross-reference to draft Code | Clause 1.1 (definition of ‘Parliamentary Commissioner’) | | |
| Draft Code provision | New provision | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable | URCA considers that it should add a definition of the Parliamentary Commissioner into Clause 1.1 as a result of references to person in various provisions of Part 5 of the Code | URCA will amend Clause 1.1 to insert the following definition of the Parliamentary Commissioner: “ Parliamentary Commissioner means the Parliamentary Commissioner as defined in the Parliamentary Elections Act (Ch. 7).” |
| Cross-reference to draft Code | Clause 1.1 (definition of ‘political party’) | | |
| Draft Code provision | Political party means an organised group of people with similar political aims and opinions on a wide range of national issues that: (a) has a leader; (b) holds a national conference of members of the party at least once in any period of eighteen (18) months between parliamentary elections; and (c) seeks to influence public policy by making nominations and contesting elections in the hope of gaining control over governmental power and the organisation of the government through getting its candidates elected to the House of Assembly. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |

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| Linda Thomas | The respondent disagreed with URCA's definition of 'political party' in Clause 1.1(1) of the draft Code, questioning the need for such a definition. The respondent also questioned why one of the criteria for defining a political party was the party must hold a national conference of members at least once in any period of eighteen months between parliamentary elections. | URCA considers that, in the absence of a definition of 'political party' in the Bahamas Constitution and the Parliamentary Elections Act, there is a clear need for such a definition in the Code for the protection of Licensees and any particular political group calling itself a political party hoping to utilise the Code provisions on political broadcasts and advertisements. However, URCA agrees with the respondent that the criteria of holding a national conference every 18 months (which was originally a requirement under the 1993 Broadcasting Regulations) is not necessary or relevant for the purposes of purchasing broadcasting time before or during election periods and will delete the sub-clause containing this requirement. | URCA will amend the definition of 'political party' by deleting paragraph (b) as follows: "Political party means an organised group of people with similar political aims and opinions on a wide range of national issues that: (a) has a leader; (b) holds a national conference of members of the party at least once in any period of eighteen (18) months between parliamentary elections; and (c) (b) seeks to influence public policy by making nominations and contesting elections in the hope of gaining control over governmental power and the organisation of the government through getting its candidates elected to the House of Assembly." |
| Cross-reference to draft Code | Clause 1.1 (definition of 'watershed') | | |
| Draft Code provision | Watershed means the period outside which material that is unsuitable for children cannot be broadcast. The watershed commences at 9:00 PM/21:00 hours in the evening and ends at 5:00 AM/05:00 hours on the following morning and, as a consequence, material that is unsuitable for children can only be broadcast during this period. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Kim Welcome ; A. Sawyer; Abigail Moss; Alan Symonette; Alexine Moss; Andrew | This group of persons proposed either that any content not suitable for children should be limited to 12:00 AM | URCA notes that a number of (and in many cases, identical) respondents, including the BCC, | No action necessary. |

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| <p>Roberts; Angeline Moss; Calvin Dean; Carol Adderley; Cedric B. Moss II; Chevano Cooper; Danielle Nairn; David Humes; Dawn Sands; Denise Karen Ingraham; Derek Smith; Dionne Curry; Faye Bascom; Giovanni Johnson; Glen Rolle; Grace Cooper; Jacqueline Eleanor Bain; Janis Dean; Joette Curry; Joy D.; Keisha Dean; Kenyatta Nairn; Keva Poitier; Lekita Chambers; Lynden Nairn; Marva Mackey; Maximo Hillhouse; Melanie Poitier; Melissa Bain; Myrna Wilson; Nathan Sawyer; Nevillet Pearce; Oralee Johnson; Pandora Butler; Patrice; Yvette Rolle; Paul Moss; Paula Deleveaux; Perry Cancino; R. E. Hall; Rose Bradshaw; Schneider Prophete; Shelly Nairn; Susie Darville; Vernal Cox; Weslon Kelly; Anthone Wallace; Jacintha Goffe; Demetra Rolle; Cherry Ferguson; Cynthia Thompson; Dr. Myles Munroe; D. A. Rolle; D. Augustus (Gus) Moncur; Danielle Moss; Erma V. Carey-Cartwright; Jacintha Goffe; Rev. Antonio Beckford;</p> | <p>(i.e., midnight) to 4:00 AM, or that the time frame of the watershed should be narrowed to various periods ranging from: 12:00 PM (i.e., 12:00 noon) to 4:00 AM; 12:00 PM (i.e., 12:00 noon) to 5:00 AM; 9:00 PM to 5:00 AM; 10:00 PM to 5:00 AM; 11:00 PM to 4:00 AM; 11:00 PM to 5:00 AM; 12:00 AM (i.e., midnight) to 3:00 AM; 12:00 AM (i.e., midnight) to 4:00 AM; 12:00 AM (i.e., midnight) to 5:00 AM or a shorter period, with Anthone Wallace supplementing his response by stating that many children may be left unsupervised and would not turn off their televisions unless they are told to do so and Demetra Rolle supplementing her response by stating that the proposed time frame was not appropriate as many teenagers do not go to bed until after 10:00 PM due to homework or other reasons.</p> | <p>proposed that the time frame of the watershed period from 9.00 PM to 5.00 AM as defined in Clause 1.1(1) of the draft Code should be narrowed to either 12:00 PM (i.e., 12:00 noon) to 4:00 AM, 12:00 PM (i.e., 12:00 noon) to 5:00 AM, 10:00 PM to 5:00 AM, 11:00 PM to 4:00 AM, 11:00 PM to 5:00 AM, 12:00 AM (i.e., midnight) to 3:00 AM, 12:00 AM (i.e., midnight) to 4:00 AM, or 12:00 AM (i.e., midnight) to 5:00 AM, or a shorter period.</p> <p>URCA considers that the purpose of a watershed period is to seek to ensure that programmes that are suitable for adults, and not suitable for children, are shown only at times of the day when mostly adults are expected to be watching, whilst respecting normal viewing habits of both adults and children across the day. While URCA acknowledges that there will always be some children awake and watching TV in the late evening (e.g., after 9.00 PM), parents have the ultimate responsibility to supervise television viewing in their homes and to stop children watching inappropriate material. URCA considers that it would not be practical to begin the</p> | |
| <p>Bahamas Christian Council</p> | <p>The BCC proposed that the watershed period should be between 11:00 PM and 4:00 AM as in Jamaica, because</p> | | |

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| | <p>children are staying up later and getting up earlier, and many of them have radios, televisions, and internet access in their bedrooms.</p> | <p>watershed later than 9.00 PM, because to otherwise would preclude adults who keep normal hours, and who are most likely to watch television in the evening, from viewing programmes that are suitable for them. For these reasons, URCA considers that it should retain the current definition of the watershed in Clause 1.1 of the draft Code.</p> | |
| <p>BTC</p> | <p>BTC proposed that the definition of the watershed should include the exception in Ofcom’s Code of Practice in the UK requiring advance warnings to the audience that a newscast may include material that is unsuitable for children.</p> | <p>URCA could not find the reference by BTC in the Ofcom Code that includes a warning when material inappropriate for children is aired as part of a newscast. In any case, the UK model provides for a wide range of verbal warnings before and during programmes, not just for newscasts. URCA accepts the point made by BTC but considers that BTC’s proposal is not an issue regarding the definition of the watershed period but, more correctly, an issue that is already covered by the requirement in Clause 5.10 of the Code for Licensees to provide clear advisories. URCA considers that it should amend Clause 5.10(3) to include a warning whenever material that is unsuitable to children is aired.</p> | <p>URCA will amend Clause 5.10(3) of the Code to include warnings or advisories where the broadcast includes material that is unsuitable to children, as follows:</p> <p>“(3) Where necessary, Licensees shall also include an advisory or a warning that a programme contains material which may seriously distress or seriously offend the audience <u>and/or that is unsuitable to children</u>, and that advisory or warning must comply with every requirement in this Code for the time period in which it is broadcast.”</p> |

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| BCB | <p>The BCB questioned whether cable television companies (in The Bahamas) will be held to the “watershed” rule in the draft Code, as cable television generally has no control over the times when foreign /international programmes which may offend the Code are aired.</p> | <p>URCA considers the BCB’s question to be valid and considers that the Code should be amended to include a new Clause 1.6 indicating those provisions of the Code that do not apply to Licensees providing carriage services, content services or on-demand audiovisual media services because the material on the channels carried on their networks are not under the editorial responsibility of those service providers.</p> | <p>URCA will insert a new Clause 1.6 to clarify those clauses of the Code that do not apply to carriage services, content services and on-demand audiovisual media services, as follows:</p> <p><u>“Application of the Code to content delivered via Carriage Services, Content Services and On-Demand Audiovisual Media Services</u></p> <p><u>The provisions of Clause 2.4, Clauses 3.1 to 3.5, Clauses 4.1 to 4.17, Clauses 6.1 to 6.14, Clauses 7.1 to 7.12, and Clauses 8.1 to 8.26 of this Code shall not apply to content delivered via a carriage service, a content service or an on-demand audiovisual media service to adult persons subscribing to the service who specifically select the content in question, provided that the Licensee providing such services shall, so far as it is able to, take all reasonable steps to:</u></p> <p>(a) <u>inform the adult subscriber through classifications and/or advisories as are required by Clauses 5.10 and</u></p> |
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| | | | <p><u>5.11 this Code of the nature of the programming;</u></p> <p>(b) <u>ensure that an adequate parental control mechanism has been implemented in conjunction with the advisory and classification system and filtering technology set out in Clauses 5.10 and 5.11 of this Code, which enables adult subscribers to prevent access to unsuitable content by children; and</u></p> <p>(c) <u>provide appropriate training, instructional materials, and assistance to subscribers regarding the use and operation of parental control mechanisms through filtering technology, and guidelines for the maintenance of security from accidental or unsanctioned use by children.”</u></p> |
| Cross-reference to draft Code | Clause 1.3 | | |
| Draft Code provision | Regulatory Framework | | |
| | (1) The Code covers the matters expressly outlined in section 53(2) and (3) of the Communications Act, and | | |

| | <p>other content that is of concern to the community.</p> <p>(2) Section 53 of the Communications Act requires URCA to issue codes of practice that are to be observed by Licensees providing audiovisual media services in The Bahamas. This Code is issued pursuant to that power. The Licences issued by URCA impose a condition on each Licensee in which the Licensee undertakes to comply with the conditions of the Licence, regulatory and other measures issued by URCA, and the provisions of the Communications Act. Licensees providing audiovisual media services in The Bahamas who do not comply with the Code may be subject to a range of penalties under the Communications Act.</p> <p>(3) Section 52 of the Communications Act empowers URCA, by determination to issue regulatory and other measures to regulate content services intended for reception by subscribers of carriage services or by broadcasting in The Bahamas. URCA may, by determination, apply any or all of the provisions of this Code to other persons providing content services for reception by subscribers of carriage services or by broadcasting in The Bahamas.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | <p>CBL was concerned about the proposed application of the Code to foreign produced channels delivered by pay television providers (“overseas content”) and proposed that the Code should also regulate content delivered by licensed satellite operators otherwise it puts individual Licensees at an unfair disadvantage to class Licensees, and puts Licensees at a competitive disadvantage to non-Licensees illegally operating in the Bahamas.</p> <p>CBL also stated application of the Code to content services would significantly impact them as they are unaware of any consultation being conducted regarding the appropriateness of the Code to content services, nor has</p> | <p>URCA thanks CBL for its comments on this issue and considers that when URCA is reviewing its Licensing Guidelines during 2012 URCA should also consider the issue of whether persons or companies selling satellite television services in The Bahamas constitutes a ‘carriage service’ or a ‘content service’ as defined in s. 2 of the Communications Act.</p> <p>URCA disagrees with CBL. While URCA agrees that the Working Group did not discuss the application of the Code to satellite operators, both the documentation and agenda</p> | <p>URCA will, when reviewing its Licensing Guidelines during 2012, consider whether persons or companies selling satellite television services in The Bahamas constitutes a ‘carriage service’ or a “content service’ as defined in s. 2 of the Communications Act.</p> <p>No action necessary.</p> |

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| | <p>consideration been given to how the Code should be apply to overseas services as it would be operationally unworkable, cost prohibitive and impossible for a Licensee to apply many of the provisions of the Code to overseas content, including both cable operators and satellite operators.</p> <p>CBL contended it is not practical for it to review programmes on the hundreds of channels it carries to see if an advisory or warnings is warranted, nor is it possible for it to view most programmes in advance from different time zones as well foreign language channels, some of which carry ratings while others do not. CBL commented that the specific content related objectives identified as important to the development of a broadcasting sector must be pragmatic and achievable by a Licensee and that in order for URCA to make a determination under section 52 of the Communications Act, the processes in the Act need to be adhered to.</p> <p>CBL claims that the opportunity to</p> | <p>provided by URCA to Group members including CBL, and the discussions of the Working Group focussed on how the Code would apply to overseas content provided by content services and carriage services in The Bahamas. In any event, the tidying up of the Code will resolve the issue of exceptions for foreign television channels on any platform.</p> <p>URCA has always considered that the Code provisions would be pragmatic regarding content services and carriage services. URCA considers that most foreign television channels tend to have a clear advisory regime for all programming (i.e., for any given channel, all programmes generally are, or are not, covered by the Code). When a channel does provide advisories, the Code anticipates that CBL will use them and incorporate them into its Electronic Programming Guide. Where a channel does not provide advisories, CBL is not expected under the Code to fill in the gaps.</p> <p>URCA disagrees with CBL and</p> | <p>No action necessary.</p> <p>URCA will decide whether to</p> |
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| | <p>explore solutions may have been jeopardized by URCA’s pronouncement to regulate all content services by way of the Code and, as a quasi-judicial body URCA is expected to give parties an opportunity to be heard before it makes decisions affecting the rights of a Licensee. CBL contends that URCA has definitively asserted that it “intends to regulate the content provided on all content services” and to achieve the aim through the Code, although CBL has a legitimate expectation based on the Communications Act and the principles of natural justice, that it would have an opportunity to be heard before this decision was made. Furthermore, CBL expressed its concern that it may not receive a fair hearing since URCA has pronounced publicly on this matter.</p> | <p>considers that URCA has the power to regulate content services under s. 52 of the Communications Act. Under the draft Code, content services are subject to lighter rules than audiovisual media services, and the relevant rules in the Code affecting content services are regarded as the minimum that URCA considers necessary, given consumer expectations. Clauses 1.3(3) and 1.4(1) of the draft Code make clear that under s. 52 of the Communications Act, URCA may, by determination, apply the Code to content services and carriage services. The process for URCA to make a determination is set out in Part XVII of the Communications Act and differs from the process in s. 53(1) of the Communications Act for issuing codes of practice that are to be observed by Licensees providing audiovisual media services in The Bahamas.</p> | <p>initiate the determination process set out in Part XVII of the Communications Act if it considers that the Code of Practice should also apply to content services, carriage services and on-demand audiovisual media services.</p> |
| URCA | Not applicable. | URCA considers that it should amend Clause 1.2(3) to reflect that the Code may also apply to on-demand audiovisual media services. | <p>URCA will amend Clauses 1.2(3) as follows:</p> <p>(3) “Section 52 of the Communications Act empowers URCA, by determination to issue regulatory and other</p> |

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| | | | <p>measures to regulate content services intended for reception by subscribers of carriage services or by broadcasting in The Bahamas. URCA may, by determination, apply any or all of the provisions of this Code to other persons providing content services for reception by subscribers of carriage services or by broadcasting in The Bahamas, and on-demand audiovisual media services.”</p> |
| <p>Cross-reference to draft Code</p> | <p>Clauses 1.4(1), 1.4(2)(a)(iii) and 1.4(3)</p> | | |
| <p>Draft Code provision</p> | <p>Requirement to Comply with the Code</p> <p>Clause 1.4(1) (1) Every Licensee that provides audiovisual media services in The Bahamas must, in accordance with section 53(1) of the Communications Act, comply with and observe the Code in respect of the content provided. Other Licensees that provide content services shall, pursuant to section 52 of the Communications Act, comply with and observe the Code to such extent as they are required to do so by URCA by determination.</p> <p>Clause 1.4(2)(a)(iii) (2) A breach of the Code may be mitigated, and penalties avoided by the Licensee, if the Licensee: (a) can demonstrate to URCA’s satisfaction that the failure to comply with the Code was due to: iii. an act or failure to act of another person, or an accident or some other cause beyond the Licensee’s control, provided the Licensee took reasonable precautions and exercised due diligence to avoid the act or failure to act of such other person;</p> <p>Clause 1.4(3) This Code does not apply to content which is delivered solely via the Internet, and which is available for access by any person situated within or outside The Bahamas via the Internet unless that content is targeted at</p> | | |

| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
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| BTC | <p>BTC was concerned that Licensees could be held responsible under Clause 1.4(2)(a)(iii) and Clause 1.4(3) for content targeted at persons within The Bahamas through it being promoted or advertised in The Bahamas and proposed that the Internet should be excluded from the Code of Practice.</p> <p>BTC was also concerned about the absence of any reference or discussion in the consultation on individual privacy.</p> | <p>URCA considers that Clause 1.4(2)(a)(iii) would not apply to Licensees if another person or company in The Bahamas is providing content solely via the internet that is covered by but not compliant with Clause 1.4(3) of the Code and that content is targeted at persons, and promoted or advertised, within The Bahamas. In these circumstances, URCA considers the person or company would be in breach of Clause 1.4(3) of the Code and sections 16(1) and/or 59 of the Communications Act, not the Licensee.</p> <p>URCA considers that a number of clauses in Part 8 (e.g., Clauses 8.12, 8.13, 8.14, 8.20 and 8.21) address issues of individual privacy.</p> | <p>No action necessary.</p> <p>No action necessary.</p> |
| URCA | Not applicable. | URCA considers that it should amend Clause 1.4(1) to reflect that the Code may also apply to carriage services and on-demand audiovisual media services. | <p>URCA will amend Clause 1.4(1) to reflect that the Code may also apply to carriage services and on-demand audiovisual media services as follows:</p> <p>“(1) Every Licensee that provides audiovisual media services in The Bahamas must,</p> |

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| | | | in accordance with section 53(1) of the Communications Act, comply with and observe the Code in respect of the content provided. Other Licensees that provide content services, <u>carriage services</u> or <u>on-demand audiovisual media services</u> shall, pursuant to section 52 of the Communications Act, comply with and observe the Code to such extent as they are required to do so by URCA by determination.” |
| Cross-reference to draft Code | Clause 1.4(2) | | |
| Draft Code provision | <p>(2) A breach of the Code may be mitigated, and penalties avoided by the Licensee, if the Licensee:</p> <p>(a) can demonstrate to URCA’s satisfaction that the failure to comply with the Code was due to:</p> <ul style="list-style-type: none"> i. a reasonable mistake; ii. reasonable reliance on information supplied by another person; iii. an act or failure to act of another person, or an accident or some other cause beyond the Licensee’s control, provided the Licensee took reasonable precautions and exercised due diligence to avoid the act or failure to act of such other person; or iv. an act or failure to act which, in all the circumstances, was clearly peripheral or incidental, and unlikely to offend or materially mislead the public, and <p>(b) Promptly takes all reasonable steps to remedy the failure to comply, if capable of remedy.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Shemika S. Miller | The respondent suggested qualifying or defining the word “reasonable”, as used several times in Clause 1.4 (2) by using some other standard and by providing specific examples of actions | URCA considers that it should refer this proposal to the Industry Group to review the development of guidance notes to assist all stakeholders in | URCA will submit for review by the Industry Group the proposal to develop guidance notes to assist all stakeholders in interpreting and explaining the |

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| | that satisfy the reasonableness test chosen, so that Licensees can benchmark their actions against the same. | interpreting and explaining the Code. | Code. |
| Cross-reference to draft Code | Clause 1.4(3) | | |
| Draft Code provision | This Code does not apply to content which is delivered solely via the Internet, and which is available for access by any person situated within or outside The Bahamas via the Internet unless that content is targeted at persons within The Bahamas by virtue of it being promoted or advertised within The Bahamas. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| BTC | BTC submitted that the proviso in Clause 1.4(3) provides an exception where the `...content is targeted at persons within The Bahamas by virtue of it being promoted or advertised within The Bahamas' although content provided by way of search engines is generally excluded from content regulation. BTC proposed that the clause requires further review taking into account any overarching legislative framework governing Data Protection and Privacy. | URCA considers that BTC's use of the phrase "content provided by way of search engines" is ambiguous. It is URCA's understanding that search engine results on (say) Google do not comprise content, as defined in the Code, and are therefore outside of the scope of the Code, but if someone uses Google to find a Licensee's Bahamian content and then clicks through to that content (e.g. programming material), then that content is, pursuant to Clause 1.4(3), covered by the Code if it is targeted at persons, and promoted or advertised, within The Bahamas. URCA disagrees with BTC that a further review of Clause 1.4(3) is required to take account of any overarching legislative framework governing data protection and privacy. URCA considers that the clause (and | URCA will amend Clause 1.4(3) to make it clear that the provision applies to Licensees providing content which is delivered solely via the internet if that content is targeted at persons, and promoted or advertised, within The Bahamas, as follows: “(3) This Code does not apply to content which is delivered <u>by Licensees</u> solely via the Internet, and which is available for access by any person situated within or outside The Bahamas via the Internet unless that content is targeted at persons within The Bahamas by virtue of it being promoted or advertised within The Bahamas.” |

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| | <p>BTC proposed that Licensees providing carriage services are limited in their ability to deny access to users of content services provided over the internet regarding what content they pull by way of the internet for consumption that may be advertised or targeted at persons within The Bahamas.</p> | <p>thereby the Code) applies to Licensees providing content which is delivered solely via the internet whose content is targeted at persons, and promoted or advertised, within The Bahamas and, in that context, does not and is not intended to impinge on the data protection or privacy rights of individuals. However, URCA considers that it should amend Clause 1.4(3) to make it clear that the provision applies to Licensees providing content which is delivered solely via the internet if that content is targeted at persons, and promoted or advertised, within The Bahamas.</p> <p>URCA does not consider that the Code imposes any obligation or liability on Licensees in The Bahamas providing carriage services to deny access to users of content services provided over the internet regarding what content they pull by way of the internet for consumption because such content might be advertised or targeted at persons within The Bahamas.</p> | <p>No action necessary.</p> |
| BCB | The BCB requested clarification on the | URCA considers that the purpose | URCA will amend Clause 1.4(3) |

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| | <p>purpose of the exception in Clause 1.4(3), whether this meant that URCA would seek to regulate the internet sites of its Licensees and how the clause applies to individuals who are not Licensees but operate internet broadcast sites.</p> | <p>and intention of Clause 1.4(3) is that it does not apply to content that is delivered by Licensees in The Bahamas solely via the Internet but does apply to a Licensee’s content if the content is targeted at persons, and promoted or advertised, within The Bahamas.</p> <p>URCA does not intend to regulate Licensees’ internet sites.</p> <p>URCA considers that Clause 1.4(3) would not apply to individuals operating internet broadcast sites unless the content broadcast by such individuals over the internet is targeted at persons, and promoted or advertised, within The Bahamas, in which case the person would then require a licence from URCA.</p> | <p>to make it clear that the provision applies to Licensees providing content which is delivered solely via the internet if that content is targeted at persons, and promoted or advertised, within The Bahamas as indicated above.</p> <p>No action necessary.</p> <p>No action necessary.</p> |
| <p>CBL</p> | <p>CBL agreed with the proposal in Clause 1.4(3) regarding regulating content on the internet but proposed that the same logic should also apply to the rebroadcast of overseas content since it is available on the internet, whatever the means of delivery (network neutrality).</p> | <p>URCA does not agree with CBL as the purpose and intention is that Clause 1.4(3) does not apply to content delivered by Licensees solely via the Internet but does apply to such content if the Licensee targets it at persons, and promotes or advertises that content, within The Bahamas.</p> | <p>URCA will amend Clause 1.4(3) to make it clear that the provision applies to Licensees providing content which is delivered solely via the internet if that content is targeted at</p> |

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| Linda Thomas | The respondent agreed that the Code should not apply to the internet on the basis that developing Bahamian content for the internet should be encouraged while regulating Bahamian content on the internet would have a chilling effect on development. The respondent stated that this nascent sector needs to be encouraged and any shortcomings could be addressed through media literacy informing the public about the dangers of the internet. | URCA considers that the purpose and intention of Clause 1.4(3) is that it does not apply to content that is delivered by Licensees in The Bahamas solely via the Internet but does apply to a Licensee's content if the content is targeted at persons, and promoted or advertised, within The Bahamas. | persons, and promoted or advertised, within The Bahamas as indicated above. |
| Cross-reference to draft Code | Clause 1.5 | | |
| Draft Code provision | Review of the Code URCA will, in consultation with the Industry Group established in accordance with section 55(1) of the Communications Act, formally review the Code after it has been in effect for three (3) years. If, before the next review period, any substantive changes to the Code are needed, URCA will, in consultation with the industry working group, give the public an adequate opportunity under section 11 of the Communications Act to comment on any proposed changes. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| BTC | In addition to the public (which BTC interpreted as users of the content services), Licensees and interested parties should also be given the opportunity to respond to any proposed changes to the Code. | URCA considered use of the term "the public" to comprise the general public, Licensees and interested parties, and will therefore amend the clause by deleting "the public" and insert "all stakeholders" which is much more comprehensive in meaning. | URCA will amend Clause 1.5 as follows: "URCA will, in consultation with the Industry Group established by URCA in accordance with section 55(1) of the Communications Act, formally review the Code after it has been in effect for three (3) years. If, before the next review period, any substantive changes to the |

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| | | | Code are needed, URCA will, in consultation with the industry working group <u>Industry Group</u> , give the public <u>all stakeholders</u> an adequate opportunity under section 11 of the Communications Act to comment on any proposed changes <u>to the Code.</u> ” |
| Cross-reference to draft Code | Clause 1.7 | | |
| Draft Code provision | New provision | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable. | URCA considers that it should insert a new Clause 1.7 repealing the Interim Code of Practice for Political Broadcasts issued by URCA on 19 January 2010 (ECS 01/2010) and the Interim Code of Practice for Broadcasting Content issued by URCA on 9 April 2010 (ECS 10/2010) and replacing them with this Code. | URCA will insert the following new Clause 1.7 as follows: <u>“1.7 Repeal and Replacement of Interim Codes of Practice</u> <u>This Code of Practice repeals and replaces the Interim Code of Practice for Political Broadcasts issued by URCA on 19 January 2010 (ECS 01/2010) and the Interim Code of Practice for Broadcasting Content issued by URCA on 9 April 2010 (ECS 10/2010).”</u> |

Question 2:

Do you agree with URCA's proposals in Part 2 of the draft Code of Practice regarding positive rules, operational and technical rules? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 2 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC generally agreed with URCA's proposals in Part 2 of the draft Code of Practice. | URCA acknowledges and thanks the BCC, BCEP, BTC, BCB and Shemika S. Miller for their comments generally agreeing with the proposals in Part 2 of the draft Code. | No action necessary |
| Bahamas Coalition of Evangelical Pastors | The BCC adopted the Bahamas Christian Council's responses to this question. | | |
| BTC | BTC had no objections to Part 2 of the draft Code of Practice. | | |
| BCB | The BCB agreed that the operational and technical rules in Part 2 are necessary for the regulation of broadcasting as well as appearing to be consistent with industry best practices. | | |
| Shemika S. Miller | The respondent agreed with URCA's proposal in Part 2 that Licensees should have ultimate accountability for programmes and broadcasts. | | |
| Cross-reference to draft Code | Clause 2.1 | | |
| Draft Code provision | Programme Selection and Broadcast (1) The Licensee is responsible for ensuring compliance with this Code, whether pre-recorded or live, regardless of whether it has delegated such responsibility to its programming personnel or other agents as part of its day-to-day business. | | |

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| | <p>(2) The Licensee’s discretion in selecting programmes must be exercised responsibly and in good taste. In particular, nothing should be selected for broadcasting that is:</p> <p>(a) contrary to law, including the Communications Act, the Broadcasting Act and regulatory or other measures issued by URCA; or</p> <p>(b) contrary to this Code.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Shemika S. Miller | <p>The respondent proposed that Licensees should submit annual attestations to URCA under Clause 2.1 of the draft Code certifying that to the best of their knowledge, they had not breached the Code or the law during the year, and, where breaches had occurred, submit an action plan or evidence of steps taken to avoid repetitions.</p> <p>The respondent also proposed that Licensees should either submit programme logs to URCA at specified intervals for review, or make them available for review during onsite visits and random inspections of programme logs by URCA, to ensure compliance with the Code even though the Licensee has not received any complaints.</p> | <p>URCA agrees in principle with this proposal but considers that it should be reviewed by the Industry Group due to the bureaucratic and cost implications that arise from implementing it.</p> <p>URCA agrees in principle with the proposal that URCA undertake random checks even when complaints have not been made (a position contemplated by Clause 10.9 of the draft Code) but considers that the proposal should be submitted to the Industry Group for review due the cost and manpower implications that arise from implementing it.</p> | <p>URCA will submit the proposals to the Industry Group for review that (1) Licensees should submit annual attestations to URCA under Clause 2.1 of the Code certifying that they had not, to the best of their knowledge, breached the Code or the law during the preceding year, and, if they had, submit an action plan or evidence of steps taken to avoid repetitions; and (2) that Licensees should either submit programme logs to URCA at specified intervals for review, or make them available for review during onsite visits and random inspections of programme logs by URCA, to ensure compliance with the Code even though the Licensee has not received any complaints.</p> |
| Cross-reference to draft Code | Clause 2.3 | | |
| Draft Code provision | <p>Contracts subject to Code</p> <p>All contracts entered into by or on behalf of a Licensee for the broadcasting of programming or advertisements shall be made subject to and comply with this Code.</p> | | |

| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
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| Shemika S. Miller | The respondent proposed that to verify adherence to Clause 2.3, all programming or advertising contracts by or on behalf of Licensees should include a clause ensuring the contract complies with the Code and law, and URCA should review such contracts to assess their compliance during onsite visits to the Licensee. | URCA agrees in principle with the first limb of this proposal but considers that as it is a natural consequence and follows directly from Clause 2.3 itself, it does not need further restating in Clause 2.3. URCA agrees in principle with the second limb of the proposal and considers that, as part of general complaints investigations powers, URCA can review programming and advertising contracts. | No action necessary. |
| Cross-reference to draft Code | Clause 2.4(1) and Clause 2.4(2) | | |
| Draft Code provision | Retention and Production of Station Recordings (1) Every Licensee shall make and maintain in an appropriate and commonly used format complete and accurate recordings of all material broadcast by the Licensee. (2) The Licensee must keep recordings made pursuant to this Clause for the longest of the following periods: (a) six (6) weeks starting on the day after the material was broadcast; (b) if a complaint has been made to the Licensee under Part 10 of this Code in relation to material contained in a broadcast – one (1) year from the date on which the complaint is resolved; or (c) any longer period specified by URCA in writing. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC questioned whether Clause 2.4, especially Clause 2.4(1) and 2.4(2), applies to foreign produced content provided through Licensees operating a carriage service and if not, requested URCA's elaboration on the reasoning behind exempting such content. | URCA considers that Clause 2.4 of the Code does not apply to Licensees providing carriage services, content services or on-demand audiovisual media services because the material on the channels carried on their networks are not under the editorial responsibility of those | URCA has inserted a new Clause 1.6 above to identify those provisions of the Code that do not apply to carriage services, content services and on-demand audiovisual media services. |

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| | | service providers. URCA has clarified the issue raised by the respondent by adding a new Clause 1.6 above. | |
| Shemika S. Miller | The respondent proposed that Clause 2.4(2)(a) should be amended to require Licensees to maintain recordings for at least one year (instead of 6 weeks) as unlimited storage space is available in the cyber world, while allowing URCA a longer time to initiate an investigation. | URCA agrees with the respondent that storage is cheap but URCA also notes that, for the volume required by broadcasters, such storage would not be free, and Licensees would incur additional costs complying with this proposal. URCA otherwise disagrees with the respondent and considers that the 6 week period in Clause 2.4(2)(a), when read in conjunction with the complaints submission process in Part 10 of the Code, is adequate for present purposes, but will ensure that the operation of Clause 2.4(2)(a) is reviewed by the Industry Group during the Code administration process. | URCA will ensure that the operation of Clause 2.4(2)(a) is reviewed by the Industry Group during the Code administration process. |
| Cross-reference to draft Code | Clause 2.4(6) | | |
| Draft Code provision | (6) If the legal proceedings contemplated by Clause 2.4(4) are not instituted within a period of three (3) months after the notice is given to a Licensee, Clause 2.4(5) of this Code ceases to apply to the recording at the end of that period. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | CBL disagreed with the proposal in Clause 2.4(6) requiring retention of a recording for three months if legal proceedings are contemplated and submitted that the retention period in | While URCA notes the point made by CBL, URCA considers the requirement for Licensees to retain recordings is not unreasonable given the six-year | URCA will delete Clause 2.4(6). |

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| | <p>this situation should be the same as in Clause 2.4(2). CBL contended that a complainant should be encouraged to act expeditiously and allowing three months to decide whether to proceed with litigation impacts storage capacity and increases the risk that material will be inadvertently destroyed.</p> | <p>limitation period under s. 5 of the Limitation Act (Ch. 83) within which legal proceedings in contract or tort could be brought against Licensees. In addition, URCA considers that litigation itself is a lengthy process and a Licensee will, in all likelihood, find itself having to retain the recording for much longer than 3 months. URCA considers it should delete Clause 2.4(6) as URCA considers that Clause 2.4(5) adequately covers the issue of retaining recordings until the final determination of legal proceedings or proposed legal proceedings (i.e., either by judgment or the effluxion of time).</p> | |
| Cross-reference to draft Code | Clause 2.4(7) | | |
| Draft Code provision | (7) If URCA is of the opinion that the subject matter of a recording made pursuant to this Clause is of sufficient historic importance to justify its being permanently preserved, URCA may direct, in writing, the Licensee or other person who has custody of the record to deliver it for safe keeping to a person or authority specified by URCA, and the Licensee or person to whom the direction is given must comply with the direction. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | <p>CBL disagreed with URCA's proposal in Clause 2.4(7), contending that the provision appeared confiscatory and contrary to intellectual property rights and challenged URCA's statutory authority, contending that if URCA has statutory authority, the taking should be subject to reasonable compensation.</p> | <p>URCA considers that Clause 2.4(7) is within URCA's powers under s. 53 of the Communications Act as the list of standards in s. 53(2) of the Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1)</p> | <p>URCA will amend Clause 2.4(7) to state that where the librarian or archivist of a library or archive prescribed by the Minister responsible for copyrights under sections 67 to 71 of the Copyright Act (Ch. 323) is of the opinion that a recording made under the clause is of sufficient</p> |

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| Linda Thomas | The respondent disagreed with the proposals in Clause 2.4(7), contending that it deprived the producer of their rights to the material as well as possible copyright infringement or expropriation without compensation. The respondent questioned URCA’s justification for preserving historic information as not being an objective or function of URCA’s under the Communications Act. The respondent also questioned how URCA’s jurisdiction would extend to a person who is not a Licensee (i.e., a person with custody of the material) and proposed removing the clause. | and those codes <u>might</u> include the standards listed in the s. 53(2). Regarding the issues raised by the respondents on Clause 2.4(7), URCA notes that many of the countries reviewed by URCA as background material for the draft Code have National Archives, explicit rules requiring broadcasters to provide the National Archives with copies of some or all of their programmes while also contributing to the ongoing costs of the archives, and the legislation in some of the countries is careful to address copyright and intellectual property issues by setting clear conditions on how the content in the archive may be used. URCA considers that the concerns raised by the respondents can be addressed and resolved by amending Clause 2.4(7) to state that where the librarian or archivist of a library or archive prescribed by the Minister responsible for copyrights under sections 67 to 71 of the Copyright Act (Ch. 323) is of the opinion that a recording made under the clause is of sufficient historic importance to justify the recording being permanently preserved, the prescribed library or archive may request URCA to | historic importance to justify the recording being permanently preserved, the prescribed library or archive may request URCA to direct a Licensee to deliver the historically important recording to the prescribed library or archive, free of charge as follows: “If URCA <u>the librarian or archivist of a library or archive prescribed by the Minister responsible for copyrights under sections 67 to 71 of the Copyright Act (Ch. 323)</u> is of the opinion that the subject matter of a recording made pursuant to this Clause <u>2.4</u> is of sufficient historic importance to justify its being permanently preserved, URCA <u>the librarian or archivist</u> may <u>request URCA to</u> direct, in writing, the Licensee or other person who has custody of the recording to deliver it, <u>free of charge</u> , for safe keeping to <u>such librarian or archivist</u> as person or authority specified by URCA, and the Licensee or person to whom the direction is given must comply with the direction.” |
| Shemika S. Miller | The respondent questioned whether the Licensee or URCA would bear the cost of delivering the historical recording to the person or authority specified by URCA for preserving. | | |

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| | | direct a Licensee to deliver the historically important recording to the prescribed library or archive, free of charge. | |
| Cross-reference to draft Code | Clause 2.5 | | |
| Draft Code provision | <p>Station Identification</p> <p>(1) Every Licensee shall cause each of its broadcasting stations to be identified to its audience as follows at intervals provided by ITU regulations:</p> <p>(a) at frequent intervals during the course of transmissions, including those made for tests, adjustments or experiments, otherwise at the beginning and ending of each transmission period of operation; and</p> <p>(b) hourly, preferably within the period from five minutes before to five minutes after the hour, at a natural break in programming. Licensee may make these announcements aurally (for radio) and visually (for television).</p> <p>(2) Official station identification shall consist of:</p> <p>(a) the name of the Licensee;</p> <p>(b) the broadcasting station's radio frequency or channel number as stated on the station's Licence; and</p> <p>(c) the broadcasting station's call letters, call sign or station identification immediately followed by the community or communities specified in its Licence as the station's territorial location.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Linda Thomas | The respondent proposed that Clause 2.5(1)(b) did not need to prescribe the frequency of station identification announcements but if it did, the minimum should be 3 times a day (e.g., morning, noon and night). | URCA notes the respondent's disagreement with the proposal for hourly station identification announcements, which is based on regulations of the International Telecommunication Union of which The Bahamas is a member, but also agrees with her that this proposed requirement might be excessive. | URCA will amend Clause 2.5(1)(b) to reflect that Licensees should make station identification announcements at least four (4) times each day, one of which must be during each of the following time periods: 12:00 AM (midnight) to 6:00 AM; 6:01 AM to 12:00 PM (noon); 12:01 PM to 6:00 PM; and 6:01 PM to 12:00 AM (midnight), as follows: “(1) Every Licensee shall |

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| | | | <p>cause each of its broadcasting stations to be identified to its audience as follows at intervals provided by ITU regulations:</p> <p>(a) at frequent intervals during the course of transmissions, including those made for tests, adjustments or experiments, otherwise commencing at the beginning and concluding at the ending of each transmission period of operation, otherwise <u>at least four (4) times each day, one of which must be during each of the following time periods: 12:00 AM (midnight) to 6:00 AM, 6:01 AM to 12:00 PM (noon), 12:01 PM to 6:00 PM, and 6:01 PM to 12:00 AM (midnight); and</u></p> <p>(b) hourly, preferably within the period from five minutes before to five minutes after the hour, at a natural break in programming. Licensee may make these announcements aurally (for radio) and visually (for television).”</p> |
| Shemika S. Miller | The respondent proposed that URCA should randomly check whether Licensees were making station identification announcements by viewing or listening to a station for 1 to 2 hours each quarter in order to verify compliance. | URCA considers this proposal to come within URCA’s general ability to undertake random checks for compliance with the Code. | No action necessary. |

Question 3:

Do you agree with URCA's proposals in Part 3 of the draft Code of Practice regarding underlying principles and positive rules? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 3 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC agreed with URCA's proposals in Part 3 of the draft Code of Practice regarding underlying principles and positive rules, except for Clause 3.1(3). | URCA acknowledges and thanks the BCC, BCEP, BTC, BCB and CBL for their comments generally agreeing with the proposals in Part 3 of the draft Code. | No action necessary. |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council's responses to Question 3. | | |
| BTC | BTC agreed with URCA's proposals in Part 3 of the draft Code of Practice. BTC noted that while URCA seeks to encourage Bahamian content, educational content and the promotion of programming that serves the diversity of interests within The Bahamas, Licensees are provided with the necessary flexibility, compared to some jurisdictions where the foreign codes specify the percentage of local content. | | |
| BCB | The BCB expressed its agreement with the underlying principles governing standards of taste and decency and was of the view that these standards are sufficiently broad to accommodate | | |

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| | Bahamians changing views on what they find acceptable or in good taste. | | |
| CBL | CBL stated that the underlying principles for broadcasting in The Bahamas (in Part 3 of the draft Code) appear reasonable. | | |
| Linda Thomas | <p>The respondent agreed that the public has varied taste and thought that Part 3 of the draft Code struck the right balance between paid content and free content.</p> <p>The respondent proposed that URCA should introduce 'must carry' provisions in the draft Code similar to Europe and the Caribbean where regulators require cable television and/or satellite television operators to rebroadcast local content signals as a basis to encourage and ensure dissemination of local content.</p> | <p>URCA acknowledges and thanks the respondent for her comments on the balances struck in Part 3 of the draft Code.</p> <p>URCA agrees with the respondent's proposal regarding the introduction of 'must carry' obligations but disagrees with the proposal that such obligations should apply to the rebroadcast of local content signals. URCA's own research supports the view that any 'must carry obligations' in The Bahamas should apply to content services and carriage services in respect of an obligation on them to carry the television broadcasts of designated Public Service Broadcasters. URCA notes that ss. 53(2)(i) of the Communications Act allows URCA to issue codes of practice for 'must carry' regulations. Clauses 1.3(3) and 1.4(1) of the draft Code make clear that under s. 52 of the Communications Act,</p> | <p>No action necessary.</p> <p>URCA will decide whether to initiate the determination process set out in Part XVII of the Communications Act if it considers that any 'must carry' obligations in the Code of Practice in respect of the television broadcasts of designated Public Service Broadcasters should be imposed on content services and carriage services.</p> |

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| | <p>The respondent also submitted that there were apparent competitive bottlenecks with the local media industry becoming concentrated in the hands of a few players, such as Cable Bahamas and The Nassau Guardian (radio, television and newspapers), The Tribune (radio and newspapers) and Jones Communications (radio, television and newspapers). The respondent submitted that although ZNS has radio and television, it is transforming into a public service broadcaster which is unable to compete because of restrictions placed on them.</p> | <p>URCA may, by determination, apply the Code to content services and carriage services. The process for URCA to make a determination is set out in Part XVII of the Communications Act.</p> <p>URCA is unable to comment on the conclusions drawn by the respondent in the absence of any market research to support such conclusions. To URCA's knowledge, the relationship between Cable Bahamas and The Guardian is not one of ownership (CBL is a publicly traded company while The Guardian is privately held) but a business relationship whereby staff from The Guardian provide and produce a nightly television newscast for Cable 12. Both The Tribune and JCN were newspaper companies that were given broadcasting licences prior to URCA coming into existence. Since that time, the Bahamas Christian Network, the Bahamas Real Estate Channel and the Bahamas Tourist Channel all currently appear on the Cable Bahamas television channel line-up. In addition, there are 31 entities licensed to provide either AM or FM radio</p> | <p>No action necessary.</p> |
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| | <p>The respondent proposed that more media outlets be created for local television content producers through ‘must carry provisions’, competition, rebates or discounts on license fees for Licensees who offer channels to new Bahamian television station or other incentives.</p> | <p>broadcasting stations. Insofar as ZNS is concerned, URCA’s research into public service broadcasting revealed that, because PSBs are invariably fully or partially state-funded and have a non-commercial mandate, they (like ZNS) operate under different conditions and with some restrictions that do not otherwise apply to commercial broadcasters.</p> <p>While URCA agrees in principle with the concepts of local television content production and the creation of more media outlets proposed by the respondent, URCA considers local content production and its funding as falling into the area of public service broadcasting which URCA is dealing with in another forum.</p> | <p>No action necessary</p> |
| <p>Shemika S. Miller</p> | <p>The respondent agreed with URCA’s proposal in Part 3 for incorporating a set of underlying principles that include the promotion of Bahamian content. The respondent proposed that URCA should conduct annual surveys to gauge whether Licensees are satisfying the public’s values, programming expectations, diverse interests and consistently attaining standards of</p> | <p>URCA agrees in principle with the proposal of industry surveys into standards, programming and expectations as URCA conducted such surveys as part of its review of public service broadcasting in The Bahamas but considers that, based on the costs and time involved in conducting such surveys, it would be impractical</p> | <p>URCA will periodically conduct industry surveys into standards, programming and expectations after consultation with the Industry Group.</p> |

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| | decency, thereby providing persons who have complaints but did not submit them an opportunity to do so. | to conduct such surveys annually. URCA further considers that such surveys have value beyond just the Code and that URCA be conducted by URCA after consultation with the Industry Group. | |
| Cross-reference to draft Code | Clause 3.1(3) | | |
| Draft Code provision | This clause shall not apply to content which is delivered via a carriage service to adult persons subscribing to the service who specifically select the content in question, having been provided with adequate information regarding the nature of the content, consistent with the provisions of Clauses 5.10 and 5.11 of this Code. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| A Sawyer; Abigail Moss; Alan Symonette; Alexine Moss; Andrew Roberts; Angeline Moss; Anthonie Wallace; Calvin Dean; Carol Adderley; Cedric B. Moss II; Chevano Cooper; D. Augustus (Gus) Moncur; Danielle Moss; Danielle Nairn; David Humes; Dawn Sands; Demetra Rolle; Denise Karen Ingraham; Derek Smith; Dionne Curry; Erma V. Carey-Cartwright; Faye Bascom; Giovanni Johnson; Glen Rolle; Grace Cooper; Ira Bethel; Jacintha Goffe; Jacqueline Eleanor Bain; Janis Dean; Joette Curry; Joy D.; Keisha Dean; Kenyatta Nairn; Keva Poitier; Lekita Chambers; Lynden Nairn; Marva Mackey; Maximo Hillhouse; Melanie Poitier; Myrna Wilson; Nathan | These persons proposed that Licensees such as Cable Bahamas should not be allowed to sell and broadcast pornography, sexually explicit content, and profane and indecent content. Cynthia Thompson supplemented her comments by stating that the previews of these types of programmes should not contain pornography, sexually explicit content, and profane and indecent content either. D. A. Rolle also commented that if these kinds of programming are permitted for constitutional reasons, then Licensees must ensure there is adult verification before making such programming accessible. Cherry Ferguson supplemented her comments by stating that Licensees should never be allowed to sell and broadcast such content. Dr. Myles Munroe supplemented his comments by | URCA considers Clause 1.2(2)(a) makes clear that the Code is intended to: "ensure that Licensees providing content services and audiovisual media services in The Bahamas have regard to prevailing community standards in broadcast material, while protecting the right of Licensees to responsible freedom of speech". There are, therefore, two competing tensions which URCA considers the Code seeks to address: the need to provide appropriate protection, especially for children, on the one hand, while respecting freedom of speech, on the other hand. While content regulation rules are an important part of the framework that seeks to protect children, URCA considers it is also | URCA will delete Clause 3.1(3) and has inserted a new Clause 1.6 to identify those clauses of the Code that do not apply to carriage services, content services and on-demand audiovisual media services. |

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| <p>Sawyer; Nevillett Pearce; Oralee Johnson; Pandora Butler; Patrice; Yvette Rolle; Paul Moss; Paula Deleveaux; Perry Cancino; R. E. Hall; Rose Bradshaw; Schneider Prophete; Shelly Nairn; Susie Darville; Vernal Cox; Weslon Kelly; Cynthia Thompson; D. A. Rolle; Melissa Bain; Cherry Ferguson; Dr. Myles Munroe</p> | <p>stating that his disagreement to such content was in keeping with The Bahamas’ commitment to the principles of the Christian faith. Melissa Bain supplemented her comments by stating that homes or parents with children should use the password protected parental control feature of their television sets.</p> | <p>important that parents exercise their duties as parents – by preventing their children from watching content they regard as inappropriate, and by making use of advisories and filters to block programmes when the parents are not present. URCA’s role is to ensure such systems are in place, and to enforce them.</p> | |
| <p>Kim Welcome</p> | <p>The respondent proposed that pornography and explicit sexual content should be banned from the Bahamian airways.</p> | <p>URCA can also ensure that content protection rules are adequately promoted by broadcasters. But URCA considers it is not URCA’s role to replace parents as the guardians of children.</p> | |
| <p>Bahamas Christian Council</p> | <p>The BCC proposed that Clause 3.1(3) should be changed to state that this clause also includes content delivered via a carriage service, or, alternatively, Clause 3.1(3) should be removed. Their reasoning was that it could be justifiable to allow Licensees under stipulated conditions to sell content, such as pornography, to adults that “would be considered by the general public in The Bahamas to be harmful, abusive, offensive, discriminatory or otherwise contrary to the standards of taste and decency which generally obtain in Bahamian society” if it were possible to ensure that the harm done to those adults is restricted to them. However, the BCC was of the view that such harm is not restricted to those adults alone but extended to</p> | <p>Ultimately, it is up to parents to decide what to allow their children to watch, and to decide whether, and to what extent, to make use of the filtering technologies that are available to them.</p> <p>In terms of the content that is available to adults, URCA considers the wide range of competing responses to these questions proves the point that there is no single set of standards that all citizens support equally. What some people may wish to watch, others may find offensive. Freedom of speech dictates that adults should be free to consume, in the privacy of their own homes,</p> | |

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| | <p>other individuals in relational proximity to those adults (like family members and others in the wider society). The BBC was of the opinion that pornography and other types of content contemplated in Clause 3.1(3) are not private choices without public consequences and that URCA should not ignore the personal, familial, and societal harm that can and do result from the type of content contemplated in and exempted by Clause 3.1(3). The BCC also expressed the view that URCA should not think that requiring the adult content contemplated in Clause 3.1(3) to be sold in accordance with the provisions of Clauses 5.10 and 5.11 is a sufficiently protective solution for children as experiences in The Bahamas and abroad demonstrate that not all adults who view pornographic content are responsible enough or care enough to utilize set top box parental controls or only do so when children are absent or asleep.</p> <p>The BCC complained about the pornographic content being offered by Cable Bahamas on channels 874-895 to subscribe to or to pay to view. The BCC said they viewed a number of pornographic movie titles and descriptions at the home of a senior citizen who is ignorant about parental controls and who cannot operate her</p> | <p>whatever they wish, provided it is legal and no harm is caused to others. For some kinds of content, such as pornography and violent content, there is a wide range of academic and other surveys of the effects of such content, with little or no consensus on the impact on the individual or on society. For every study that purports to “prove” that pornography is harmful to society in general (such as the study cited by the Bahamas Christian Council), URCA notes that other research can be provided that suggests that there is no conclusive causal relationship. URCA considers that such content should not be prohibited outright, and that carriage services may choose to offer such content provided it is legal and that appropriate advisories and child protection mechanisms are in place.</p> <p>URCA considers that it should delete Clause 3.1(3) of the Code and insert a new Clause 1.6 to identify those clauses of the Code that do not apply to Licensees providing carriage services, content services or on-demand audiovisual media services as the material on the channels carried on their networks are not under</p> | |
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| | <p>set top box, although her home is frequented by her many minor grand children and their friends, all of whom can use the remote control to surf and see Cable Bahamas' pornographic channels and listings and, in some cases, order them. The BCC stated that it believes URCA should hold all of its Licensees to the same standards of taste and decency outlined in Clauses 3.1(1) and 3.1(2) and remove Clause 3.1(3).</p> | <p>the editorial responsibility of those service providers.</p> | |
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Question 4:

Do you agree with URCA’s proposals in Part 4 of the draft Code of Practice regarding Law and Order, Harmful and Offensive Content, and Religious programming? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 4 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| BTC | BTC had no objections to URCA’s proposals in Part 4 of the draft Code of Practice. | URCA notes BTC’s response. | No action necessary. |
| BCB | The BCB agreed with URCA’s proposals in Part 4 of the draft Code because they believe that preservation of law and order is critical to society and is in keeping with the finest traditions of established media. They also noted the proposed Code is careful in seeking to provide “appropriate editorial judgment in the reporting of, and the pictographic images of, violence, aggression or destruction” while at the same time cautioning against Licensees exaggerating or exploiting situations of | URCA notes the BCB’s endorsement of the approach taken by URCA in Part 4 of the draft Code. | No action necessary. |

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| | aggression, conflict or confrontation noting “they shall be equally careful not to sanitize the reality of the human condition.” The BCB also favours prohibiting Licensees from broadcasting material that promotes or glamorises any aspects of violence against women, specific groups and animals. | | |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council’s responses to Question 4. | URCA thanks BCEP for its comments and notes its adoption of the BCC’s responses to Question 4. | No action necessary. |
| Linda Thomas | The respondent stated that she struggled to understand Clauses 4.1(3), 4.4(3), 4.11(3) and 4.12(3) and proposed that URCA review these clauses to determine whether any of the prior clauses creating these exceptions clauses can be better explained or examples provided, as she inferred that the referenced clauses were saying that the material that Licensees can broadcast should be scheduled with care. | URCA notes the comments and the desire for greater clarity for all stakeholders as to the meaning of the provisions in the Content Code. URCA considers that it should amend Clause 4.1(3) and Clause 4.4(3) by deleting the word “not” in the first sentence of each clause. URCA considers that no change is required to Clause 4.11(3). URCA considers that in Clause 4.12(3) it should change the reference from “Clause 4.12(1)” to Clause 4.12(2)”. URCA considers that in Clause 4.12(3) it should change the reference from “Clause 4.12(1)” to Clause 4.12(2)”. | (1) URCA will amend the first sentence of Clause 4.1(3) as follows: “Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.1(2) of this Code, bearing in mind the likely audience for the channel at that time.” (2) URCA will amend the first sentence of Clause 4.4(3) as follows: |

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| | | | <p>“Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.4(2) of this Code, bearing in mind the likely audience for the channel at that time.”</p> <p>(3) URCA will amend the first sentence of Clause 4.12(3) as follows:</p> <p>“Care should be taken at all times when scheduling programmes containing material listed in Clause 4.12(1)(2) of this Code, bearing in mind the likely audience for the channel at that time.”</p> |
| Rev. Antonio Beckford | The respondent noted that Part 4 of the Code addresses various areas where broadcast content has the potential to harm the public in The Bahamas either individually or collectively as a society, and seeks to put in place standards to protect against such harm, which in his opinion is the job of the church, | URCA acknowledges and thanks the respondent for his comments. URCA considers that the Code does not seek to prevent the church from protecting the public from harmful agents. | No action necessary. |

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| | to protect the public from harmful agents. | | |
| Cross-reference to draft Code | Clause 4.1 | | |
| Draft Code provision | <p>Crime</p> <p>(1) The following categories indicate material which is of a criminal nature that will invariably be unsuitable for broadcast:</p> <p>(a) material which:</p> <ul style="list-style-type: none"> (i) is reasonably likely to encourage or incite the commission of a crime; (ii) is reasonably likely to lead to public disorder; (iii) threatens harm or evil; (iv) presents detailed depiction of the use of illegal drugs, or instruction in or encouragement of illegal drug use; (v) advocates or promotes hatred in any form (up to and including genocide) against, or vilifies, any person or identifiable group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or physical or mental disability; (vi) circulates or makes available false information regarding the outbreak of a deadly or contagious disease. <p>(b) descriptions or demonstrations of criminal techniques which:</p> <ul style="list-style-type: none"> (i) contain essential details that could enable the commission of a crime; (ii) explain criminal techniques that might invite imitation; (iii) prejudice the success of attempts to deal with, detect or prevent crime; (iv) endanger the security of The Bahamas; (v) amount to propaganda for war; (vi) could endanger lives; (vii) prejudice the success of attempts to deal with a hijacking or kidnapping. <p>(c) a programme which, when considered in all of its circumstances, falsely simulates news or events in such a way as to mislead or alarm the public.</p> <p>(2) Save for sub-Clauses 4.1(1)(a)(i), (ii), (iv), and 4.1(1)(b)(iii), (iv), (vi) and (vii), exceptions to the provisions of Clause 4.1(1) of this Code may be justifiable during the watershed in the context</p> | | |

| | <p>of programmes with a legitimate humorous, dramatic, satirical, cultural, religious or educational purpose or where the depiction or demonstration is non-explicit.</p> <p>(3) Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.1(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Rev. Antonio Beckford | The respondent queried whether URCA would describe preaching against sexual preferences as offensive under Clause 4(1)(a)(v). | URCA notes that a number of respondents expressed similar concerns whether URCA would describe preaching against sexual preferences as offensive under Clause 4(1)(a)(v). URCA considers that the Code does not seek to prevent the voicing of disagreements regarding any form of conduct or preference. The Code seeks to ensure that persons do not promote hatred and vilify persons on the basis of those disagreements. | No action necessary. |
| Bahamas Christian Council | The BCC was gravely concerned that Clause 4.1(1)(a)(v) is vague as to the meanings of "hatred in any form" and "vilifies" as they relate to "religion" and "sexual | URCA does not consider Clause 4.1(1)(a)(v) to be vague. The promotion of hatred or vilification of a person are commonly used concepts found in "hate speech" legislation in many countries | No action necessary. |

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| | <p>preference.” The BCC proposed that URCA clarify Clause 4.1(1)(a)(v) by providing language that expressly excepted religious and other opposing views.</p> <p>The BCC expressed its reservations about the</p> | <p>throughout the world, and essentially cover any speech which encourages or incites others to mistreat, discriminate against, or harm persons based on particular characteristics. Clause 4.1(1)(a)(v) therefore does not prohibit the expressing of differing views whether based on religion or any opinion or belief held. URCA is concerned that to provide an exception as proposed by the BCC would open the doors to hate speech which URCA considers would be contrary to Article 23(2)(a)(ii) of the Bahamas Constitution and s. 53(3)(a)(iv) of the Communications Act. URCA contrasts the BCC’s proposal where the speaker holds a personal belief in what is being said with the exceptions for dramatic or humorous presentations in which the exceptions are fundamentally based on the lack of genuine belief in the material presented, which significantly reduces the potential for harm.</p> <p>URCA notes the BCC’s comments regarding the exceptions for</p> | <p>No action necessary.</p> |
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| | inclusion of the words “humorous,” “dramatic,” and “satirical” in Clause 4.1(2) and [referring to the proposed exception in Clause 4.1(1)(a)(iii)] proposed their removal from Clause 4.1(2) because it seemed inconsistent to juxtapose humour about threats of harm or evil with taking crime seriously. | humorous, dramatic and satirical content in Clause 4.1(2). URCA understands the concern raised by the BCC. However URCA considers that a threat made in a strictly dramatic or comedic presentation would not, in fact, be a threat nor actually create any real harm. URCA notes that the advisories that should accompany such content should be adequate to remove any realistic possibility of harm. URCA considers that the Code does not be and should not prohibit, for example, the airing of a dramatic film in which a character voices a threat of harm. | |
| Cross-reference to draft Code | Clause 4.2(2) | | |
| Draft Code provision | <p>Malicious or Scandalous Allegations</p> <p>(2) Where a Licensee discovers that incorrect, untrue or misleading information has been broadcast, the Licensee shall take steps immediately to broadcast a correction of the information, and shall broadcast an apology to any person about whom the incorrect or misleading information was broadcast. The Licensee shall transmit the correction and apology at a time or times and in such a manner as is likely to reach as much as possible of the audience that would have seen or heard the original broadcast.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Shemika S. Miller | The respondent agreed with the inclusion of standards to protect against harm and offence generally and | While URCA appreciates the point made by the respondent that Licensees could be made to submit an explanation to URCA of | No action necessary. |

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| | <p>proposed that whenever Licensees make an apology or correction in accordance with Clause 4.2(2), especially those relating to untrue or scandalous allegations about a person’s character, Licensees should, within one week of the incident, also submit an explanation of the circumstances surrounding the apology or correction to URCA, thereby discouraging Licensees from intentionally breaching Clause 4.2(1), given that the penalty is only an apology and correction (both of which will be outweighed by the damage caused to the person’s character).</p> <p>The respondent also proposed that URCA should maintain a log of apologies and corrections broadcast and review it periodically to determine if a sanction against any Licensee is necessary.</p> | <p>the circumstances surrounding on-air apologies or corrections, URCA disagrees with the proposal as it considers that the penalty to a Licensee under Clause 10.9 of the Code for deliberately breaching Clause 4.2(2) could be greater than an on-air apology or correction, which are both relevant primarily for remedial and mitigation (but not exculpatory) purposes in the event of a complaint or litigation.</p> <p>URCA also disagrees with the proposal of maintaining a log of broadcast apologies and corrections, and considers that the on-air corrections or apologies are sufficient to remedy the situations envisaged in Clause 4.2(2) of accidentally or erroneously broadcasting incorrect, untrue or misleading information.</p> | <p>No action necessary.</p> |
| Cross-reference to draft Code | Clause 4.3 | | |

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| <p>Draft Code provision</p> | <p>Human Rights, Exploitation, Diversity and Negative Portrayals</p> <p>(1) Licensees shall ensure that their programming does not contain: (a) abusive or unreasonably discriminatory material or comment; or (b) the negative portrayal, degradation or exploitation of any person, based on matters of race, nationality, ethnicity, religion, age, gender, sexual preference, or physical or mental disability.</p> <p>(2) Negative portrayal can take many different forms, including (but not limited to) stereotyping, stigmatization and victimization, derision of myths, traditions or practices, degrading material, and exploitation.</p> <p>(3) Exceptions to the provisions of Clause 4.3(1) of this Code may be justifiable in the context of programmes with a legitimate historical, educational or news purpose provided that the inclusion of such content is as limited as possible within the context of the particular programme.</p> | | |
| <p>Name of Respondent</p> | <p>Response to Consultation</p> | <p>URCA's Comments</p> | <p>URCA's Final Decision</p> |
| <p>A. Sawyer; Abigail Moss; Alan Symonette; Alexine Moss; Andrew Roberts; Angeline Moss; Calvin Dean; Carol Adderley; Cedric B. Moss II; Cherry Ferguson; Chevano Cooper; D. A. Rolle; D. Augustus (Gus) Moncur; Danielle Moss; Danielle Nairn; David Humes; Dawn Sands; Denise Karen Ingraham; Derek Smith; Dionne Curry; Erma V. Carey-Cartwright; Faye Bascom; Giovanni Johnson; Glen Rolle; Grace Cooper; Ira Bethel; Jacqueline</p> | <p>Each of these respondents indicated that they do not believe that expressing disagreement with a person's sexual conduct (like homosexuality) or religion (like calling a religious group a cult) are expressions of hate, and do not constitute an attack (per Jacintha Goffe, if done respectfully).</p> <p>Anthone Wallace and Cynthia Thompson also commented that all persons must learn to agree to disagree in a respectful</p> | <p>URCA notes and agrees that expressing disagreement with a person's sexual conduct or religion would not, of themselves, constitute conduct which would breach these provisions.</p> <p>URCA notes the comments by Melissa Bain regarding the control by subscribers of the channels that they receive to their home, which URCA considers is a significant contributor to the approach taken in the Code of not seeking</p> | <p>No action necessary.</p> |

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| <p>Eleanor Bain; Janis Dean; Joette Curry; Joy D.; Keisha Dean; Kenyatta Nairn; Keva Poitier; Lekita Chambers; Marva Mackey; Maximo Hillhouse; Melanie Poitier; Myrna Wilson; Nathan Sawyer; Nevillett Pearce; Oralee Johnson; Patrice; Yvette Rolle; Paul Moss; Paula Deleveaux; Perry Cancino; R. E. Hall; Rose Bradshaw; Schneider Prophete; Shelly Nairn; Susie Darville; Vernal Cox; Weslon Kelly; Anthone Wallace; Cynthia Thompson; Demetra Rolle; Dr. Myles Munroe; Jacintha Goffe;</p> | <p>manner.</p> <p>Demetra Rolle also commented that she believes persons have a right and a responsibility to share their opinions and views on matters regarding sexuality and religion.</p> <p>Dr. Myles Munroe also commented that freedom of conscience and spiritual conviction must and should be protected.</p> <p>Melissa Bain supplemented her comments by stating that television sets are very sophisticated and any person can add or delete channels they do not wish to have viewed in their homes, but she would support the removal of channels by the cable television companies if it reduced the cost for basic cable television, otherwise persons would have to configure their television sets to their liking or preference suitable for themselves and their families.</p> | <p>to restrict content in which some persons may be interested but which may be undesirable for others.</p> | |
| <p>Pastor Mario Moxey</p> | <p>This respondent objected to and</p> | <p>URCA notes the respondent's</p> | <p>No action necessary.</p> |

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| | <p>proposed removing the term “sexual preference” in Clause 4.1(1)(a)(v) and Clause 4.3(1)(b) and wherever else it appears in the draft Code as it included an inclination towards homosexuality, bisexuality and/or bestiality, which in his opinion seemed (i) to promote a policy of labelling as criminal and (ii) to prevent Licensees from broadcasting communications by persons (including preachers) who advocate homosexuality is an abomination, detestable, indecent, sinful and ungodly.</p> <p>The respondent contended that inclusion of the term “sexual preference” in the Code of Practice was an attempt to dictate to preachers which portions of the Holy Scriptures will be broadcast, would be very difficult or impossible to enforce since most religious broadcasters would reject, refuse to comply with and challenge such policies as being out of sync with the mind-set of the citizenry of The Bahamas.</p> | <p>comments and considers that s. 53(3)(a)(iv) of the Communications Act specifically indicates that URCA should promulgate standards which protect against <i>“matter that is likely to incite or perpetuate hatred against, or vilifies, any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or physical or mental disability”</i>.</p> <p>Further, URCA notes the respondent’s comments regarding the fundamental rights of persons. However, notwithstanding the silence of the Bahamas Constitution on the issue of sexual preference, there are various other fundamental rights which are undermined when hatred or vilification is encouraged or perpetrated against another person. For example, the rights to freedom of expression, association, and security of the person.</p> | <p>No action necessary.</p> |
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| | <p>The respondent contended that The Bahamas has strong Christian principles and does not desire to follow the lead of the United States of America or Canada which have homosexual agendas with a strategy to subvert the authority of God, and that URCA is attempting to subvert and operate outside the boundaries of the Preamble, Article 15 [which does not mention “sexual preferences”, “sexual orientation” or “sexual identity” in the context of fundamental rights and freedoms of the individual] and Article 26(3) [which also does not mention “sexual preferences”, “sexual orientation” or “sexual identity” in the context of discrimination] of the Bahamas Constitution.</p> | <p>While URCA respects the respondent’s religious position, URCA considers that it is necessary and appropriate to provide protection to vulnerable groups in society from persecution.</p> | <p>No action necessary.</p> |
| <p>Bahamas Christian Council</p> | <p>The BCC proposed Clause 4.3 should contain language similar to the clarifications and exceptions in Clause 4.2(4) that allows for the broadcast of opposing views in the areas of religion and sexual preference and thereby eliminate</p> | <p>URCA does not agree that Clause 4.3 in any way prohibits the broadcast of legitimate and reasonable opposing views in the areas of religion or sexual preference, and therefore considers an exception to be unnecessary and inappropriate.</p> | <p>No action necessary.</p> |

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| | <p>uncertainty and interpretative conflicts between Licensees and the general public. The BCC contended that, in the case of religion from both theistic and atheistic perspectives, it is neither criminal in nature nor an expression of hatred or vilification to object or disagree with the teachings of particular religious groups (such as Islam), or homosexuality and other forms of sexual conduct, because opposing views are suitable for broadcast.</p> | <p>URCA considers that the permitted exceptions are included to ensure that it is possible to educate and inform persons in The Bahamas about such conduct. For example, the exceptions would allow a factual, educational or historic programme about instances of genocide or ethnic cleansing whether past or current.</p> <p>URCA does not consider that there is any justification based on religious belief to allow the broadcasting of material that unduly discriminates against, exploits or degrades persons for any reason, including sexual preference or religion.</p> | |
| <p>Cross-reference to draft Code</p> | <p>Clause 4.4</p> | | |
| <p>Draft Code provision</p> | <p>Sexual Content</p> <p>(1) A Licensee may not broadcast material which contains a scene or scenes, simulated or real, of any of the following:</p> <ul style="list-style-type: none"> (a) child pornography; (b) bestiality, incest or rape; (c) explicit violent sexual conduct; (d) explicit sexual conduct which violates the right to human dignity of any person in the sense that it advocates a particular form of hatred based on gender or which degrades a person or which constitutes incitement to cause harm; (e) the explicit infliction of or explicit effects of extreme violence which constitutes incitement | | |

| | <p>to cause harm;</p> <p>(f) the depiction of exploitative or non-consensual sexual relations as being desirable; or</p> <p>(g) participating in, engaging in or assisting another person to engage in sexual conduct or a lewd display of nudity by a person who is, or is depicted as being, under the age of 18 years.</p> <p>(2) Save for the content described in 4.4(1)(a), (d) and (g), exceptions to the provisions of Clause 4.4(1) of this Code may be justifiable during the watershed in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical or educational purpose or where the depiction or demonstration is as limited and non-explicit as possible having regard to the context.</p> <p>(3) Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.4(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes outside or in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that any such programmes broadcast meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | <p>The BCC proposed removing Clause 4.4(2), unless the clause relates to the broadcast of content teaching AGAINST the excepted sexual content AND it is non-explicit.</p> <p>The BCC contended that the draft Code is inconsistent when it prohibits the broadcasting of child pornography [Clause 4.4(1)(a)], explicit degrading sexual conduct [Clause</p> | <p>URCA notes the comments received from the BCC and other respondents on Clause 4.4 and considers that there is scope for more precise drafting of the prohibitions in Clause 4.4(1) while the proposed exceptions in Clause 4.4(2) are too broadly drafted.</p> <p>URCA considers that there may be legitimate reasons for the broadcast of limited content in</p> | <p>The following decisions are relevant to all comments received on Clause 4.4(1) and Cause 4.4(2).</p> <p>URCA will amend Clause 4.4(1) and Clause 4.4(2) to read as follows:</p> <p>“(1) A Licensee may not broadcast material which contains a scene or scenes, simulated or real, of any of</p> |

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| | <p>4.4(1)(d)], and sexual exploitation of minors [Clause 4.4(1)(g)], while simultaneously permitting broadcasts during the watershed of scenes showing other horrific, indecent, and harmful acts like bestiality, incest, rape, explicit violent sexual conduct, extreme violence which constitute incitement to cause harm, and exploitative or non-consensual sexual relations as being desirable. While it might be necessary to address any of the subjects enumerated in Clauses 4.4(1)(a) to (g), the BCC contended that it is unnecessary to broadcast any real or simulated scenes as such subjects are addressed off-screen.</p> <p>The BCC contended that the proposed exceptions in Clause 4.4(2) trivialised sexual perversion to the extent that scenes of such acts may be viewed in certain contexts during the watershed period, including by children and will permeate into the wider society.</p> | <p>some of the categories covered in Clause 4.4(1), where the broadcast serves a legitimate social purpose. In particular, URCA considers there is a valid place for educational programming (including historical and cultural education) which discusses these issues and in that context there may be a need for inexplicit depictions of some of the matters addressed by Clause 4.4(1). Having regard to comments received URCA accepts that humorous, satirical, religious and dramatic uses of such content are perhaps an invitation to use the content purely for entertainment purposes, which is inimical to the purpose of the Code. URCA is also of the view that the potential for religious use is non-existent in the context of any legitimate religious programme.</p> <p>URCA is therefore of the view that it is appropriate to include an exception for legitimate cultural, historical and educational purposes. In that regard, URCA has noted that the existing exception covered either</p> | <p>the following:</p> <ul style="list-style-type: none"> (a) child pornography; (b) bestiality, incest or rape; (c) <u>incest or rape</u>; (d) explicit violent sexual conduct; (e) <u>explicit sexual conduct which violates the right to human dignity of any person in the sense that it advocates a particular form of hatred based on gender or which degrades a person or which constitutes incitement to cause harm</u>; (f) the explicit infliction of or explicit effects of extreme violence which constitutes incitement to cause harm; (g) the depiction of exploitative or non-consensual sexual relations as being desirable; or (h) participating in, engaging in or assisting another person to |
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| | <p>Alternatively, the BCC proposed that Clause 4.4(2) mirror the wording of the proviso in Clause 4.1(2) to read: “(2) Save for the content described in 4.4(1)(a), (d) and (g), exceptions to the provisions of Clause 4.4(1) of this Code may be justifiable during the watershed in the context of programmes with a legitimate, cultural, religious, historical or educational purpose or where the depiction or demonstration is non-explicit” since all of the acts in Clauses 4.4(1)(a) to (g) assault moral sensibilities and standards of decency in Bahamian society.</p> <p>The BCC also proposes that if Clause 4.4(2) is removed, Clause 4.4(3) should also be removed.</p> | <p>legitimate context <u>or</u> inexplicit presentations. URCA considers that the presentation must both be for a legitimate purpose <u>and</u> must be limited and inexplicit.</p> | <p>engage in sexual conduct or a lewd display of nudity by a person who is, or <u>who</u> is depicted as being, under the age of 18years.</p> <p>(2) Save for the content described in <u>Clause</u> 4.4(1)(a), (d), (b), (e) and (g) <u>(h)</u>, exceptions to the provisions of Clause 4.4(1) of this Code may be justifiable during the watershed in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical or educational purpose or <u>where provided that</u> the depiction or demonstration is as limited and inexplicit as possible having regard to the context, <u>and that it does not present the conduct as being desirable or socially acceptable.</u>”</p> |
| <p>A. Sawyer; Abigail Moss; Anthonne Wallace; Alan Symonette; Alexine Moss; Andrew Roberts; Angeline Moss; Calvin Dean; Carol Adderley; Cedric B. Moss II; Cherry Ferguson; Chevano Cooper; D. A. Rolle; D. Augustus (Gus) Moncur; Danielle Moss; Danielle Nairn;</p> | <p>These respondents each indicated that there should not be any exception allowing any Licensee to broadcast harmful and indecent acts like bestiality, incest, rape, explicit violent sexual conduct, extreme violence which constitutes incitement to cause harm, and exploitative or non-consensual</p> | | |

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| <p>David Humes; Dawn Sands; Denise Karen Ingraham; Derek Smith; Dionne Curry; Erma V. Carey-Cartwright; Faye Bascom; Giovanni Johnson; Glen Rolle; Grace Cooper; Ira Bethel; Jacqueline Eleanor Bain; Janis Dean; Joette Curry; Joy D.; Keisha Dean; Kenyatta Nairn; Keva Poitier; Lekita Chambers; Marva Mackey; Maximo Hillhouse; Melanie Poitier; Myrna Wilson; Nathan Sawyer; Nevillet Pearce; Oralee Johnson; Patrice; Yvette Rolle; Paul Moss; Paula Deleveaux; Perry Cancino; R. E. Hall; Rose Bradshaw; Schneider Prophete; Shelly Nairn; Susie Darville; Vernal Cox; and Weslon Kelly.</p> | <p>sexual relations as being desirable.</p> | | |
| <p>Lynden Nairn</p> | <p>The respondent proposed the exclusion of Clause 4.4(2) and that URCA should re-examine and/or further explain the exceptions in Clause 4.1(2) for programming during the watershed period.</p> | | |
| <p>Shemika S. Miller</p> | <p>Regarding the depiction of underage sexual conduct, the</p> | <p>URCA notes the comments and agrees that there is a legitimate</p> | |

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| | <p>respondent queried whether Clause 4.4(1)(g) would preclude the airing of certain types of films depicting the rape of underage persons and suggested that if the clause is not meant to be this extreme, then it should be excluded from Clause 4.4(2).</p> | <p>purpose in permitting limited and inexplicit depictions of the rape of underage persons, such as for educational purposes. URCA considers it needs to be clear that this would not be justification for child pornography, nor for any depiction which portrays such conduct as desirable. URCA will therefore amend Clause 4.4(2) to more clearly address this issue.</p> | |
| Cross-reference to draft Code | Clause 4.6 | | |
| Draft Code provision | <p>Exorcism, the occult and the paranormal</p> <p>(1) Licensees must treat demonstrations of exorcism, the occult, the paranormal, divination, or related practices that purport to be real (as opposed to entertainment) with due objectivity. In this context, “due objectivity” means duly striving (as far as possible or practicable) to reduce or eliminate biases, prejudices, or subjective evaluations by relying on and providing the audience with verifiable data.</p> <p>(2) Licensees are responsible for making clear to their audience if a demonstration of exorcism, the occult, the paranormal, divination, or related practices related is for entertainment purposes.</p> <p>(3) Licensees are not permitted to broadcast demonstrations of exorcism, the occult, the paranormal, divination, or related practices (whether such demonstrations purport to be real or are for entertainment purposes) containing life-changing advice directed at individuals. In this context, “life-changing advice” includes direct advice upon which individuals could reasonably act or rely about health, finance, employment or relationships.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Rev. Antonio Beckford | The respondent questioned whether preaching against demons, or praying for persons | URCA considers that Clause 4.6(1) does not seek to prevent any of the practices mentioned | No action necessary. |

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| | <p>with demons, or casting out demons, would be an issue under Clause 4(6)(1) that would be prevented from being aired on television or radio.</p> <p>Regarding the issue of “life-changing advice” in Clause 4(6)(3), the respondent stated that this concept was similar to the gospel the church preaches as it gives advice to change lives but its teaching is not for entertainment purposes.</p> | <p>by the respondent, but merely requires a level of objectivity so that where there are verifiable facts (such as the actual success of any spiritual healing), such facts should be presented to the audience.</p> <p>URCA considers that “life changing advice” is a defined term, and in order to be prohibited it must be directed at an individual, as opposed to the broad general advice preached in most religious congregations.</p> | <p>No action necessary.</p> |
| <p>Bahamas Christian Council</p> | <p>The BCC commended URCA and the Working Group for proposing Clause 4.6(3) as an excellent example of a code designed to protect individuals through total prohibition of a particular kind of broadcast and they encouraged the adoption of similar responsible codes to protect people, and by extension the wider society, from viewing and listening to harmful or potentially harmful content like those being proposed for exception in Clause 4.4(2).</p> | <p>URCA disagrees that Clause 4.6(3) is an absolute prohibition of any kind of broadcast. URCA considers that in order for the conduct to be prohibited it must be “directed at individuals” as opposed to general advice directed at a group. URCA considers that Clause 4.6(3) addresses a very specific potential problem. URCA notes, however, that the exceptions in clause 4.4(2) have been narrowed considerably based on comments received.</p> | <p>No action necessary.</p> |

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| Cross-reference to draft Code | Clause 4.10 | | |
| Draft Code provision | <p>Violence against Specific Groups</p> <p>(1) Licensees shall not broadcast programming material that sanctions, promotes or glamorises violence based on race, nationality, ethnicity, religion, gender, sexual preference, age, or mental or physical disability.</p> <p>(2) Exceptions to the provisions of Clause 4.11(1) of this Code may be justifiable in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose provided that the representation is limited and non-explicit.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | <p>The BCC commented that Clause 4.10 of the draft Code (violence against women) is undermined and contradicted elsewhere in the draft Code (e.g. some of the exceptions in Clause 4.4(2) and pornography and sexually explicit material that are accepted under Clause 5.9).</p> <p>While the BCC agreed with the prohibition against broadcasting material “that sanctions, promotes or glamorizes any aspect of violence against women,” they contended that other parts of the draft Code accidentally or intentionally overlooked the link between violence against women and broadcast content that encourages and produces the</p> | <p>URCA notes the comments received, however it does not agree that the permission of certain sexual material necessarily constitutes anything that undermines a restriction on content containing violence against women.</p> <p>URCA considers that it does not equate material that contains sexual content <i>per se</i> with material that sanctions, promotes or glamorises violence against women, and therefore disagrees with the sentiment expressed by the respondent. While URCA accepts that violence against women may often be linked with sexual abuse, URCA can find no empirical support for</p> | No action necessary. |

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| | <p>exact same violence that Clause 4.10 seeks to prevent.</p> <p>The BCC contended it is contradictory to allow the broadcast of sexually explicit and pornographic material in some parts of the draft Code (e.g., Clauses 4.4(2) and 5.9) and prohibit the broadcast of the very the same material in other parts of the draft Code (e.g., Clause 4.10). The BCC proposed that URCA aligns parts of the Code like Clauses 4.4(2) and 5.9 to be consistent with the values expressed in Clause 4.10 and thereby help to protect women from violence generally.</p> | <p>the suggestion that sexual content necessarily includes, sanctions, promotes or glamorizes violence against women.</p> <p>URCA disagrees that there is any contradiction in the clauses referred to. In fact, URCA considers that these clauses work together to limit the kind of sexual material that can be shown, that is, to permit sexual content for those adult persons who wish to view it, while prohibiting and excluding any content which might sanction, promote or glamorise violence against women, or negatively impact vulnerable groups in the society.</p> | <p>No action necessary.</p> |
| Cross-reference to draft Code | Clause 4.11(2) | | |
| Draft Code provision | (2) Exceptions to the provisions of Clause 4.11(1) of this Code may be justifiable in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose provided that the representation is limited and non-explicit. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable. | URCA considers that it should amend Clause 4.11(2) to clarify | URCA will amend Clause 4.11(2) as follows: |

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| | | that the exceptions to Clause 4.11(1) may be justifiable outside the watershed period. | “(2) Exceptions to the provisions of Clause 4.11(1) of this Code may be justifiable <u>outside the watershed</u> in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose provided that the representation is limited and non-explicit.” |
| Cross-reference to draft Code | Clause 4.11(3) | | |
| Draft Code provision | <p>Violence against Specific Groups</p> <p>(3) Care should be taken at all times when scheduling programmes containing material listed in Clause 4.11 (2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Rev. Antonio Beckford | Regarding Clause 4.11(3), the respondent proposed changing the watershed period to 11:00 PM on the premise that many parents allow their children to stay up late, as well as children staying up when their parents | Comments regarding the timing of the watershed have been addressed by URCA under Question 1 above. | No action necessary. |

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| | are in bed and sometimes against the wishes of their parents. The respondent believes that URCA's proposed watershed period would expose children to harmful content and therefore all programs offensive to the Christian faith should be "allowed to be aired" after 11:00 PM. | | |
| Cross-reference to draft Code | Clause 4.12(2) | | |
| Draft Code provision | <p>Violence against Animals</p> <p>(2) Exceptions to the provisions of Clause 4.12(1) of this Code may be justifiable in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose or where the representation is non-explicit.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC advocated the removal of the words "humorous," "dramatic," and "satirical" in Clause 4.12(2) on the grounds that it is contradictory and tends to cultivate and promote an accepting attitude towards what is prohibited, namely treating violence against animals as a serious offence, not facilitate broadcasts that makes light of it. | URCA notes the comments received and considers that there is a need to be careful not to narrow the scope of possible programming outside the watershed period to an extent which seriously hampers freedom of expression. URCA is also cognisant that humour, drama and satire are means for addressing social issues in a manner which is often more effective than an educational | URCA will amend Clause 4.12(2) as follows: "(2) Exceptions to the provisions of Clause 4.12(1) of this Code may be justifiable <u>outside the watershed</u> in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose or |

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| | | programme might be. In any regard, URCA notes that in order to be prohibited the material must sanction, promote or glamorise the violence. URCA considers that such language presents adequate exception to enable programmes to deal with the issue without glamorising, promoting or sanctioning it. | where the representation is non-explicit.” |
| Cross-reference to draft Code | Clause 4.13 | | |
| Draft Code provision | <p>Broadcasts of religious programming</p> <p>Licensees may make available opportunities for the purchase of airtime for religious programming available to the community. The general purpose of religious programming should be to promote the spiritual harmony and understanding of humanity and of administering broadly to the varied religious needs of the community. A Licensee must ensure that any religious programming, which simultaneously reaches persons of all creeds and races, shall not be used by the Licensee or any person to convey attacks upon another race or religion.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Rev. Antonio Beckford | The respondent expressed the views that preaching against sinful practices is a way to promote understanding of humanity within the context of the draft clause, that it was impossible for Licensees to ensure that any religious programming simultaneously reaches persons of all creeds and races, and questioned | URCA notes the comments made, and accepts that programming may not simultaneously reach <u>all</u> creeds and races. | URCA will amend Clause 4.13 as follows: “Licensees may make available opportunities for the purchase of airtime for religious programming available to the community. The general purpose of religious programming should be to promote the |

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| | whether bringing an “understanding of humanity” constituted an attack on persons with difference creeds or religion. | | spiritual harmony and understanding of humanity and of administering broadly to the varied religious needs of the community. <u>While it is understood that the religious freedom guaranteed to all persons in The Bahamas necessarily implies the right to question and disagree with alternate belief systems,</u> a Licensee must ensure that any religious programming, which <u>is likely to reach</u> simultaneously reaches persons of all creeds and races, shall not be used by the Licensee or any person to convey attacks upon another race or religion.” |
| Bahamas Christian Council | The BCC proposed deleting or clarifying the second sentence in Clause 4.13, (“A Licensee must ensure that any religious programming, which simultaneously reaches persons of all creeds and races, shall not be used by the Licensee or any person to convey attacks upon another race or religion”) so as to make it patently clear that disagreement and refutation of religious or denominational beliefs do not amount to attacks, similar to their response to Question 4. | URCA notes the BCC’s comments and will amend Clause 4.13 to address their concern. | |
| Cross-reference to draft Code | Clause 4.14 | | |
| Draft Code provision | <p>Solicitation of funds in religious programming</p> <p>Except for the customary announcement of the offering or collection during a church service, the solicitation of funds in any religious programme originating or recorded in The Bahamas must not exceed one (1) minute during every thirty (30) minutes of broadcast time.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Rev. Antonio Beckford | The respondent contended that Clause 4.14 is a violation of | URCA disagrees that this provision of the Code violates the | No action necessary. |

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| | freedom of religion, freedom of association and freedom of expression that should not be regulated. | rights or freedoms of any person. URCA considers that it has a responsibility to ensure that broadcasting inures to the benefit of Bahamian society in general, and to protect vulnerable groups within the society. The solicitation of funds beyond the customary offering or collection during the broadcast of a church service has time limitations to both protect the quality of Bahamian broadcasting, and also to protect persons from exploitation. URCA considers this provision of the Code to place a necessary but appreciable limitation on this activity and as such does not propose to make any changes. | |
| Cross-reference to draft Code | Clause 4.17 | | |
| Draft Code provision | <p>Costs of Telephone Calls or Text Messages</p> <p>If during a programme or programme promotion, a Licensee invites the audience to use a premium charge telephone service or a text message service to obtain information, register a view or vote on a matter or participate in a competition, the Licensee must provide clearly readable or audible information about the cost of the call or the cost of the text message.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | CBL proposed that Licensees should be required under Clause 4.17 to provide clearly readable | URCA notes the point made by CBL, however URCA considers that there must be an indication | No action necessary. |

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| | <p>or audible information advising the audience that there is a cost for the call or text message but not the actual costs, since the cost may vary depending on the tariff structure and network used by the consumer /subscriber.</p> | <p>of the actual cost for the call, though the indication could relate to the “on-net” cost, with a proviso that other call costs may be different. URCA considers that the mere statement that there is a cost for the call or message is insufficient as all calls and text messages have a cost, and therefore such an abbreviated statement as proposed by CBL does not provide the consumer/ subscriber with any information about the actual costs that could be incurred.</p> | |
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Question 5:

Do you agree with URCA’s proposals in Part 5 of the draft Code of Practice regarding the protection of young persons and a television programme classification system? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 5 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | <p>While the BCC agreed with the overall intent of Part 5 to protect young persons, they proposed several changes set out under specific clauses.</p> <p>The BCC also proposed adding to the Code a prohibition against the broadcast of any audio recording, song or music video which employs editing techniques to “bleep” the original content or lyrics that promote and glorify subjects like criminal acts, sexual promiscuity, and profane and anti-social behaviour particularly by Licensees whose target audience includes children or whose broadcasts can be</p> | <p>URCA notes and thanks the BCC’s for its comments which were adopted by the BCEP, the BCC’s concern about the practice of blanking out unsuitable words in music, and generally the airing of certain types of music. URCA notes that the airing of such content will be limited when children are likely to be listening based on the provisions of Part 5 generally. URCA considers that further prohibition as proposed by the BCC is unnecessary and inappropriate.</p> | <p>No action necessary.</p> |

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| | heard or viewed by them, thereby preventing or reducing potential complaints. | | |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council's responses to Question 5. | | |
| BTC | BTC agreed with URCA's proposals in Part 5 of the draft Code of Practice regarding the protection of young persons and a television programme classification system. | | |
| BCB | The BCB agreed with and supported appropriate scheduling to protect children from unsuitable programme material inclusive of sexual themes, nudity and pornography as well as audience advisories and programme classifications clauses. | URCA acknowledges and thanks BTC, the BCB and Shemika S. Miller for their comments agreeing with and supporting the proposals in Part 5 of the draft Code. | No action necessary. |
| Shemika S. Miller | The respondent agreed with the importance placed in the draft Code on the protection of young persons and a television programme | | |

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| | classification system. | | |
| Cross-reference to draft Code | Clause 5.2 | | |
| Draft Code provision | <p>Language</p> <p>(2) Licensees shall not allow the use of offensive language during children’s programmes or advertising directed at children.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | The BCC proposed that under Clause 5.2(1), offensive language should not be allowed in any broadcasts during the watershed period. | URCA notes the concern expressed by the BCC, however, URCA considers that the standards regarding what is “offensive” are subject to wide differences and it would be inappropriate or excessive to prohibit such language outright. URCA notes that the clause prohibits using offensive language during programmes or advertisements directed at children which would ostensibly be outside the watershed period. However, URCA does not consider that the possible use of offensive language in certain programmes should be outright prohibited during the watershed period when programmes primarily for adults are broadcast. | No action necessary. |

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| Cross-reference to draft Code | Clause 5.3(4) | | |
| Draft Code provision | <p>Violence</p> <p>(4) Children’s programmes on television shall deal carefully with themes that could invite children to imitate dangerous or harmful acts which they see on screen.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Demetra Rolle | This respondent proposed that programmes coming within Clause 5.3(4) which could invite children to imitate dangerous or harmful acts they see on television should not be broadcast outside of the watershed period. | URCA appreciates the respondent’s concern, however, URCA considers it should preserve the possibility of using such issues as teaching tools, and also notes the possibility for very wide interpretation of such a prohibition. As such, URCA is cautious not to prohibit absolutely, but to ensure responsible programming. URCA will make a minor amendment to Clause 5.3(4) to address the BCC’s concern without undue restriction. | URCA will amend Clause 5.3(4) as follows: “Children’s programmes on television shall deal carefully with <u>so far as possible avoid</u> themes that could invite children to imitate dangerous or harmful acts which they see on-screen. <u>Where it is not possible to avoid such themes, Licensees shall ensure that such the material is treated with care so as to minimise the risk of harm.</u> ” |
| Cross-reference to draft Code | Clause 5.4 | | |
| Draft Code provision | <p>Sexual themes</p> <p>(1) Programmes which portray children in a sexual fashion, including the sexualisation of children through dress and behaviour, are not acceptable, except where justified in the context of a dramatic or factual programme dealing with the specific issue of sexuality, in which case the portrayal must be as limited as possible within the context of the particular programme and must in any event be sexually non-explicit.</p> | | |

| | <p>(2) Licensees shall ensure that programmes that take incest or child abuse as their topic or theme shall provide suitable warnings prior to airing and shall be appropriately scheduled. Licensees shall also provide information on relevant telephone help-lines provided by governmental or other specialist agencies. Licensees should treat material of this nature with the utmost care and sensitivity, bearing in mind the psychological effects it might have on child-victims.</p> <p>(3) Representations of sexual intercourse must not be broadcast outside the watershed unless there is a justifiable educational purpose. Any discussion or portrayal of sexual behaviour broadcast outside the watershed must be appropriately limited to the subject matter of the discussion or portrayal and sexually inexplicit.</p> <p>(4) Children should not be portrayed as sexually appealing or provocative and they should not be included in any portrayal that involves any form of sexual innuendo.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Rev. Antonio Beckford | The respondent contended that Clause 5.4 of the draft Code opens the door for cross-dressing by exposing children to being portrayed by others in a negative fashion, and violates Christian principles. | URCA disagrees that the clause would have the effect contemplated by the respondent. URCA considers that the clause ensures that broadcast programming can perform its role of informing the public on important issues, while protecting children from harm. | No action necessary. |
| Linda Thomas | This respondent questioned whether use of words "the portrayal of children" or "children should not be portrayed" in Clause 5.4 of the draft Code included | URCA considers that any portrayal which purports to be of a person under 18 would be treated as a portrayal of children. | |

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| | adults playing the part of children. | | |
| Cross-reference to draft Code | 5.5 | | |
| Draft Code provision | <p>Nudity and pornography</p> <p>(1) A Licensee may not broadcast material outside the watershed which contains:</p> <ul style="list-style-type: none"> (a) Full frontal nudity of any person; (b) The bare breasts of female persons; or (c) The pubic area of any person. <p>(2) Pornography must not be broadcast at any time.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| <p>A. Sawyer; Abigail Moss; Alan Symonette; Alexine Moss; Andrew Roberts; Angeline Moss; Anthone Wallace; Calvin Dean; Carol Adderley; Cedric B. Moss II; Cherry Ferguson; Chevano Cooper; Cynthia Thompson; D. A. Rolle; D. Augustus (Gus) Moncur; Danielle Moss; Danielle Nairn; David Humes; Dawn Sands; Demetra Rolle; Denise Karen Ingraham; Derek Smith; Erma V. Carey-Cartwright; Faye Bascom; Giovanni Johnson; Glen Rolle; Grace Cooper; Ira Bethel; Jacintha Goffe; Jacqueline Eleanor Bain; Janis Dean;</p> | <p>These respondents contended that the broadcasting of pornography by all Licensees should be totally prohibited at all times.</p> <p>Dr. Myles Munroe also contended that there should be no exceptions to the proposed prohibition.</p> <p>Kim Welcome also contended that there was nothing beneficial, only anti-social, in pornography.</p> | <p>URCA notes that pornographic material is lawfully available in The Bahamas through legitimate businesses which can sell, rent or otherwise distribute pornographic material to the public. URCA considers it would be inappropriate for it to take a position that is more restrictive to pay television, which is delivered directly to a person's private residence, than what is available by walking into a store that is open to the general public.</p> <p>Additionally, while URCA notes the position taken by</p> | <p>No action necessary.</p> |

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| <p>Joette Curry; Joy D.; Keisha Dean; Kenyatta Nairn; Keva Poitier; Lekita Chambers; Lynden Nairn; Marva Mackey; Maximo Hillhouse; Melanie Poitier; Melissa Bain; Myrna Wilson; Nathan Sawyer; Nevillett Pearce; Oralee Johnson; Pandora Butler; Patrice; Yvette Rolle; Paul Moss; Paula Deleveaux; Perry Cancino; R. E. Hall; Rose Bradshaw; Schneider Prophete; Shelly Nairn; Susie Darville; Vernal Cox; Weslon Kelly; Dr. Myles Munroe; Kim Welcome</p> | | <p>many of the respondents and other citizens and residents of The Bahamas against pornography, URCA’s research, which included focus groups consulted in a previous public consultation on public service broadcasting, coupled with the apparent market for such material, indicates to URCA that there is a significant portion of the Bahamian public which does not believe that pornographic content should be prohibited.</p> | |
| <p>Bahamas Christian Council</p> | <p>For reasons previously stated in the BCC’s responses to Clauses 3.1(3) and 4.4(2), the BCC proposed there should be a total prohibition against the broadcast of pornography by all Licensees (including those providing carriage service) in Clause 5.5(2), and Clause 5.5 should be removed from the exceptions listed in Clause 5.9.</p> | <p>For those reasons, URCA considers that it would be inappropriate for it to move to prohibit pornography on pay television systems (i.e., carriage services, content services and on-demand audiovisual media services) in the Content Code because the content on these systems is largely the secondary transmission of content that originates outside The Bahamas. Nevertheless, Clause 5.5(2) prohibits pornography on audiovisual</p> | |

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| | | <p>media services which are under the editorial responsibility of Bahamian Licensees.</p> <p>URCA has also sought to fulfil its mandate of protection of children by ensuring, as far as possible, that the exposure of children to pornographic content is controlled. Clause 5.9 of the Code, which permits such content to be shown on pay television systems, requires the implementation of functionality into such system that enables parents to limit access to pornographic material by their children. URCA considers this approach to be appropriate as it requires that parents and responsible adults take a role in ensuring that children are not exposed to unsuitable content by using the functionality and filtering technology that carriage service providers, content services and on-demand audio visual services are required to implement.</p> | |
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| | | <p>URCA stresses that it is not a censor, and that its role under s. 53 of the Communications Act is to implement standards which protect necessary groups against harm, while permitting freedoms which are guaranteed to all citizens and residents of The Bahamas. URCA considers that it has sought to strike a delicate and necessary balance in these provisions between restriction and freedom.</p> | |
| <p>Shemika S. Miller</p> | <p>The respondent proposed that URCA reconsider the restriction in Clause 5.5(2) prohibiting local broadcasters from broadcasting pornography while allowing (in Clause 5.9) such broadcasts by carriage services as the prohibition unfairly restricts Bahamians from participating and profiting in an industry dominated by foreigners.</p> | <p>URCA notes the comments made by the respondent but considers that a Bahamian business is free to participate in the provision of content to a carriage service which content might otherwise be prohibited for free-to-air operations. As an example, URCA notes that there are already Bahamian Licensees who provide content which is shown on carriage systems only. URCA considers that the only change which would be required before such a</p> | |

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| | | Licensee could show restricted content would be for the carriage service provider to relocate the relevant channel in its line-up to a “premium” channel location. | |
| Cross-reference to draft Code | Clause 5.7 | | |
| Draft Code provision | <p>Participation of children in programmes and advertisements</p> <p>(1) If a contributor to a programme or a participant in an advertisement is under eighteen (18) years of age, the Licensee shall first obtain consent to the contributor’s or participant’s participation in the programme or advertisement from a parent or guardian or other person of eighteen (18) or over in <i>loco parentis</i> to the contributor. In particular, Licensees should not ask persons under eighteen (18) years for his or her views on matters likely to be beyond their capacity to answer properly without such consent.</p> <p>(2) Children must not be caused unnecessary distress or anxiety by their involvement in programmes or advertisements.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| CBL | Subject to its response to Question 1 regarding the ambit of s. 53(2) of the Communications Act, CBL contended that URCA’s proposal in Clause 5.7 of the draft Code making Licensees responsible for obtaining the parental consent of participants under age 18 appearing in advertisements | URCA considers that, depending on the circumstances, it is not always necessary that the Licensee must itself obtain the consents. However, regardless of whether the contributor or participant has a major or minor role in the advertisement, the Licensee must take steps to ensure that | URCA will amend Clause 5.7(1) to read as follows: “If a contributor to a programme or a participant in an advertisement is under eighteen (18) years of age, the Licensee shall <u>obtain consent or shall ensure that the producer of the programme or advertisement, or someone</u> |

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| | <p>is onerous as an advertisement may include numerous children (such as a choir or school) and not an individual child, and, in the case of foreign advertisements, is unfair because the advertisement may not be within the Licensee’s control. CBL proposed that the onus should on the producer of the advertisement, but conceded that Licensees producing the advertisement should obtain the necessary consents but only if a minor is prominently featured in the advertisement as opposed to being in the background.</p> | <p>the consents have been obtained. URCA has made amendments to the clause to make clearer who is responsible for obtaining the consents.</p> | <p><u>acting on behalf of the Licensee or the produce has, as the case may be, first obtained</u> consent to the contributor’s or participant’s participation in the programme or advertisement from a parent or guardian or other person of eighteen (18) or over in loco parentis to the contributor. In particular, Licensees <u>or producers</u> should not ask persons under eighteen (18) years for his or her views on matters likely to be beyond their capacity to answer properly without such consent.”</p> |
| Shemika S. Miller | <p>The respondent proposed that under Clause 5.7, Licensees should maintain records of all consent forms received for underage contributors or participants appearing in advertisements, for review by URCA during onsite visits.</p> | <p>URCA notes the respondent’s comment; however, as the Licensee would not necessarily be the entity that obtained the consents, URCA considers that the proposal should be referred to the Industry Group for review.</p> | <p>URCA will refer to the Industry Group for review the proposal that Licensees should maintain records of all consent forms received for underage contributors or participants appearing in advertisements.</p> |
| Cross-reference to draft Code | Clause 5.8(2) | | |
| Draft Code provision | Children and crime | | |

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| | (2) In reporting certain kinds of crime, such as sexual assaults or incidents involving children, Licensees must take into account the time period of the broadcast and the degree of explicit detail matched to the probable presence of children listening or viewing. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed that the requirements on Licensees in Clause 5.8 (2) should be more prescriptive as the words "take into account" is subjective and could present problems in the future if URCA attempted to sanction a Licensee for not having taken something into account. | URCA agrees with this proposal and has revised the language of Clause 5.8(2) accordingly. | URCA will amend Clause 5.8(2) to read as follows: "In reporting certain kinds of crime, such as sexual assaults or incidents involving children, Licensees must take into account the time period of the broadcast and <u>ensure that the degree of explicit detail is appropriately matched to the probable presence of children listening or viewing, having regard to the time period of the broadcast.</u> " |
| Cross-reference to draft Code | Clause 5.9 | | |
| Draft Code provision | <p>Application to content delivered via Carriage Service</p> <p>The provisions of Clauses 5.1 to 5.6 of this Code shall not apply to content delivered via a carriage service, provided that the Licensee providing such services shall take all reasonable steps to:</p> <ul style="list-style-type: none"> (a) inform the adult subscriber through classifications and/or advisories as are required by this Code of the nature of the programming and the fact that such programming may not comply with all provisions of this Code; and (b) ensure that an adequate parental control mechanism has been implemented in | | |

| | <p>conjunction with the advisory and classification system set out in Clause 5.10 and 5.11 of this Code, which would enable adult subscribers to prevent access to unsuitable content by children should they choose to do so.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | <p>The BCC proposed that as the content regulated by Clauses 5.1 to 5.6 is primarily delivered in The Bahamas via carriage service and many subscribers like senior citizens, those who are illiterate, and others who are challenged using and programming electronic devices, URCA should add a requirement to Clause 5.9 of the draft Code that Licensees providing carriage service offer assistance to explain parental controls, assist in setting the same for new subscribers and advertise the availability of this service for existing subscribers, thereby increasing the protection of children in The Bahamas.</p> | <p>URCA agrees with this proposal and has made appropriate changes to Clause 5.9.</p> | <p>URCA will amend Clause 5.9 by adding a new sub-clause (c) and make appropriate consequential changes to Clause 5.9(a) and (b) as follows:</p> <p>“The provisions of Clauses 5.1 to 5.6 of this Code shall not apply to content delivered via a carriage service, provided that the Licensee providing such services shall take all reasonable steps to:</p> <p>(a) inform the adult subscriber through classifications and/or advisories as are required by this Code of the nature of the programming and the fact that such programming may not comply with all provisions of this Code; and</p> <p>(b) ensure that an adequate parental control mechanism has been implemented in conjunction with the advisory and classification system set</p> |

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| | | | <p>out in Clause 5.10 and 5.11 of this Code, which would enable adult subscribers to prevent access to unsuitable content by children should they choose to do so; and <u>(c) provide appropriate training, instructional materials, and assistance to subscribers regarding the use and operation of parental control mechanisms, and guidelines as to maintenance of security from accidental or unsanctioned use by minors.</u>”</p> |
| Cross-reference to draft Code | 5.10 | | |
| Draft Code provision | <p>Audience Advisories and Programme Classifications</p> <p>(1) Warnings and advisories should be given when any radio or television programming includes broadcasts of mature subject matter or scenes with nudity, sexually explicit material, violence, coarse or offensive language, or other material which may cause offence. The rules in this Clause apply to all content but do not prejudice the limitations set out in other parts of this Code on the broadcast of any type of content.</p> <p>(2) Licensees shall warn or advise television viewers on screen in advance and at frequent intervals throughout the programme when broadcasting any content which:</p> <ul style="list-style-type: none"> (a) contains scenes of extraordinary violence; or (b) includes graphic reporting on sensitive subject matters; or (c) includes the personal views of presenters or reporters, that such personal views are actually commentaries or opinions by such presenters or reporters. <p>(3) Where necessary, Licensees shall also include an advisory or a warning that a programme</p> | | |

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| | <p>contains material, which may seriously distress or seriously offend the audience, and that advisory or warning must comply with every requirement in this Code for the time period in which it is broadcast.</p> <p>(4) Licensees shall appropriately classify programmes in accordance with Clauses 5.10 and 5.11 of this Code so that the programmes:</p> <ul style="list-style-type: none"> (a) do not deceive or disadvantage the audience; or (b) are not presented in such a way as to cause panic, unwarranted alarm or undue distress to the audience. <p>(5) Licensees shall, in addition to the advisories, required in sub-Clauses 5.10(1) and 5.10(2) of this Code, display the appropriate classification on-screen for the television programme being broadcast, in accordance with the classification system set out in Clause 5.11 of this Code.</p> <p>(6) A classification symbol of at least 32 television lines in height, in a readily legible typeface, must be displayed at the bottom right of the television screen for at least 3 seconds at the following times:</p> <ul style="list-style-type: none"> (a) as close as practicable to the programme's start; (b) as soon as practicable after each break; (c) in any promotion for the programme (except for radio or outdoor advertising). <p>(7) Licensees shall maintain the following broadcasting standards in the preparation and presentation of content that subscribers pay a fee to receive:</p> <ul style="list-style-type: none"> (a) Viewers shall be informed by regular and consistent advisories about programming broadcast (including classifications and warnings) and filtering technology.¹ (b) Classifications shall be available for all programming except for advertisements. (c) If available, classifications should be shown on-screen at the beginning of programmes and following any breaks for advertisements, be included in any electronic programme guides, in any relevant promotional material and in any accompanying printed guides where Licensees make such classifications available to the publishers of these printed |
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¹ "Filtering technology" means electronic technology that gives subscribers the ability to set a classification threshold beyond which content can only be accessed by using a Personal Identification Number (PIN) or other key which the subscriber can keep confidential. It enables a subscriber to prevent other members of their household, particularly children, from accessing content that the subscriber does not wish them to view.

| | <p>guides.</p> <p>(d) Visual warning and advisories should also be available. When used, verbal warnings should screen at the start of the programme, with accompanying text and also following any breaks for advertisements.</p> <p>(e) Filtering technology may be made available on the basis that subscribers elect to use it, provided that a subscriber is easily able to initiate use at any time through the television remote control or similar device.</p> <p>(8) A Licensee shall ensure, so far as it is able to, that programming broadcast or carried by it is classified for viewing or listening in accordance with this Code or under a comparable Code or regime in the country where the programming or broadcast originated.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Lynden Nairn; Bahamas Christian Council | The respondents proposed changing the word "may" in Clause 5.10(7)(e) to "must". | URCA considers that it should change the word "may" to "shall". | URCA will amend Clause 5.10(7)(e) to read as follows: "Filtering technology may <u>shall</u> be made available on the basis that subscribers elect to use it, provided that a subscriber is easily able to initiate use at any time through the television remote control or similar device." |
| Melissa Bain | Regarding the proposals in the Clause 5.10 of draft Code on programme classifications, this respondent noted that if they are not already doing so, parents have to start taking responsibility for and | URCA notes and thanks the respondent for her comments. | No action necessary. |

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| | monitoring what their children are allowed to watch, listen to, do, etc., in their homes as well as the internet. | | |
| CBL | CBL submitted that it is only possible for audiovisual media services to comply with Clause 5.10(1) and proposed that live broadcasts, or alternatively live sporting events, should be exempt from carrying the classifications stated in Clause 5.10. | URCA notes CBL's comments and considers that Clause 5.10(8) is structured to address the concerns expressed by CBL. Provided that the content carried on CBL's system is classified under a comparable system, URCA considers that no further classification is required. | No action necessary. |
| URCA | Not applicable. | URCA considers that it should amend Clause 5.10(2)(c) by deleting the words "that such personal views are actually commentaries or opinions by such presenters or reporters" as being superfluous and possibly confusing. | URCA will delete Clause 5.10(2)(c). |

Question 6:

Do you agree with URCA’s proposals in Part 6 of the draft Code of Practice regarding election broadcasts and advertising, other aspects of election broadcasts and political advertisements and operational matters in elections, referendums and political broadcasts? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 6 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | The BCC had no comments regarding Part 6 of the draft Code. | URCA thanks and acknowledges the comments from the BCC, BCEP, BTC, BCB, CBL and Shemika S. Miller regarding Part 6 of the draft Code, where they agreed with it, did not object to it or did not comment on Part 6. | No action necessary. |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council’s response to this question. | | |
| BTC | BTC had no objections to Part 6 of the draft Code of Practice. | | |
| BCB | The BCB agreed with the standards in Part 6 of the draft Code for the broadcast of political advertisements and election programmes paid for by potential candidates, actual candidates, and political parties both outside of and during election periods, including the requirement for news or current affairs programming to “treat all political parties equitably”. | | |
| CBL | CBL submitted that the proposed rules in Part 6 of the draft Code are a vast improvement over the Interim Code of | | |

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| | Practice for Political Broadcast (ECS 01/2010). CBL agreed that factual information should be clearly distinguishable from opinion or advocacy and supports the concept of accuracy, accountability and veracity in reporting but believes that in achieving these goals, it is important for Licensees to recognize the limitation of the audience's attention and the need for the presentation to be engaging. | | |
| Shemika S. Miller | The respondent agreed with URCA's proposals in Part 6 of the draft Code regarding non-discrimination on broadcasting time to election candidates during an election period. | | |
| Linda Thomas | The respondent referred to and repeated her comments about the definition of 'political party' in her response to Question 1. | URCA has previously noted and addressed the respondent's disagreement with the definition of 'political party' in Clause 1.1. | URCA has previously stated in answer to Question 1 that it will amend the definition of 'political party' in Clause 1.1. |
| Cross-reference to draft Code | Clause 6.4 | | |
| Draft Code provision | Discrimination against candidates or political parties during election periods (1) In making broadcasting time available to individual candidates and political parties for political advertisements and political broadcasts, Licensees shall not discriminate against any candidate or political party, or make or give any preference to any candidate or political party, or subject any candidate or political party to any prejudice or bias. (2) Public Service Broadcasters shall not be permitted to endorse a candidate or political party. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable. | Considering the substance of | URCA will amend Clause 6.4(1) |

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| | | <p>comments received on Clause 6.5 of the draft Code calling for the inclusion of advocacy groups and other persons to purchase broadcasting time during election periods, URCA considers that Clause 6.4(1) commits the same omission and, in fairness, should be similarly amended.</p> <p>Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should delete Clause 6.4(2) from the draft Code as it relates to PSB and more properly include it in URCA's recommendations to the Minister.</p> | <p>to include references to 'person or entity' who cannot be discriminated against, as follows:</p> <p><u>"Discrimination against candidates, political parties and others during election periods</u></p> <p>(1) In making broadcasting time available to individual candidates, and <u>political parties, or any other person or entity</u> for political advertisements and political broadcasts, Licensees shall not discriminate against any candidate, or <u>political party, person or entity</u>, or make or give any preference to any candidate, or <u>political party, person or entity</u>, or subject any candidate, or <u>political party, person or entity</u> to any prejudice or bias."</p> <p>URCA will delete Clause 6.4(2) from the Code and include it in its recommendations on PSB to the Minister.</p> |
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| Cross-reference to draft Code | Clause 6.5 | | |
| Draft Code provision | <p>Definition of qualifying parties and candidates during election periods</p> <p>(1) Up to midnight on the day before polling day, Licensees may only allocate broadcasting time during parliamentary general elections and bye-elections for political advertisements or political broadcasts to candidates and political parties registered for that parliamentary general election or bye-election by the Parliamentary Commissioner as defined in the Parliamentary Elections Act.</p> <p>(2) Up to midnight on the day before polling day, Licensees may only allocate broadcasting time during local government elections for political advertisements or political broadcasts to candidates registered for local government elections in each electoral district by the Parliamentary Commissioner as defined in the Parliamentary Elections Act.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Linda Thomas | The respondent pointed out that in the clauses prior to Clause 6.5, candidates, political parties and any other person or entity may purchase political advertisements and political broadcasts, but Clause 6.5 restricts the ability to purchase time for political broadcasts or advertisements to political parties or candidates registered for the elections, thereby excluding groups or individuals lobbying for a particular idea or position (e.g., animal rights groups, religious bodies, advocacy groups, or during a referendum) or groups or individuals supporting or not aligned with any particular candidate or party, and should be removed. | URCA agrees in principle with the point raised by both respondents that other persons and entities should have the same capabilities as candidates and political parties regarding purchasing broadcasting time, but disagrees with the proposal to remove Clause 6.5 and will, instead amend it to include other persons and entities. | URCA will amend Clause 6.5 so that other persons and entities beside candidates and political parties can purchase broadcasting time up to midnight before polling day, as follows: “(1) Up to midnight on the day before polling day, Licensees may only allocate broadcasting time during parliamentary general elections and bye-elections for political advertisements or political broadcasts to candidates, and political parties registered for that parliamentary general election or bye-election by the Parliamentary Commissioner as defined in the <u>Parliamentary Elections Act</u> and <u>any other person or entity</u> . |
| Shemika S. Miller | The respondent proposed that Clause 6.5 be amended to allow advocacy rights groups, religious groups and others to purchase political broadcast and advertising time to discuss issues | | |

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| | relevant to the group's or person's cause. | | (2) Up to midnight on the day before polling day, Licensees may only allocate broadcasting time during local government elections for political advertisements or political broadcasts to candidates registered for local government elections in each electoral district by the Parliamentary Commissioner as defined in the Parliamentary Elections Act and any other person or entity." |
| Cross-reference to draft Code | Clause 6.9(2) | | |
| Draft Code provision | <p>(2) Licensees who, during an election period, broadcast during any programme to the public the results of an election opinion survey based on recognised statistical methods must, during the broadcast, provide the following information, or an accurate summary of key methodological details comprising such information, aurally (for radio) and/or in audio-video format (for television), together with the results of the survey:</p> <ul style="list-style-type: none"> (a) the name and address of the sponsor of the survey; (b) the name and address of the person or organisation that conducted the survey; (c) the date on which or the period during which the survey was conducted; (d) information about the method used to collect the data from which the survey results are derived, including: <ul style="list-style-type: none"> (i) the sampling method, (ii) the population from which the sample was drawn, (iii) the size of the initial sample, (iv) the number of individuals who were asked to participate in the survey and the numbers and respective percentages of them who participated in the survey, refused to participate in the survey, and were ineligible to participate in the survey, (v) the dates and time of day of the interviews, (vi) the method used to recalculate data to take into account in the survey the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the survey questions, and (vii) any weighting factors or normalization procedures used in deriving the results of the survey; | | |

| | <p>(e) the wording of the survey questions and, if applicable, the margins of error in respect of the data obtained; and</p> <p>(f) the means by which a copy of the survey report may be obtained.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | <p>CBL contended that Clause 6.9(2) required too much information to be presented aurally during a broadcast and proposed that where a Licensee produces the broadcast rather than only broadcasts or re-broadcasts it, the Licensee's obligation to the audience should only be to indicate where a copy of the survey is available (i.e., website or office location) and that it should not be necessary for the host or participant to have the survey during the broadcast. If, during the broadcast, the host or participant is unable to answer questions about the survey, the audience would be able to draw an appropriate conclusion.</p> | <p>URCA disagrees with the first limb of CBL's submission and considers that the clause is not requiring the survey information to be presented all at once, but rather that the Licensee who broadcasts the results of an election opinion survey must present all of the survey information over the course of the broadcast or, alternatively, an accurate summary of key methodological details of the survey. URCA disagrees with the second limb of CBL's submission as the Licensee, host or participant is still making use of the survey results or a summary of it, although the Licensee, host or person who conducted the survey is obliged under the clause to advise the audience how they might obtain copies of it. URCA considers that there is a need for greater clarity of what information the Licensee should present when broadcasting the results of election opinion surveys.</p> | <p>URCA will delete and rewrite the beginning of Clause 6.9(2) to make clearer that a summary of key methodological details of an election opinion survey is acceptable for broadcast, as follows:</p> <p><u>"(2) If, during an election period, a Licensee broadcasts the results of an election opinion survey taken in The Bahamas which survey is based on recognised statistical methods, the Licensee must aurally (for radio) and/or in audio-video format (for television) during the broadcast provide, at a minimum, an accurate summary of key methodological details of the following information together with the results of the survey. Alternatively, the Licensee may broadcast all of the following information or the salient details of the following information together with the results of the survey:"</u></p> |
| Cross-reference to draft Code | Clause 6.9(3) | | |

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| Draft Code provision | (3) Licensees broadcasting the results of an election opinion survey pursuant to Clause 6.9(2) must make the complete results of the survey report available to the public online or notify the public where online they can obtain the complete survey report. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed Clause 6.9 (3), should include a requirement that Licensees advise the public of how hard copies of the surveys can be obtained (whether free of charge or not) because not everyone has access to the Internet. | URCA agrees with the respondent's proposal that the public should be able to obtain printed copies of an election opinion survey that has been broadcast. | URCA will amend Clause 6.9(3) to incorporate the public's ability to obtain printed copies of an election opinion survey, as follows: “(3) Licensees broadcasting the results of an election opinion survey pursuant to Clause 56.9(2) must make the complete results of the survey report available to the public <u>either in print or online,</u> or notify the public where online they can obtain the complete survey report <u>either in print or online,</u> and the price (if any) for such <u>printed copies.</u> ” |
| Cross-reference to draft Code | Clause 6.14(2) and Clause 6.14(3) | | |
| Draft Code provision | <p>(2) Any Licensee who rejects any political broadcast or political advertisement submitted to it for broadcast (whether for technical or any other reason) shall, within twenty-four (24) hours of rejecting such submission:</p> <p>(a) furnish the person, party or entity submitting the material concerned with written reasons for such rejection, and that person, party or entity shall be entitled to alter or edit the material and again submit it to the Licensee at least twenty-four (24) hours before the time when it is to be transmitted;</p> <p>(b) in the event of the Licensee rejecting an altered or edited political broadcast or political advertisement, notify URCA of such rejection by furnishing URCA with a copy of the written reasons given for that rejection.</p> <p>(3) Any person, party or entity whose election programme or political advertisement has been rejected by a Licensee under Clause 6.14(1) may refer the matter to URCA as a complaint under Clause 9.2(1) of this</p> | | |

| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
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| Linda Thomas | <p>The respondent proposed that elections required a different, expedited 24-hour process for handling complaints arising from Licensees rejecting political broadcasts or advertisements under Clause 6.14(2)(b) and Clause 6.14(3), as the complaints-handling process envisioned in Clause 10.2(1) would take too long to complete, by which time the election would likely be over and a fine would not appease the complainant.</p> | <p>URCA agrees with the respondent that the Code should provide an expedited process for complaints-handling during election periods which reflect the urgency of the matter and the risk of serious and irreparable damage to the complainant.</p> | <p>(1) URCA will amend the title to Clause 6.14(2) to reflect that it relates to complaints arising from the rejection of a political broadcast or advertisement.</p> <p>(2) URCA will amend Clause 6.14(2)(b) to incorporate a requirement that the Licensee also notifies URCA at the same time as it notifies the advertiser of the reasons for rejection.</p> <p>(3) URCA will amend Clause 6.14(3) to reflect that the advertiser may refer the matter to URCA as an urgent complaint under s. 96 of the Communications Act and Clause 10.9(21) whereby, based on the urgency of the matter and the risk of serious and irreparable damage, URCA may issue an Interim Order for a limited time period under s. 96(1) and (2) of the Communications Act within 48 hours of receiving the complaint while it conducts a full investigation into the matter, as follows:</p> <p><u>“Complaints arising from rejection of a Political Broadcast or Advertisement</u></p> |

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| | | | <p>(2) Any Licensee who rejects any political broadcast or political advertisement submitted to it for broadcast (whether for technical or any other reasons) shall, within twenty-four (24) hours of rejecting such submission:</p> <p>(a) furnish the person, party or entity submitting the material concerned with written reasons for such rejection, and that person, party or entity shall be entitled to alter or edit the material and again submit it to the Licensee at least twenty-four (24) hours before the time when it is to be transmitted;</p> <p>(b) in the event of the Licensee rejecting an altered or edited political broadcast or political advertisement <u>submitted to the Licensee in accordance with Clause 6.14(2)(a), notify URCA at the same time as the Licensee issues its written reasons</u> of such rejection by furnishing URCA with a copy of the written reasons given for that rejection.</p> <p>(3) Any person, party or entity whose election programme or political advertisement has been rejected</p> |
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| | | | by a Licensee under Clause 6.14(1) may refer the matter to URCA as an <u>urgent</u> complaint under <u>section 96 of the Communications Act</u> and Clause 9.2(1) <u>10.9(21)</u> of this Code.” |
| Shemika S. Miller | The respondent proposed that Licensees submitting reports to URCA under Clause 6.14(2)(b), and other clauses with similar requirements should also be required to maintain copies of their submissions both for back-up purposes and for ease of review during onsite visits. | URCA considers this proposal to come within a Licensee’s general responsibility to URCA but will submit it to the Industry Group for review. | URCA will submit to the Industry Group for review the proposal that Licensees submitting reports to URCA under the Code should also be required to maintain copies of their submissions both for back-up purposes and for ease of review during onsite visits. |

Question 7:

Do you agree with URCA's proposals in Part 7 of the draft Code of Practice regarding advertising, sponsorship and non-programming material? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 7 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Coalition of Evangelical Pastors | The BCEP supported the Bahamas Christian Council's responses to this question. | URCA notes the BCEP's support of the BCC's responses to the proposals in Part 7 of the draft Code. | No action necessary. |
| BTC | BTC agreed with the spirit and intent of Part 7 of the draft Code of Practice and proposed that policing of Part 7 would be more effective through informed consumer awareness of what to look for in advertisements and sponsorships and what consumers should consider as appropriate behaviour by advertisers. | URCA acknowledges and is grateful to BTC, the BCB and Shemika S. Miller for generally agreeing with the proposals in Part 7 of the draft Code. URCA will endeavour to address BTC's concerns about consumer awareness through further engagement with the Industry Group with a view to establishing various public awareness programmes regarding administration of the Code, including advertising and sponsorships. | No action necessary. URCA will submit to the Industry Group for review the proposal establishment of various public awareness programmes regarding administration of the Code. |
| BCB | BCB agreed with the proposals in Part 7 of the draft Code on advertising and sponsorship while noting that the Code relaxes previous advertising time limits on private broadcasters but restricted public service broadcasters to a reasonable 16 minutes of advertising per hour and also prohibited broadcasting tobacco | | |

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| | products, gambling, sexual services and pornography. | | |
| Shemika S. Miller | This respondent agreed with the variety of issues covered in Part 7 of the draft Code pertaining to advertising and sponsorship. | | |
| Linda Thomas | The respondent proposed the removal of all clauses in Part 7 except Clauses 7.1 and 7.3 by contending that URCA did not have the authority to set standards for advertisements as it amounted to censorship which would negatively impact the local advertising industry and the internet. She also questioned the merits of penalising Licensees for advertisements as many advertisements come from abroad. | URCA disagrees with the respondent and considers that the list of standards in s. 53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). URCA's review of Codes in other (primarily Commonwealth) jurisdictions revealed that it is commonplace for advertising rules to form part of broadcasting Codes of Practice, including rules on the amount and scheduling of advertisements, and prohibitions on certain kinds of advertisements. The rules in the Code apply to all advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but Part 7 has | No action necessary. |

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| | | limited application to advertisements on content or carriage services. | |
| Kim Welcome | The respondent proposed banning from television shows and channels advertisements of any product, service or entertainment that is inappropriate or harmful to underage persons. | URCA considers that Part 7 of the draft Code (when read in conjunction with the entire Code, particularly the definition of the watershed period and Part 5 of the Code) adequately addresses the respondent's concerns. Part 7 of the Code prescribes the standards that apply to advertisements or sponsorships and, without venturing into censorship, requires those advertisements that are unsuitable for children not to be shown outside the watershed period. Also, the rules in Part 7 of the Code apply to all advertisements by Licensees providing audiovisual media services, whether the advertisements are produced overseas or locally and inserted into foreign or local programming by Licensees as the Bahamian Licensee is exercising editorial control over those advertisements, but Part 7 has limited application to the advertisements broadcast on foreign stations brought into The Bahamas by Licensees providing content or carriage services. | No action necessary. |
| Cross-reference to draft Code | Clause 7.1(7) | | |
| Draft Code provision | Advertisements should not be presented in a format or style that conceals their commercial intent. | | |

| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
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| Shemika S. Miller | The respondent proposed that any exceptions to Clause 7.1(7), such as product plug-ins where products are surreptitiously advertised during a broadcast, should be mentioned in the clause. | URCA considers that the respondent has identified a defect in the clause as the clause does not, and was not intended to, permit for any exceptions concealing the commercial intent of an advertisement. URCA will, therefore, rectify the identified defect by clarifying that surreptitious advertising is not permitted in any programme. | <p>(1) URCA will amend Clause 1.1 to include a definition of surreptitious advertising as follows:</p> <p><u>“Surreptitious advertising means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the Licensee to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.”</u></p> <p>(2) URCA will also amend Clause 7.1(7) as follows:</p> <p>“Advertisements should not be presented in a format or style that conceals their commercial intent <u>and surreptitious advertising is not allowed in any programme.”</u></p> |
| Cross-reference to draft Code | Clause 7.2 | | |
| Draft Code provision | Advertising Minutes by designated Public Service Broadcasters | | |

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| | <p>(1) The time allocated by a Public Service Broadcaster to advertising on any television channel or radio station, inclusive of sponsorship credits between or during programmes, shall not exceed sixteen (16) minutes per hour.</p> <p>(2) The limitations in Clause 7.2(1) shall not include emergency broadcasts pursuant to Clause 8.24 or public service advertisements pursuant to Clause 8.26 of this Code.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | | Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should delete Clause 7.2 from the draft Code as it relates to PSB and more properly include it in URCA's recommendations to the Minister. | URCA will delete Clause 7.2 from the Code and include it in its recommendations on PSB to the Minister. |
| Cross-reference to draft Code | Clause 7.3(1) | | |
| Draft Code provision | <p>Advertisements Directed at Children</p> <p>(1) Licensees shall exercise special care and judgment when broadcasting advertisements which are directed at or are likely to influence children during programmes made primarily for children. Licensees shall exercise the same degree of care and judgment in advertisements broadcast during the watershed (in the case of television), or when children are likely to be listening (in the case of radio).</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable. | URCA considers that it should clarify this clause by combining the two sentences into one regarding the treatment of advertisements directed at or likely to influence children outside the watershed period. | URCA will amend Clause 7.3(1) as follows: "Licensees shall exercise special care and judgment when broadcasting |

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| | | | <p>advertisements which are directed at or are likely to influence children during programmes made primarily for children. Licensees shall exercise the same degree of care and judgment in advertisements broadcast during outside the watershed (in the case of television), or when children are likely to be listening (in the case of radio)."</p> |
| Cross-reference to draft Code | Clause 7.5 | | |
| Draft Code Provision | <p>Distance Selling</p> <p>Distance selling advertisements (which consist of advertisements on television or radio selling goods or services to consumers by placing orders through the internet, mail order, telephone or fax) should contain the name, address and telephone contact of the advertiser. Licensees should also keep the advertiser's name, address and telephone contact on record for complaints-handling purposes.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed amending Clause 7.5 to include a requirement that Licensees should retain, maintain and not discard information on advertisers for complaints-handling purposes and review during onsite visits by URCA. | URCA disagrees with the proposal and considers that it is adequately addressed through the general responsibility of Licensees to maintain business records as well maintain records of complaints for Code compliance purposes. | No action necessary. |
| CBL | CBL questioned whether Clause 7.5 is permissible under section 53 of the Communications Act as the section appears to CBL to limit the scope of | URCA disagrees with CBL and considers that the list of standards in s.53(2) of the Communications Act is not exhaustive. The | No action necessary. |

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| | the Code in regulating advertisement such as distant selling and offers in advertisements. | subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). URCA considers that Clause 7.5 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service. | |
| Cross-reference to draft Code | Clause 7.6 | | |
| Draft Code provision | <p>Prices and Offers in Advertisements</p> <p>(1) Phrases such as “direct supply” or “wholesale prices” may only be used in advertisements where the advertiser is able to substantiate that the advertised prices are below retail prices.</p> <p>(2) Advertisements should be clear and unambiguous in the presentation of prices and offers, and should:</p> <ul style="list-style-type: none"> (a) include all necessary incidental costs; (b) contain clear definitions of the full price against which offers are made; (c) contain clear details of the time period for which any offers are valid. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Shemika S. Miller | Regarding Clause 7.6, the respondent proposed that the draft Code should use a specific, current reference to “retail prices” over a specified time frame , and questioned how Licensees or URCA would substantiate the retail price (e.g., | URCA disagrees with the respondent’s proposal and considers that the clause places the burden of substantiating any claims in the advertisement on the advertiser, not on the Licensee or URCA. | URCA will submit the proposal to use a specific, current reference to “retail prices” over a specified time frame for future review by the Industry Group for possible inclusion in Guidance Notes on the Code. |

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| | through averaging a sample of prices offered by various retailers). | | |
| CBL | CBL questioned whether clause 7.6 is permissible under section 53 of the Commissions Act as the section appears to CBL to limit the scope of the Code in regulating the prices and offering in advertisements. CBL requested that this clause be removed or combined with clause 7.5 under heading "Advertisements". | <p>URCA disagrees with CBL and considers that the list of standards in s.53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). URCA considers that Clause 7.6 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service.</p> <p>URCA agrees with CBL that it would be more efficient to combine Clauses 7.5 and 7.6 but in the reverse order under the heading "Prices and Offers in Advertisements including Distance Selling".</p> | <p>URCA will insert Clause 7.5 as a new Clause 7.6(3) and delete Clause 7.5 as follows:</p> <p>"7.5 Distance selling advertisements (which consist of advertisements on television or radio selling goods or services to consumers by placing orders through the internet, mail order, telephone or fax) should contain the name, address and telephone contact of the advertiser. Licensees should also keep the advertiser's name, address and telephone contact on record for complaints handling purposes.</p> <p><u>7.6 Prices and Offers in Advertisements including Distance Selling</u></p> <p>(1) Phrases such as "direct supply" or "wholesale prices" may only be used in advertisements where the advertiser is able to substantiate that the</p> |

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| | | | <p>advertised prices are below retail prices.</p> <p>(2) Advertisements should be clear and unambiguous in the presentation of prices and offers, and should:</p> <p>(a) include all necessary incidental costs;</p> <p>(b) contain clear definitions of the full price against which offers are made;</p> <p>(c) contain clear details of the time period for which any offers are valid.</p> <p><u>(3) Distance selling advertisements (which consist of advertisements on television or radio selling goods or services to consumers by placing orders through the internet, mail order, telephone or fax) should contain the name, address and telephone contact of the advertiser. Licensees should also keep the advertiser's name, address and telephone contact on record for complaints-handling purposes."</u></p> |
| Cross-reference to draft Code | Clause 7.7 | | |
| Draft Code provision | Alcohol (1) Licensees shall not broadcast advertisements and sponsorships that encourage the consumption of alcohol | | |

| | <p>by persons under the legal age to purchase alcohol, especially by advertisements for alcohol:</p> <ul style="list-style-type: none"> (a) reflecting or being associated with youth culture; or (b) showing adolescent or juvenile behaviour; or (c) including a person or character whose example is likely to be followed by those aged under eighteen (18) years, or who has a strong appeal to those aged under eighteen (18). <p>(2) Advertisements must not feature, imply, condone or encourage irresponsible or immoderate drinking of alcohol. This applies to both the amount of drink consumed and the way drinking of alcohol is portrayed.</p> <p>(3) Advertisements for alcohol should not:</p> <ul style="list-style-type: none"> (a) detract from the need for responsibility and moderation in consumption; (b) imply that alcohol can contribute to an individual's: <ul style="list-style-type: none"> (i) popularity or confidence, (ii) daring, toughness and aggression, (iii) social success or acceptance, (iv) sexual activity, sexual success or seduction; or (c) imply that the success of a social occasion depends on the presence or consumption of alcohol; or (d) imply that alcohol enhances personal qualities or attractiveness; or (e) imply that refusal of alcohol is a sign of weakness. | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| <p>A. Sawyer; Abigail Moss; Alan Symonette; Alexine Moss; Andrew Roberts; Angeline Moss; Calvin Dean; Carol Adderley; Cedric B. Moss II; Cherry Ferguson; Cynthia Thomson; D. A. Rolle; D. Augustus (Gus) Moncur; Danielle Moss; Danielle Nairn; David Humes; Dawn Sands; Demetra Rolle; Denise Karen Ingraham; Derek Smith; Dr. Myles Munroe; Erma V. Carey-Cartwright; Faye Bascom; Giovanni Johnson; Glen Rolle;</p> | <p>This group of respondents variously proposed that advertisements for alcohol should not be allowed during programmes geared for children or during programs that children are likely to watch (or at the least during the watershed period per Jacqueline Eleanor Bain).</p> <p>Melissa Bain also proposed that parents have to teach their children the values and principles that alcohol advertisements are attempting to gain more adult customers, but it is more dangerous to allow persons to</p> | <p>URCA agrees with the proposal that advertisements for alcohol should not be allowed during programmes directed towards children or outside the watershed period and will amend Clause 7.7 accordingly.</p> | <p>URCA will amend Clause 7.7 by inserting a new sub-clause (1) and renumbering the other sub-clauses, as follows:</p> <p>“Alcohol (1) <u>Licensees shall not broadcast advertisements and sponsorships for alcohol during programmes directed towards children or outside the watershed period.</u></p> <p>(1)(2) Licensees shall not broadcast advertisements and</p> |

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| <p>Grace Cooper; Ira Bethel; Jacintha Goffe; Janis Dean; Joette Curry; Joy D.; Keisha Dean; Kenyatta Nairn; Keva Poitier; Lekita Chambers; Lynden Nairn; Marva Mackey; Maximo Hillhouse; Melanie Poitier; Melissa Bain; Myrna Wilson; Nevillett Pearce; Oralee Johnson; Pandora Butler; Patrice; Yvette Rolle; Paul Moss; Paula Deleveaux; Perry Cancino; R.E. Hall; Rose Bradshaw; Shelly Nairn; Susie Darville; Vernal Cox; Weslon Kelly; Anthone Wallace; Chevano Cooper; Jacqueline Eleanor Bain</p> | <p>drink alcohol in the presence of children.</p> | | <p>sponsorships that encourage the consumption of alcohol by persons under the legal age to purchase alcohol, especially by advertisements for alcohol:</p> <ul style="list-style-type: none"> (a) reflecting or being associated with youth culture; or (b) showing adolescent or juvenile behaviour; or (c) including a person or character whose example is likely to be followed by those aged under eighteen (18) years, or who has a strong appeal to those aged under eighteen (18). |
| <p>Bahamas Christian Council</p> | <p>The BCC proposed not allowing advertisements for alcohol during programs geared towards children and curtailing alcohol-related advertisements that children are exposed to, particularly on radio.</p> | | <p>(2)(3) Advertisements must not feature, imply, condone or encourage irresponsible or immoderate drinking of alcohol. This applies to both the amount of drink consumed and the way drinking of alcohol is portrayed.</p> <p>(3)(4) Advertisements for alcohol should not:</p> <ul style="list-style-type: none"> (a) detract from the need for responsibility and moderation in consumption; (b) imply that alcohol can contribute to an individual's: <ul style="list-style-type: none"> (i) popularity or confidence, |

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| | | <p>URCA considers that the amendments to Clause 7.7 adequately address the BCB's proposal to curtail alcohol-related advertisements that children are exposed to on radio as licensed radio stations are subject to Clause 7.7 and the other provisions of the Code by virtue of the fact that they are audiovisual media services.</p> | <p>(ii) daring, toughness and aggression, (iii) social success or acceptance, (iv) sexual activity, sexual success or seduction; or (c) imply that the success of a social occasion depends on the presence or consumption of alcohol; or (d) imply that alcohol enhances personal qualities or attractiveness; or (e) imply that refusal of alcohol is a sign of weakness.”</p> <p>URCA will amend Clause 7.7 as indicated above to restrict Licensees from broadcasting alcohol advertisements and sponsorships during programmes directed towards children or outside the watershed period.</p> |
| CBL | CBL questioned whether Clause 7.7 is permissible under section 53 of the Communications Act. | URCA disagrees with CBL and considers that the list of standards in s. 53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include | No action necessary. |

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| | | the standards listed in the s. 53(2). URCA considers that Clause 7.7 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service. | |
| Cross-reference to draft Code | Clause 7.8 | | |
| Draft Code provision | Tobacco Advertisements or sponsorships promoting the consumption or use of tobacco or tobacco products shall not be broadcast. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Chevano Cooper; Nathan Sawyer; Jacqueline Eleanor Bain | These respondents variously proposed that advertisements for smoking and tobacco should not be allowed during programs geared for children or during programs that children are likely to watch or outside the watershed period. | URCA considers that Clause 7.8 of the draft Code adequately addresses the respondents' concerns by prohibiting the broadcasting of tobacco advertisements, regardless of the time of day or age of the audience. | No action necessary. |
| Cross-reference to draft Code | Part 7.9 | | |
| Draft Code provision | Prescription Drugs Advertisements and sponsorships for prescription drugs and medicines advertisements must comply with applicable laws and regulations in The Bahamas regarding health related products and services. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |

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| CBL | CBL questioned whether Clause 7.9 is permissible under section 53 of the Communications Act | URCA disagrees with CBL and considers that the list of standards in s.53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). URCA considers that Clause 7.9 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service. | No action necessary. |
| Cross-reference to draft Code | Part 7.10 | | |
| Draft Code provision | Films and Video Games Advertisements or promotions for films and video games must be advertised as is appropriate under this Code in accordance with the rating given to the film or video game. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | CBL questioned whether Clause 7.10 is permissible under section 53 of the Communications Act | URCA disagrees with CBL and considers that the list of standards in s.53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and | No action necessary. |

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| | | those codes <u>might</u> include the standards listed in the s. 53(2). URCA considers that Clause 7.10 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service. | |
| URCA | Not applicable. | URCA considers that it should amend Clause 7.10 by clarifying that advertisements for films and video games should be advertised during appropriate time periods that correspond to the rating of the film or video game. | URCA will amend Clause 7.10 to clarify that advertisements for films and video games should be advertised during appropriate time periods that correspond to the rating of the film or video game as follows: “Advertisements or promotions for films and video games must be advertised <u>during such time period</u> as is appropriate under this Code <u>and</u> in accordance with the rating given to the film or video game.” |
| Cross-reference to draft Code | Clause 7.11 | | |
| Draft Code provision | Gambling Advertisements or sponsorships pertaining to unlawful gambling, gaming, betting, bookmaking, lotteries or any | | |

| | similar activity or service shall not be broadcast. | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | CBL questioned whether Clause 7.11 is permissible under section 53 of the Communications Act | URCA disagrees with CBL and considers that the list of standards in s.53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). URCA considers that Clause 7.11 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service. | No action necessary. |
| Demetra Rolle | This respondent proposed the prohibition of advertisements or sponsorships promoting or encouraging gambling, gaming, betting or lotteries. | URCA considers that Clause 7.11 of the draft Code adequately addresses the respondent's concerns by prohibiting the broadcasting of advertisements or sponsorships pertaining to unlawful gambling, gaming, betting, bookmaking, lotteries or any similar activity, regardless of the time of day or age of the audience. | |

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| Cross-reference to draft Code | Clause 7.12 | | |
| Draft Code provision | Sexual Services and Pornography | | |
| | (1) Advertisements and sponsorships promoting prostitution or any sexual services shall not be broadcast. | | |
| | (2) Advertisements for pornography shall only be broadcast in accordance with the rules pertaining to pornographic content. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | CBL questioned whether Clause 7.12 is permissible under section 53 of the Communications Act | URCA disagrees with CBL and considers that the list of standards in s.53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). URCA considers that Clause 7.12 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service. | No action necessary. |
| A. Sawyer; Abigail Moss; Alan Symonette; Alexine Moss; Andrew Roberts; Angeline Moss; Calvin Dean; Carol Adderley; Cedric B. Moss II; Cherry Ferguson; Cynthia | This group of respondents variously proposed not only prohibiting broadcasting pornography (or not allowing it at any time per Anthone Wallace), but also prohibiting the advertisement of pornography (and | URCA considers that the same comments that it has previously made in this document regarding the respondents' proposal to prohibit pornography at Clause | No action necessary. |

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| <p>Thomson; D. A. Rolle; D. Augustus (Gus) Moncur; Danielle Moss; Danielle Nairn; David Humes; Dawn Sands; Demetra Rolle; Denise Karen Ingraham; Derek Smith; Dr. Myles Munroe; Erma V. Carey-Cartwright; Faye Bascom; Giovanni Johnson; Glen Rolle; Grace Cooper; Ira Bethel; Jacintha Goffe; Janis Dean; Joette Curry; Joy D.; Keisha Dean; Kenyatta Nairn; Keva Poitier; Lekita Chambers; Lynden Nairn; Marva Mackey; Maximo Hillhouse; Melanie Poitier; Melissa Bain; Myrna Wilson; Nevillett Pearce; Oralee Johnson; Pandora Butler; Patrice; Yvette Rolle; Paul Moss; Paula Deleveaux; Perry Cancino; R.E. Hall; Rose Bradshaw; Shelly Nairn; Susie Darville; Vernal Cox; Weslon Kelly; Anthone Wallace; Chevano Cooper; Jacqueline Eleanor Bain</p> | <p>removing it from the TV Guide per Jacqueline Eleanor Bain).</p> <p>Derek Smith also proposed that there was no need to encourage pornography any more than already exists in The Bahamas as there were sufficient places where adults who want it can find it but a lack of parental controls in The Bahamas would mean pornography is likely to be readily viewed by underage audiences.</p> <p>Melissa Bain also proposed that parents have to teach values and principles to their children and that parents should not cripple their children by convincing them that they live in a world where there is no drinking and sex but should focus on teaching their children to make good decisions to improve their lives through parental controls without interfering with those adults who want to watch pornography on television.</p> | <p>5.5 apply equally to the respondents' proposal to prohibit advertisements for pornography.</p> <p>Clause 7.12(2) of the Code, like Clause 5.5(2), prohibits audiovisual media services which are under the editorial responsibility of Bahamian Licensees from broadcasting advertisements for pornography. URCA considers that it would be inappropriate for it to move to prohibit advertisements for pornography on pay television systems (i.e., carriage services, content services and on-demand audiovisual media services) in the Content Code because the content on these systems is largely the secondary transmission of content that originates outside The Bahamas and is not under the Licensee's editorial responsibility.</p> | |
| <p>Bahamas Christian Council</p> | <p>The BCC proposed prohibiting the advertisement of pornography and removing Clause 7.12(2) of the draft Code.</p> | <p>URCA stresses that it is not a censor and that its role under s. 53 of the Communications Act is to implement standards which protect necessary groups against harm, while permitting freedoms which are guaranteed to all citizens and residents of The</p> | |

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| | | Bahamas. URCA considers that it has sought to strike a delicate and necessary balance in these provisions between restriction and freedom. | |
| Cross-reference to draft Code | Clause 7.13 | | |
| Draft Code provision | Financial Products Advertisements promoting financial products and services, or organisations offering financial products or services, must comply with any regulations in The Bahamas applicable to the sale and offering of financial products and services. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| CBL | CBL questioned whether Clause 7.13 is permissible under section 53 of the Communications Act | URCA disagrees with CBL and considers that the list of standards in s.53(2) of the Communications Act is not exhaustive. The subsection permits URCA the discretion on what it <u>may</u> include in any codes of practice issued under s. 53(1) and those codes <u>might</u> include the standards listed in the s. 53(2). URCA considers that Clause 7.13 applies to advertisements by Licensees providing audiovisual media services, including advertisements produced by overseas advertisers and advertisement insertions as the Bahamian Licensee is exercising editorial control over those advertisements, but would not apply to this type of advertisement on a content or carriage service. | No action necessary |
| Cross-reference to draft Code | Clause 7.14 | | |

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| Draft Code provision | Food (1) Nutrient, nutritional and health claims made in advertisements should be factual, and able to be substantiated by the advertiser. (2) Food and dietary products should not be presented in advertisements in a manner which would or is likely to encourage excessive or unhealthy consumption of such products. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed that Clause 7.14 should contain methods of substantiating nutritional and health claims in advertisements and the qualifications or credentials of the persons making such claims. | URCA disagrees with the proposal and considers that the burden of substantiating the claims in this type of advertisement rest on the advertiser, not the Licensee. | No action necessary |

Question 8:

Do you agree with URCA's proposals in Part 8 of the draft Code of Practice regarding accuracy and impartiality, fairness and privacy, national emergencies and disasters, miscellaneous news and factual material in news and factual programmes? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 8 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC agreed with URCA's proposals in Part 8 of the draft Code of Practice. | URCA acknowledges and thanks the BCC, BCEP, BTC, BCB and Shemika S. Miller for their comments supporting the proposals in Part 8 of the draft Code. | No action necessary. |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council's responses to this question. | | |
| BTC | BTC agreed with the proposals in Part 8 of the draft Code of Practice regarding accuracy and impartiality, fairness and privacy, national emergencies and disasters, miscellaneous news and factual material in news and factual programmes. | | |
| BCB | The BCB agreed with the proposals in Part 8 of the draft Code because it seeks to ensure that news, current affairs and factual programmes are presented accurately and impartially | | |

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| | and represent a fair description of events while also requiring Licensees to clearly distinguish comment and analysis of news or current affairs and factual information from commentary and opinion. The BCB also noted the inclusion in the draft Code of public service advertisements to be either free or at a nominal charge and the prohibition on airing more than two public service announcements in any hour while excluding the publicising of commercial services. | | |
| Shemika S. Miller | The respondent agreed with the proposals in Part 8 of the draft Code as they ensure that news and factual programmes are accurate and fairly presented. | | |
| Cross-reference to draft Code | Clause 8.1 | | |
| Draft Code provision | <p>Accuracy, objectivity and impartiality</p> <p>(1) Licensees are required to ensure that the content of news, current affairs and other factual programmes, including matters which are of local, national or international public importance, matters relating to political or industrial controversy or matters relating to current public policy, are accurate, truthful, unbiased, and presented objectively and with due impartiality.</p> <p>(2) Views, facts and content dealing with controversial issues of public importance should be balanced, and must not be misrepresented or aim to mislead the audience. Where possible, adequate evidence should be included in the programmes to support the views that are being presented.</p> <p>(3) Licensees shall ensure that they have adequate evidence or information to support the accuracy of news, current affairs and factual programming produced by them.</p> | | |

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| | (4) When reporting statistics in news, current affairs and factual programmes, Licensees shall present such statistics in a manner which accurately reflects the results, and the source of the statistics must be stated. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed that Clauses 8.1(2) and 8.1(3) should provide examples of what would be considered "adequate evidence". | URCA considers that this proposal is best addressed in guidelines accompanying the Code and will refer this proposal to the Industry Group for review. | URCA will refer to the Industry Group for review the issue of examples of what would be considered "adequate evidence". |
| Cross-reference to draft Code | Clause 8.3 | | |
| Draft Code provision | Corrections Licensees shall acknowledge and publicly correct errors of fact at the earliest opportunity. Such corrections shall be appropriately scheduled in the same or a similar time period so as to reach an audience similar to the audience that originally received the misinformation. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed that Licensees should maintain files of broadcast corrections, for review during onsite visits by URCA, and submit to URCA quarterly logs or statements certifying whether any corrections had to be made in compliance with Clause 8.3. | URCA considers that the Industry Group should review this proposal as it has cost and manpower implications for Licensees. | URCA will refer to the Industry Group for review the proposal for Licensees to maintain files and submit quarterly reports of on-air corrections. |
| Cross-reference to draft Code | Clause 8.4(3) | | |
| Draft Code Provision | Comment (3) Except in the case of political or special-interest opinion, the background details to the Licensee's analysis, and opinion referred to in Clause 8.4(2) must be based, as appropriate, on the most reliable scientific data, available evidence, sound social concepts, or expert opinion. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |

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| Shemika S. Miller | The respondent proposed that Clause 8.4(3) should provide examples of sources for “the most reliable scientific data”. | URCA disagrees with the respondent’s proposal and considers that, when presenting analysis and opinion, the decision rests with Licensees to determine what the most reliable scientific data is using current scientific methodologies to analyse and make predictions based on accepted trends. | No action necessary, |
| Cross-reference to draft Code | Clause 8.5(2) | | |
| Draft Code Provision | (2) Subject to Clause 8.5(1) of this Code, presenters (including the presenters of "personal views" or "authored" programmes or items), reporters, and the hosts of discussion programmes may express their own views in news, current affairs and factual programmes on matters which are of local, national or international public importance, including matters relating to political or industrial controversy or matters relating to current public policy. However, subject to Clauses 8.1, 8.11 and 8.20 of this Code, the Licensee should provide an opportunity for alternative viewpoints to be adequately represented in the programme. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable. | URCA considers that it should amend the first sentence of Clause 8.5(2) by deleting the word “news” and in the second sentence of Clause 8.5(2) by inserting Clause 8.18 as being a provision to which this sub-clause is subject. | URCA will amend Clause 8.5(2) as follows: “(2) Subject to Clause 8.5(1) of this Code, presenters (including the presenters of "personal views" or "authored" programmes or items), reporters, and the hosts of discussion programmes may express their own views in news , current affairs and factual programmes |

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| | | | on matters which are of local, national or international public importance, including matters relating to political or industrial controversy or matters relating to current public policy. However, subject to Clauses 8.1, 8.11, <u>8.18</u> and 8.20 of this Code, the Licensee should provide an opportunity for alternative viewpoints to be adequately represented in the programme. |
| Cross-reference to draft Code | Clause 8.7(2) | | |
| Draft Code provision | <p>Payments</p> <p>(2) Neither a Licensee, nor its agents or employees, shall accept financial compensation from anyone who seeks to influence news coverage. The Licensee should take all reasonable steps to ensure compliance with this rule.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Linda Thomas | The respondent enquired as to how Clause 8.7(2) would apply to ZNS and proposed that it should not apply to ZNS. | URCA thanks the respondent for her comment but disagrees with the proposal that Clause 8.7(2) should not apply to ZNS and considers that all Licensees should be interested in retaining the journalistic independence and integrity of their news operations both by contract with their agents and employees, and through Clause 8.7(2). | No action necessary. |

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| Cross-reference to draft Code | Clause 8.9 | | |
| Draft Code provision | <p>Promotions, Previews and Trailers</p> <p>(1) Promotions for news, current affairs, factual and any other of the Licensee’s programming must comply with the requirements for the watershed and the other rules in this Code during the time period in which such promotion is broadcast, regardless of the brevity of the promotion.</p> <p>(2) If, in the promotion for a programme, a Licensee includes an advisory that the programme contains material which may seriously distress or seriously offend the audience, then that advisory must comply with the requirements of Clause 5.10 of this Code for the period in which it is broadcast.</p> <p>(3) Where a Licensee broadcasts any preview or trailer, the Licensee must ensure that such previews or trailers meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such previews or trailers carry such classifications and/or advisories as are required by this Code.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable. | URCA considers that it should delete Clause 8.9(1) and insert an amended version reflecting that it applies to any promotions of a Licensee’s programming (rather just news and other programmes) in Part 2 of the Code as Clause 2.7. | URCA will delete Clause 8.9, renumber the subsequent clauses accordingly and insert an amended version of Clause 8.9 reflecting that it applies to any promotions of a Licensee’s programming (rather just news and other programmes) in Part 2 of the Code as Clause 2.7. |
| CBL | CBL proposed that the requirement in Clause 8.9(3) for Licensees, where applicable, to carry such classifications and/or advisories as are required by the Code, should instead require Licensees to make every attempt to appropriately insert trailers /previews because the ratings | URCA disagrees with CBL’s proposal and considers that Licensees in The Bahamas have control over the scheduling of trailers/previews inserted by the Licensee during any broadcast period, which trailers/previews they are required by the Code to review prior to | No action necessary. |

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| | of the trailers /previews and the movies are not under the control of the Licensee. | insertion, thereby ensuring that any prohibitions or restrictions that apply (e.g., watershed prohibitions) are not violated. | |
| Cross-reference to draft Code | Clause 8.12 | | |
| Draft Code provision | <p>Privacy</p> <p>(1) Licensees and the broadcast journalists that they employ shall respect the dignity, privacy and well-being of everyone with whom they deal, and will make every effort to ensure that news gathering and reporting do not unreasonably infringe privacy except when it is justified in the public interest.</p> <p>(2) Insofar as both news and comment are concerned, Licensees shall exercise exceptional care and consideration in matters involving the dignity or private lives and private concerns of individuals, bearing in mind that the rights to dignity and privacy may be overridden by a legitimate public interest.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed that as Clause 8.12 allows Licensees to justify overriding an individual's right to dignity and privacy based on "legitimate public interest", the clause should provide clear methods of substantiating what is a "legitimate public interest" (e.g. survey results) and dealing with matters that are important or relevant to a minority of the public, either by requiring Licensees to obtain URCA's approval or a legal opinion prior to taking any action under this clause that may place Licensees at risk of litigation. | URCA is grateful to the respondent for the comments received and considers that, without attaching any definitions of "legitimate public interest", the clause lays out how Licensees should resolve potential conflicting interests to the public and individuals that might arise when reporting on issues affecting an individual's privacy. URCA considers that in the field of broadcasting, the concept of "legitimate public interest" is usually captured in the phrase 'the public's right to know' consisting of what should be an objective analysis by Licensees whether, having regard to the subject matter of the news report, the privacy of the individual is | URCA will submit to the Industry Group for review the issue of substantiating legitimate public interests in the area of individual privacy and possible inclusion in any guidelines to the Code. |

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| | | <p>outweighed by a legitimate public interest in the subject of the news report. URCA disagrees with the respondent's proposals that such an assessment should be premised on survey results or approval from URCA, because, regarding the first case, the mere fact that a public interest might be shared by a large number of persons by itself carries no moral authority, and in the second case, contravenes s. 56 of the Communications Act which prohibits URCA from pre-approving any broadcast. URCA considers that if Licensees have any doubts whether a particular broadcast might result in litigation, Licensees should seek legal advice before doing so.</p> <p>Notwithstanding comments above, URCA considers that it should submit the issue of substantiating legitimate public interests in the area of individual privacy to the Industry Group for review and possible inclusion in any guidelines to the Code.</p> | |
| Cross-reference to draft Code | Clause 8.14(2) | | |
| Draft Code provision | <p>Consent</p> <p>(2) Licensees may record telephone calls between employees of the Licensee and another party only if the Licensee has, from the outset of the call, identified themselves and their broadcasting station, explained the purpose of the call and that the call is being recorded for possible broadcast (if that is the case). If at a later stage it becomes clear that a call that has been recorded will be broadcast (but this was not explained to the</p> | | |

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| | <p>other party at the time of the call) then the Licensee must obtain consent from the other party before broadcast, unless in the circumstances of the call the Licensee reasonably believes it is not necessary to do so.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | <p>The respondent proposed that Clause 8.14(2) should provide examples of how to substantiate a Licensee's 'reasonable belief' that obtaining consent is not necessary (e.g., callers explicitly agreeing to the broadcast of a telephone call).</p> | <p>URCA acknowledges and is grateful for the respondent's comment. URCA considers that the respondent's proposal should be submitted to the Industry Group for review to determine whether guidelines are necessary to provide for circumstances when Licensees reasonably believe it is not necessary to obtain a party's consent to broadcast a recorded telephone call where Licensees omit to inform the other party at the time of the call that the call was being recorded for broadcast.</p> | <p>URCA will refer to the Industry Group for review the proposal whether guidelines are necessary to provide for circumstances when Licensees reasonably believe it is not necessary to obtain a party's consent to broadcast a recorded telephone call where Licensees omit to inform the other party at the time of the call that the call was being recorded for broadcast.</p> |
| Cross-reference to draft Code | Clause 8.16 | | |
| Draft Code provision | <p>Sensitivity</p> <p>(1) Licensees shall ensure that the content of news, current affairs and factual programmes are presented with sensitivity in the case of material likely to cause some distress to a substantial number of the audience, such as televised images of dead or seriously wounded people, images or interviews with victims of traumatic incidents, or reporting on criminal activities of a traumatic nature. Such material should only be used when deemed editorially essential, and if so, sparingly, and have appropriate regard to the feelings of viewers and family members.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Linda Thomas | <p>The respondent proposed including televised images of dead or seriously wounded animals in Clause 8.16(1) by inserting "or animals" after</p> | <p>URCA agrees with the respondent's proposal and will amend the clause accordingly.</p> | <p>URCA will amend Clause 8.16(1) to read as follows:</p> <p>"Licensees shall ensure that the</p> |

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| | “wounded people”. | | content of news, current affairs and factual programmes are presented with sensitivity in the case of material likely to cause some distress to a substantial number of the audience, such as televised images of dead or seriously wounded people <u>or animals</u> , images or interviews with victims of traumatic incidents, or reporting on criminal activities of a traumatic nature. Such material should only be used when deemed editorially essential, and if so, sparingly, and have appropriate regard to the feelings of viewers and family members. |
| Cross-reference to draft Code | Clause 8.17 | | |
| Draft Code provision | Deception Licensees are prohibited from obtaining information, audio or pictures through misrepresentation or deception (including surreptitious filming or recording) except when there is a public interest ground for doing so. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Shemika S. Miller | The respondent proposed that as Clause 8.17 allows Licensees to obtain information through misrepresentation or deception if there is a “public interest” ground for doing so, the clause should provide clear methods of substantiating what is a legitimate “public interest” (e.g. survey results) and dealing with matters that are | URCA is grateful to the respondent for the comments received and considers that, without attaching any definitions of “public interest”, the clause lays out how Licensees should resolve potential conflicting interests to the public and individuals that might arise when reporting on issues affecting an individual’s privacy. URCA considers that in the field of | URCA will submit to the Industry Group for review the proposal of substantiating legitimate public interests in the area of individual privacy and possible inclusion in any guidelines to the Code. |

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| | <p>important or relevant to a minority of the public, either by requiring Licensees to obtain URCA’s approval or a legal opinion prior to taking any action under this clause that may place Licensees at risk of litigation.</p> | <p>broadcasting, the concept of “legitimate public interest” is usually captured in the phrase ‘the public’s right to know’ consisting of what should be an objective analysis by Licensees whether, having regard to the subject matter of the news report, the privacy of the individual is outweighed by a legitimate public interest in the subject of the news report. URCA disagrees with the respondent’s proposals that such an assessment should be premised on survey results or approval from URCA, because, regarding the first case, the mere fact that a public interest might be shared by a large number of persons by itself carries no moral authority, and in the second case, contravenes s. 56 of the Communications Act which prohibits URCA from pre-approving any broadcast. If a Licensees has any doubts whether the public interest warrants the use of deception or misrepresentation in gathering or obtaining information, audio or pictures under Clause 8.17 of the Code, URCA would expect that Licensee to obtain the appropriate legal advice before acting.</p> <p>Notwithstanding the above comments, URCA considers that it should submit the issue of substantiating legitimate public</p> | |
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| | | interests in the area of individual privacy to the Industry Group for review and possible inclusion in any guidelines to the Code. | |
| Cross-reference to draft Code | Clause 8.18 | | |
| Draft Code provision | <p>Right to reply</p> <p>(1) Licensees shall offer individuals whose views are criticised in a news, current affairs or factual programme, or who are accused of wrongdoing or incompetence, a right to reply in the same programme.</p> <p>(2) If an individual makes no comment or refuses to appear in a broadcast and gives reasons for doing so, the Licensee shall make clear the individual's stated reasons for doing so together with the fact of the refusal.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed that Clause 8.18 should indicate whether there are any exceptions to the requirement for persons accused of wrongdoing to have a right to reply (e.g., accused criminals presently facing court charges). | URCA disagrees with the respondent's proposal and considers that there are no exceptions to Clause 8.18(1) as the accusation of "wrongdoing" contemplated in the clause would be behaviour that is illegal or immoral, not a formal charge in a court with having committed a criminal offence, although there is no prohibition on Licensees interviewing accused criminals if they so choose. | No action necessary. |
| Cross-reference to draft Code | Clause 8.24 | | |
| Draft Code provision | <p>Broadcast of emergency messages</p> <p>(1) Public Service Broadcasters shall broadcast emergency messages relating to hurricane warnings, floods, fires, national and local emergencies or disasters and other similar safety messages emanating from national or local government and national or local emergency service organisations free of charge. Other Licensees are encouraged to broadcast such emergency messages free of charge.</p> | | |

| | <p>(2) Licensees designated as Public Service Broadcasters are required to broadcast emergency messages in a timely and accurate manner. Other Licensees are encouraged to broadcast such messages in a timely and accurate manner. Licensees broadcasting such messages shall have clear internal procedures in place to ensure coordination with emergency or essential service organisations.</p> <p>(3) As a general guide, emergency or essential service organisations include Police, Fire, Ambulance, National Emergency Management Authority (NEMA), Water, Electricity, Port or Health authorities and the Department of Meteorology. Licensees and appropriate emergency or essential service organisations should jointly identify, develop and maintain effective lines of communication.</p> <p>(4) Licensees should:</p> <p>(a) consult with appropriate emergency and essential service organisations and implement internal procedures to ensure timely and accurate broadcast warnings and information supplied by such organisations relative to an existing or threatened emergency; and</p> <p>(2) ensure a designated person is identified by the Licensee as the contact officer during business and non-business hours for all matters relative to this Clause.</p> <p>(5) It is recognised that compliance by Licensees with the provisions of this Clause is dependent upon the co-operation of the emergency or essential services organisations. A Licensee will not be regarded as being in breach of this Code if any emergency or essential service organisation declines or fails to respond to a Licensee’s request to consult or be provided with relevant information, and a Licensee will not be responsible for inaccurate information provided by any emergency or essential service organisation.</p> | | |
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| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable | Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it will delete all proposals in the draft Code relating to PSB and more properly include them in its recommendations to the Minister but will require all Licensees to broadcast emergency messages in | URCA will delete all references to and obligations on Public Service Broadcasters from Clauses 8.24(1) and (2) and include these clauses in URCA’s recommendations to the Minister under s.60(1) of the Communications Act on public service broadcasting but, in the interests of public safety and public order, require all |

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| | | <p>the interests of public safety and public order.</p> | <p>Licenseses to broadcast emergency messages as follows:</p> <p>“(1) Public Service Broadcasters Licensees shall broadcast emergency messages relating to hurricane warnings, floods, fires, national and local emergencies or disasters and other similar safety messages emanating from national or local government and national or local emergency service organisations free of charge. Other Licensees are encouraged to broadcast such emergency messages free of charge.</p> <p>(2) Licensees designated as Public Service Broadcasters are required to broadcast emergency messages in a timely and accurate manner. Other Licensees are encouraged to broadcast such messages in a timely and accurate manner. Licensees broadcasting such messages shall have clear internal procedures in</p> |
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| | | | place to ensure coordination with emergency or essential service organisations.” |
| Shemika S. Miller | <p>The respondent proposed that under Clause 8.24(2), Licensees should either submit to URCA (for a review of its adequacy prior to an emergency occurring) or maintain for review during onsite visits the Licensee’s “clear internal procedures” for coordinating emergency broadcasts.</p> <p>The respondent also proposed that under Clause 8.24(3), Licensees should submit the name of the designated contact person for broadcasting of emergency services to URCA, along with evidence that Licensees also provided this information to emergency organisations.</p> <p>The respondent further proposed that Clause 8.24(4) should specify the identity or title of the designated person at an emergency or essential organisation (e.g., the public relations officer, C.E.O., etc.) to avoid unauthorised persons providing unofficial or unverified information that is broadcasted.</p> | URCA notes the respondent’s comments, but considers that these proposals are administrative in nature and therefore do not need to be included in Clause 8.24 of the Code. URCA considers that these proposals should be referred to the Industry Group for review having regard to the cost and manpower issues involved in their implementation. | URCA will refer to the Industry Group for review the proposals that Licensees submit or maintain their internal procedures for coordinating emergency broadcasts, submitting the name of the designated contact person for broadcasting of emergency services plus evidence that Licensees have provided this information to emergency organisations, and specifics of the identity or title of the designated person at an emergency or essential organisation (e.g., the public relations officer, C.E.O., etc.) for possible inclusion in any guidelines to the Code. |
| Cross-reference to draft Code | Clause 8.26 | | |
| Draft Code provision | Public service advertisements | | |

| | <p>(1) Public Service Broadcasters are required to broadcast free of charge public service advertisements (also known as community service announcements) that are advertisements providing publicity for governmental agencies and registered charitable or community service organisations that primarily inform and educate the public by changing public opinion and raising awareness for a problem (such as safe driving, obesity, smoking, fitness, education, gambling addiction, alcoholism, drug addiction or safe sex) rather than sell a product or service. Other Licensees are encouraged to broadcast such public service advertisements free of charge.</p> <p>(2) Public service advertisements shall, at the discretion of the Licensee, not exceed more than two (2) in any hour and their duration shall not exceed more than two (2) minutes at a time, such advertisements to be broadcast at times mutually agreed between the Licensee and the organisation concerned.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable | Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should delete all references to Public service Broadcasters from the proposals in Clause 8.26(1) of the draft Code and more properly include them in its recommendations to the Minister. | <p>URCA will delete all references to Public Service Broadcasters in Clause 8.26(1) and include them in its recommendations to the Minister under s.60(1) of the Communications Act on public service broadcasting, as follows:</p> <p>“(1) Public Service Broadcasters Licensees are required <u>encouraged</u> to broadcast free of charge public service advertisements (also known as community service announcements) that are advertisements providing publicity for governmental agencies and registered charitable or community service organisations that primarily inform and educate</p> |

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| | | <p>URCA considers that it should clarify that the limits on public service advertisements in Clause 8.26(2) do not exceed 2 in any hour and 2 minutes at a time by deleting the words “more than” wherever they appear in the clause.</p> | <p>the public by changing public opinion and raising awareness for a problem (such as safe driving, obesity, smoking, fitness, education, gambling addiction, alcoholism, drug addiction or safe sex) rather than sell a product or service. Other Licensees are encouraged to broadcast such public service advertisements free of charge.”</p> <p>URCA will amend Clause 8.26(2) as follows:</p> <p>“(2) Public service advertisements shall, at the discretion of the Licensee, not exceed more than two (2) in any hour and their duration shall not exceed more than two (2) minutes at a time, such advertisements to be broadcast at times mutually agreed between the Licensee and the organisation concerned.</p> |
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Question 9:

Do you agree with URCA's proposals in Part 9 of the draft Code of Practice regarding the provision of access services by broadcasters for members of the audience who are visually and hearing impaired? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 9 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC agreed with URCA's proposals in Part 9 of the draft Code of Practice. | URCA acknowledges and is grateful that the BCC, BCEP, BTC, BCB, Linda Thomas, and Shemika S. Miller generally agreed with the proposals in Part 9 of the draft Code. Regarding BTC's proposal that the visually and hearing impaired are represented during any review of the Code, URCA will, in conjunction with the Industry Group, periodically confer with the representatives of any groups representing consumers or other persons, including the visually and hearing impaired, for their views on Code administration | No action necessary. |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council's response to this question. | | |
| BTC | BTC agreed with URCA's proposals in Part 9 of the draft Code of Practice regarding the provision of access services by broadcasters for members of the audience who are visually and hearing impaired. BTC was also of the view that URCA should ensure that the visually and hearing impaired are represented during any review of | | No action necessary. |

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| | <p>the Code of Practice, a position that it had endorsed during an earlier Public Consultation on developing Codes of Practice for Content Regulation.</p> | <p>issues during each three (3) year review period.</p> | |
| BCB | <p>The BCB agreed with the proposals in Part 9 of the draft Code and wish it to be noted that the Corporation currently provides a signing component during ZNS national news hour. The BCB supports the inclusion of a provision for access to broadcast services for people with hearing or visual impairments by Public Service Broadcasters and the encouragement of all broadcasters to provide access for persons with hearing or visual impairments, although it may have financial implications for some stations.</p> | | |
| Linda Thomas | <p>This respondent supported the proposals in Part 9 of the draft Code and commented that technology continues to develop for the (hearing and visually) impaired. The respondent further proposed that the Licensee should be encouraged to adopt</p> | | |

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| | <p>this technology through incentives in the form of rebates in fees, customs duties, etc., based on the cost/benefit factors which will eventually pay for the investment.</p> | | |
| Shemika S. Miller | <p>This respondent agreed with URCA, in that the provision of access services to people with hearing or visual impairments should be encouraged.</p> | | |
| Cross-reference to draft Code | <p>Clause 9.1(1) and (2)</p> | | |
| Draft Code provision | <p>(1) Public Service Broadcasters are required, at a minimum, to provide closed captioning for all daily news and current affairs television programmes broadcast between 6:00 PM/18:00 hours and 12:00 midnight/24:00 hours, and encouraged as far as possible to provide closed captioning for other news and current affairs television programmes. As an alternative, Public Service Broadcasters may use signing where it is not practicable to provide closed captioning.</p> <p>(2) Licensees not designated as Public Service Broadcasters are encouraged to provide access services for news and current affairs television programmes.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable | <p>Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should delete Clause 9.1(1) and include it in URCA's PSB</p> | <p>URCA will delete Clause 9.1(1), and URCA will delete all references to PSB in Clause 9.1(2), include them in URCA's PSB recommendations to the Minister and renumber the clause and amend the clause so that it will henceforth apply to all Licensees with the</p> |

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| | | <p>recommendations to the Minister.</p> <p>URCA will amend Clause 9.1(2) to delete all references to PSB, so the clause will now apply to all Licensees</p> | <p>added stipulation encouraging them to provide access services in their programming, as follows:</p> <p>“(1) Public Service Broadcasters are required, at a minimum, to provide closed captioning for all daily news and current affairs television programmes broadcast between 6:00 PM/18:00 hours and 12:00 midnight/24:00 hours, and encouraged as far as possible to provide closed captioning for other news and current affairs television programmes. As an alternative, Public Service Broadcasters may use signing where it is not practicable to provide closed captioning.</p> <p>(2) Licensees not designated as Public Service Broadcasters are encouraged to provide access services in their programming, including but not limited to for news and current affairs television programmes.”</p> |
| Cross-reference to draft Code | Clause 9.3 | | |

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| Draft Code provision | It is intended that services provided by Public Service Broadcasters should be accessible to the widest possible cross section of the public in The Bahamas, and to that end, URCA intends to progressively increase the percentage of content delivered by Public Service Broadcasters which is available to persons with hearing or visual impairments. Accordingly, Public Service Broadcasters will be required to provide closed captioning for programmes other than those provided for in Clauses 9.1 and 9.2 of this Code, subject to targets which shall be determined by URCA in consultation with the Public Service Broadcaster and the public. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | | Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should delete this clause and more properly include it in URCA's recommendations to the Minister. | URCA will delete Clause 9.3 and include it in its PSB recommendations to the Minister. |
| Cross-reference to draft Code | Clause 9.4(2) | | |
| Draft Code provision | (2) The provisions of this Clause regarding closed captioning shall apply to television programming provided by Licensees designated as Public Service Broadcasters, in accordance with Clauses 9.1 to 9.3 above. Other Licensees are encouraged, but not required, to provide closed captioning of their television programming. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | | Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public | URCA will amend Clause 9.4(2) as follows: “(2) The provisions of this Clause regarding closed |

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| | | Service Broadcasting (PSB), URCA considers that it should delete all proposals in Clause 9.4(2) relating to PSB and properly include them in its recommendations to the Minister. | captioning shall apply to television programming provided by Licensees designated as Public Service Broadcasters, in accordance with Clauses 9.1 to 9.3 above. Other Licensees are encouraged, but not required, to provide closed captioning of their television programming.” |
| Cross-reference to draft Code | Clause 9.4(4)(a) | | |
| Draft Code provision | <p>(4) Closed captioning best practice guidelines which all Licensees providing closed captioning are encouraged to adopt are as follows:</p> <p>(a) Presentation: closed captioning should use the CEA-708 designated screen fonts for all closed captions. Closed captions on standard and high definition television services should use either the EIA-608 standard (‘Line 21’) standard developed by the Electronic Industries Alliance (EIA) or the CEA-708 standard developed by the Consumer Electronics Association (CEA) for closed captioning for National Television System Committee (NTSC) and Advanced Television Systems Committee Inc. (ATSC) analogue and digital television broadcasts in the United States and Canada. <u>Although URCA does not regulate equipment used to render closed captioning in content services, and audiovisual media services, URCA also recommends that such service providers adhere to the same standards.</u> Licensees and service providers are encouraged to use anti-aliasing techniques to help make the appearance of closed captions clearer. Closed captions should be placed within the ‘safe caption area’ of a 14:9 display and should normally occupy the bottom of the screen, except where they would obscure the speaker’s mouth or other vital information or activity. It is particularly important to avoid obscuring the face, as this convey emotions and tone of voice, as well as being necessary for lip-reading;</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Shemika S. Miller | The respondent proposed the removal of the words “Although | URCA agrees with the respondent’s proposal and | URCA will amend Clause 9.4(4)(a) as follows: |

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| | <p>URCA does not regulate...” in this clause on the premise that URCA should have the authority and flexibility to regulate its Licensees and if, in the future, URCA decided to regulate equipment used to render closed captioning in content services and audiovisual media services, it can do so without having to amend the Code.</p> | <p>will rephrase Clause 9.4(4)(a) as the relevant equipment is a technical matter and therefore has the potential for regulation by URCA under s.83 of the Communications Act.</p> | <p>“(4) Closed captioning best practice guidelines which all Licensees providing closed captioning are encouraged to adopt are as follows: (a) Presentation: closed captioning should use the CEA-708 designated screen fonts for all closed captions. Closed captions on standard and high definition television services should use either the EIA-608 standard (‘Line 21’) standard developed by the Electronic Industries Alliance (EIA) or the CEA-708 standard developed by the Consumer Electronics Association (CEA) for closed captioning for National Television System Committee (NTSC) and Advanced Television Systems Committee Inc. (ATSC) analogue and digital television broadcasts in the United States and Canada. Although URCA does not regulate equipment used to render closed captioning in content services, and audiovisual media services, URCA also recommends that such service</p> |
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| | | | <p>providers of <u>audiovisual media services, carriage services, content services and on-demand audiovisual media services</u> adhere to the same <u>equipment standards used to render closed captioning</u>. Licensees and service providers are encouraged to use anti-aliasing techniques to help make the appearance of closed captions clearer. Closed captions should be placed within the ‘safe caption area’ of a 14:9 display and should normally occupy the bottom of the screen, except where they would obscure the speaker’s mouth or other vital information or activity. It is particularly important to avoid obscuring the face, as this convey emotions and tone of voice, as well as being necessary for lip-reading;”</p> |
| Cross-reference to draft Code | Clause 9.5(1) | | |
| Draft Code provision | Public Service Broadcasters shall provide signing for news and current affairs television programmes where they are presently unable, for technical or economic reasons, to provide closed captioning, and otherwise as set out in Clauses 9.1 and 9.2 above. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | | Having regard to the | URCA will delete Clause 9.5(1) |

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| | | <p>requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should delete Clause 9.5(1) from the Code and more properly include it in URCA's recommendations to the Minister.</p> | <p>from the Code, include it in its PSB recommendations to the Minister and renumber Clause 9.5 accordingly.</p> |
| Cross-reference to draft Code | Clause 9.6(3)(h) | | |
| Draft Code provision | <p>Children's programmes: language and pace of delivery for children's television programmes need particular care, having regard to the age and background of the target audience, as well as feedback from children and their parents. A more intimate style may be more appropriate than would be the case for programmes aimed at adults;</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | <p>The respondent proposed that URCA should either define or provide examples of what it means by the terminology "a more intimate style" in Clause 9.6(3)(h).</p> | <p>URCA appreciates and acknowledges the comments on this clause submitted by the respondent but disagrees with the proposal. The terminology used in the clause represents best practice guidelines for Licensees providing audio description of children's television programmes and should not be read in isolation from the remainder of the sentence which explained that an intimate audio description</p> | <p>No action necessary.</p> |

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| | | style is more appropriate in children’s programmes “than would be the case for programmes aimed at adults”. | |
| Cross-reference to draft Code | Clause 9.7 | | |
| Draft Code provision | <p>Duty to consult</p> <p>Licensees are required to consult periodically with groups representing persons with hearing or visual impairments on issues such as the quality of access services, and the selection and scheduling of programs. To facilitate feedback from access service users, Licensees should also provide contact details on their websites, including e-mail addresses, telephone and text phone numbers. Licensees should monitor and respond to this feedback.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Shemika S. Miller | The respondent proposed that URCA should specify what it means by “periodically” in Clause 9.7 (e.g., annually) and Licensees should also record and maintain evidence of consultation with and feedback from the referenced groups for review during any onsite visits by URCA. | URCA acknowledges the comments from the respondent and considers that the term “periodically”, means ‘from time to time’ or ‘intermittently’. URCA disagrees with the respondent that the clause should be more prescriptive and considers that Licensees should be allowed the freedom and flexibility to decide for themselves how often they should meet with representative groups, as not all Licensees providing television services may also provide audio description. | No action necessary |

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| | | URCA will refer the issue of Licensees maintaining records of consultations with groups representing users of access services to the Industry Group for review. | URCA will refer to the Industry Group for review the proposal for Licensees to maintain records of consultations with groups representing users of access services. |
| Cross-reference to draft Code | Clause 9.8 | | |
| Draft Code provision | Public Service Broadcasters must report to URCA, by 31 st January in each calendar year, or upon request, on the volume of programmes for which they have provided each kind of access service during the preceding calendar year, grouped by genre such as news, factual programmes, current affairs programmes, dramas, comedies and so forth. Other Licensees are encouraged to annually provide URCA with this data. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | | Having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should amend Clause 9.8 by deleting any references relating to PSB and more properly include it in URCA's recommendations to the Minister. The clause will henceforth apply to all Licensees. | URCA will include this clause in its PSB recommendations to the Minister and will amend Clause 9.8 as follows: "Public Service Broadcasters must report to URCA, by 31st January in each calendar year, or upon request, on the volume of programmes for which they have provided each kind of access service during the preceding calendar year, grouped by genre such as news, factual programmes, current affairs programmes, |

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| | | | <p>dramas, comedies and so forth. Other Licensees are encouraged to annually provide URCA, by 31st January in each calendar year, or upon request, with this data on the volume of programmes for which they have provided each kind of access service during the preceding calendar year, grouped by genre such as news, factual programmes, current affairs programmes, dramas, comedies and so forth. “</p> |
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Question 10:

Do you agree with URCA’s proposals in Part 10 of the draft Code of Practice regarding the complaints-handling process, monitoring compliance, reporting complaints and Code administration? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | Part 10 | | |
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| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | The BCC stated that they found the complaints handling process outlined in Part 10 of the draft Code to be inadequate, inefficient, delegating too much authority and responsibility to Licensees (especially in the case of allegations of serious breaches), and was unnecessarily burdensome for all parties involved. The BCC proposed automating and unifying the complaints handling process by putting in place a robust, web based, proprietary computerized Complaints Management System (CMS) that would handle all complaints made against Licensees. | URCA will respond to each of the BCC’s comments on individual clauses in Part 10 of the draft Code. | No action necessary. |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council’s response to this question. | | |
| BTC | BTC agreed with URCA’s proposals in Part 10 of the draft Code of Practice regarding the complaints handling | URCA acknowledges and thanks BTC, the BCB and Shemika S. Miller for their general | No action necessary. |

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| | process and monitoring compliance but proposed the further review of some areas. | agreement with the proposals in Part 10 of the draft Code and noted that BTC proposed the further review of several individual clauses in Part 10 that URCA will respond to. | |
| BCB | The BCB agreed with Part 10 of the draft Code and noted that previously there was no set procedure for the handling of complaints. The BCB believes that the public will appreciate the set time limits for licensed broadcasters to respond to complaints inclusive of the referral process to URCA where a complaint may not have been satisfactorily resolved. The BCB also noted the Code's requirement for 360 annual broadcasts by Licensees to alert members of the public to the Code and its complaints procedure. | | |
| Shemika S. Miller | This respondent agreed with the proposal in Part 10 of the draft Code to establish an Industry Group to assist with regulation of the industry. | | |
| Cross-reference to draft Code | Clause 10.1 (Title) | | |
| Draft Code provision | Purpose | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable. | In light of the various comments received on Clause 10.1, URCA considers that it should amend the title of Clause 10.1 to reflect that the clause is about the purpose of the complaints handling process. | URCA will amend the title of Clause 10.1 as follows: "Purpose of Complaints Handling Process". |
| Cross-reference to draft Code | Clause 10.1(1) | | |

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| Draft Code provision | (1) This Part of the Code applies to any matter covered by the preceding rules in the Code that is the subject of a complaint to a Licensee. Licensees must ensure that their relevant staff members are aware of the provisions of the Code, the importance of handling customer complaints professionally and the relevant procedures to follow when doing so. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Shemika S. Miller | The respondent proposed that, under Clause 10.1 of the Code, URCA should verify the internal complaints handling training and awareness of Licensees' staff through interviews and reviews of training records during onsite visits. | URCA thanks the respondent for her proposal and will refer it to the Industry Group for review. | URCA will refer to the Industry Group for review the proposal that URCA should verify the internal complaints handling training and awareness of Licensees' staff through interviews and reviews of training records during onsite visits. |
| Cross-reference to draft Code | Clause 10.1(2) | | |
| Draft Code provision | (2) The purpose of this Part of the Code is to ensure that Licensees: <ul style="list-style-type: none"> (a) publicise the existence of the Code; (b) develop adequate procedures for processing and resolving complaints from members of the public regarding breaches of the Code; (c) publicise the procedures for handling complaints made by members of the public to Licensees regarding compliance with this Code; (d) maintain adequate procedures for receiving oral complaints; (e) advise complainants of their right to make a written complaint about material broadcast by a Licensee that allegedly breaches the Code; (f) respond promptly to written complaints received by a Licensee within thirty (30) calendar days of the relevant broadcast and make every reasonable effort to resolve such complaints; and (g) report to URCA on complaints made according to the procedures in Clause 10.11 of this Code. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC commented that the nature of oral complaints leaves room for considerable confusion regarding what is actually said, heard and understood, and written down. The BCC proposed | URCA disagrees with the proposal and considers that Clause 10.1(2) of the draft Code is an explanatory clause making clear what is the purpose of Part | No action necessary. |

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| | that URCA should elaborate in Clause 10.1(2)(d) of the draft Code on whether the requirement for Licensees to “maintain adequate procedures for receiving oral complaints” meant that Licensees should digitally record all oral Code Complaints as voice files and if so in what format, or have a Complaints Officer to receive oral complaints, otherwise the requirement left too much the discretion of Licensees without any guidance from URCA. | 10 by notifying Licensees they will need to have various complaints-handling policies and procedures in place to handle complaints from the public regarding alleged breaches of the Code. URCA considers that it would be inappropriate to prescribe in this clause the manner in which Licensees should carry out their responsibilities. In any event, URCA considers that issues like the physical recording of complaints and the assignment of specific staff to handle complaints will vary from Licensee to Licensee based on the size, structure and finances of each organisation. | |
| CBL | CBL proposed that, for consistency with Clause 10.2 of the draft Code, Clause 10.1(2)(f) should be amended to require Licensees to respond to written complaints within thirty (30) calendar days of the relevant ‘complaint’ instead of within thirty (30) calendar days of the relevant broadcast. | URCA disagrees with the proposals and considers that Clause 10.1(2)(f) states that Licensees must respond promptly to complaints received within 30 days of the broadcast, not that they must respond to complaints within 30 days of a broadcast as interpreted by the respondents. However, for greater clarity and to avoid confusion with the time limits in Clause 10.2, URCA considers that it should amend Clause 10.1(2)(f) by deleting the words “received | URCA will amend Clause 10.1(2)(f) by deleting the words “received by a Licensee within thirty (30) calendar days of the relevant broadcast” as follows: “(2) The purpose of this Part of the Code is to ensure that Licensees: (f) respond promptly to written complaints received by a Licensee within thirty (30) calendar days of the relevant broadcast and make every reasonable effort to resolve such |
| Shemika S. Miller | The respondent proposed revising Clause 10.1(2)(f) to give Licensees 30 days to respond to written complaints calculated from the date of receipt of the complaint instead of the broadcast as this conflicted with the complainant | | |

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| | having 30 days after the broadcast to submit a complaint. | by a Licensee within thirty (30) calendar days of the relevant broadcast”. | complaints;” |
| Cross-reference to draft Code | Clause 10.1(3) | | |
| Draft Code provision | (3) Licensee must make appropriate internal arrangements to ensure that complaints are received and recorded by a responsible person within the Licensee’s organisation during normal business hours. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | The BCC proposed that each Licensee should be required to designate a Complaints Officer under Clause 10.1(3) who would be responsible for overseeing the Licensee’s complaints process (i.e., reviewing complaints and ensuring compliance with the Code), thereby also facilitating each Licensee’s liaison work with URCA and the general public. | URCA agrees in principle with the proposal that each Licensee should designate someone within the organisation who is responsible for overseeing the Licensee’s complaints-handling process and liaises with URCA and the public on such issues, although URCA disagrees that every Licensee should designate such a persons as Complaints Officer as URCA considers that the title given to the person should be an administrative decision made by Licensees based on the size, structure and finances of the Licensee’s organisation. URCA considers amending the clause to require Licensees to notify URCA of the name and contact information of the person within the Licensee’s organisation responsible for complaints-handling and liaising with URCA and the public on complaints. | URCA will amend Clause 10.1(3) as follows: “Licensee must make appropriate internal arrangements to ensure that complaints are received and recorded by a responsible person within the Licensee’s organisation during normal business hours <u>who will also function as a liaison with URCA and the public on complaints-handling matters. Licensees shall, within two (2) business days of designating or appointing such person or their replacement, notify URCA in writing of the name, position and contact information (i.e., telephone number, fax number, e-mail address, other means of contact, etc.) of such person.</u> ” |

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| Shemika S. Miller | The respondent proposed that Licensees should submit the name of the “responsible person” in Clause 10.1(3) to URCA and this individual should, in addition to submitting the quarterly reports to URCA certifying the recording of all complaints received during the period, also maintain records of these reports for review by URCA during onsite visits. | URCA agrees in principle with the proposal that Licensees should notify URCA of the name (and contact information) of the person within the Licensee’s organisation responsible for complaints-handling and considers amending the clause accordingly. | |
| Cross-reference to draft Code | Clause 10.2 (Title) | | |
| Draft Code provision | Scope | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| URCA | Not applicable. | Based on comments received regarding Clause 10.2, URCA considers that it should amend the title of Clause 10.2 to reflect that the clause is about the scope of the complaints handling process. | URCA will amend the title of Clause 10.2 as follows: “ <u>Scope of Complaints Handling Process</u> ”. |
| Cross-reference to draft Code | Clause 10.2(1)(c) | | |
| Draft Code provision | Scope (1) Any complaint against any programme, advertisement or other form of content covered by this Code must satisfy the following criteria: (c) it must identify in sufficient detail: (i) the subject matter of the content (including, if possible, the date and time of the broadcast, or, in the case of broadcast content distributed via the Internet pursuant to this Code, the website address of such content); (ii) the nature of the complaint; and (iii) the identity of the complainant. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| BTC | BTC proposed that Clause 10.2(1)(c) should also identify the relevant | URCA agrees with the proposal. | URCA will amend Clause 10.2(1)(c) as follows: |

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| | channel or station in addition to the other information required in the clause. | | <p>“(1) Any complaint against any programme, advertisement or other form of content covered by this Code must satisfy the following criteria:</p> <p>(c) it must identify in sufficient detail:</p> <ul style="list-style-type: none"> (i) the subject matter of the content (including, if possible, the date and time of the broadcast, or, in the case of broadcast content distributed via the Internet pursuant to this Code, the website address of such content); (ii) the nature of the complaint; (ii) <u>the broadcasting station’s radio frequency, channel number, call letters, call-sign or station identification of the Licensee who is the subject of the complaint</u> and (iv) the identity of the complainant.” |
| Cross-reference to draft Code | Clause 10.2(4) | | |
| Draft Code provision | (4) A Code Complaint is a complaint that satisfies Clause 10.2(1) and that is: <ul style="list-style-type: none"> (a) made in writing by letter or fax by a person who signs the letter or fax and provides his or her name , | | |

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| | <p>e-mail or postal address and telephone contacts (if applicable) and sent by mail or delivered to the Licensee, or sent by fax to the Licensee’s main fax number; or</p> <p>(b) (where the Licensee has technological capacity) made by an online electronic complaint form or other relevant digital service or application offered by the Licensee; or</p> <p>(c) submitted by electronic mail (“e-mail”).</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | <p>The BCC proposed addressing a potential ‘loophole’ in Clause 10.2(4) if a complainant claims to have sent a complaint by letter, fax, or e-mail which the Licensee claims not to have received and 30 days has elapsed since the broadcast being complained about by requiring Licensee to send the complainant an acknowledgement or notification of receipt of the complaint (preferably through an automated CMS) within a specified period of time advising the complainant of the case number, the process, and the time frames involved in handling the complaint, thereby allowing the complainant to follow-up on the matter if no acknowledgement or notification is received the within the specified period.</p> | <p>URCA agrees in principle with this proposal but considers that this proposal should be addressed in Clause 10.6 which sets out the time limits for Licensees to respond to Code Complaints and not in Clause 10.2(4) as Clause 10.2 addresses the scope of the complaints handling process.</p> | <p>URCA will insert a new Clause 10.6(1) as follows and renumber the remaining sub-clauses accordingly:</p> <p><u>“(1) Licensees shall within five (5) business days notify the complainant in writing of the receipt of a complaint made under this Code, which acknowledgement shall also notify the complainant of the case or complaint number assigned to the complaint and the time frames and processes that the Licensee envisages are required to investigate and respond to the complaint.”</u></p> |
| Cross-reference to draft Code | Clause 10.3 | | |
| Draft Code provision | <p>Licensees must regularly broadcast on-air information alerting members of the public to this Code and its complaints procedures, as follows:</p> <p>(a) Licensees must broadcast three hundred and sixty (360) such on-air announcements each calendar year. In the case of television broadcasting stations, where possible this information must also be broadcast using closed captioning or sign language and (where available) audio description.</p> <p>(b) A reasonable proportion of such on-air announcements will also explain how the audience may obtain a</p> | | |

| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
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| Bahamas Christian Council | The BCC proposed that Clause 10.3 of the draft Code should specify time periods during which Licensees must publicise the Code's complaints submission process otherwise Licensees might opt to publicise at times when they have little or no audience. | URCA agrees with this proposal and will amend Clause 10.3(1) so as to require the announcement to be broadcast at least once during a specified period of time during the day, to ensure that most audiences, listening or watching at different times, will at some point hear/see the announcement. | <p>URCA will amend Clause 10.3 as follows:</p> <p>“(1) Licensees must regularly broadcast on-air information alerting members of the public to this Code and its complaints procedures, as follows:</p> <p>(a) Licensees must broadcast three hundred and sixty (360) such on-air announcements <u>at least once each day of each calendar year between the hours of 7.00 AM/07.00 hours and 9:00 PM/21.00 hours</u>. In the case of television broadcasting stations, where possible this information must also be broadcast using closed captioning or sign language and (where available) audio description.</p> <p>(b) A reasonable proportion of such on-air announcements will also explain how the audience may obtain a copy of the Code.</p> <p><u>(2) Licensees shall by 30th January of each year submit to URCA a certificate signed by the chief executive officer or general manager (or howsoever</u></p> |

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| | | | <p><u>described) of the Licensee confirming that the Licensee has during the preceding calendar year complied with Clauses 10.3(1) and (2) of this Code.</u></p> <p><u>(3) Licensees shall, if required to do so by notice in writing, provide URCA with copies of their station logs or video and/or audio recordings of the on-air announcements made in compliance with Clause 10.3(1) of this Code for any period specified by URCA up to thirty (30) calendar days prior to the date of the notice.</u></p> <p><u>(4) URCA will, if requested to do so by a Licensee, provide a template of the information that should be contained in the on-air announcements made under Clause 10.3(1) of this Code.”</u></p> |
| BTC | BTC proposed that, where possible, television stations should also broadcast information under Clause 10.3 alerting the public to the Code of Practice and the complaints procedure using closed captioning and, where available, audio description, but noted that in the absence of appropriate mechanisms for URCA to verify that broadcasters have complied with the clause, the potential exists for some | <p>URCA considers that Clause 10.3(1)(a) already addresses the issue of closed captioning and audio description.</p> <p>URCA agrees with the proposal regarding compliance monitoring and will amend the clause to require Licensees to provide written confirmation and video and/or audio confirmation at</p> | <p>No action necessary.</p> <p>URCA will amend Clause 10.3 as indicated above.</p> |

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| | broadcasters to comply with the clause while others do not. | specified periods. | |
| CBL | <p>CBL contended that 360 on-air announcements under Clause 10.3 and the complaints procedure are excessive and costly to Licensees. CBL proposed that URCA should produce an advertisement and purchase airtime on radio and television, use available community channels to air the advertisement, use forms of social networking (such as Facebook, YouTube, etc.), and the websites of Licensees and government ministries to publicise the Code.</p> <p>Alternatively, CBL proposed that Licensees should be required to make such on-air announcements three (3) times a week as well as publish the</p> | <p>URCA disagrees with these proposals because URCA considers that the issue is not about Licensees assisting URCA with publicising the Code but rather about Licensees discharging their obligation to notify viewers, listeners and subscribers how they may submit complaints to the Licensee whenever the Licensee’s broadcast material has breached some provision of the Code. URCA agrees that it could and should publicise the Code and the complaints-handling process on its website accompanied by other public awareness activities, but this would not substitute for the Licensee’s own publicity. To reduce costs, Licensees may wish to share the costs of producing an on-air advertisement that they could all use and URCA will refer that issue to the Industry Group for review.</p> <p>URCA disagrees with the proposal that it should specify the times for making the on-air announcements made pursuant</p> | <p>URCA will submit to the Industry Group for review the proposal of Licensees sharing the costs of producing an on-air announcement alerting members of the public to the Code and its complaints procedures for all Licensees to use.</p> <p>URCA will amend Clause 10.3(1) of the Code as indicated above.</p> |

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| | <p>announcement on their website (where possible), but URCA should not stipulate specific times for such broadcasts as Licensees are bearing the cost of the advertisements in the spirit of co-regulation.</p> <p>CBL also proposed that URCA should include information on and references to locating the Code and complaints handling on URCA's website, and that if URCA was minded to require specific times for the on-air announcements, then this should be done at URCA's expense.</p> | <p>to Clause 10.3. URCA considers that it should amend Clause 10.3(1) so as to require the announcement to be broadcast at least once during a specified period of time during the day, to ensure that most audiences, listening or watching at different times, will at some point hear/see the announcement.</p> <p>URCA disagrees with the proposal that URCA should pay for on-air announcements made pursuant to Clause 10.3. URCA considers that if it were to pay for such airtime, this would require URCA to need more money to pay for the announcements, which would, in turn, mean collecting higher URCA Fees from Licensees, so Licensees would still end up paying for the announcements.</p> | <p>No action necessary.</p> |
| Linda Thomas | <p>The respondent proposed that URCA should have an on-going media literacy project and not leave it to Licensees to carry out the 360 on-air announcements stipulated in Clause 10.3.</p> | <p>URCA agrees in principle with this proposal and considers it should review how it can incorporate on-going consumer and media awareness programmes as part of its 2012 Annual Plan.</p> | <p>URCA will review how it can incorporate on-going consumer and media awareness programmes as part of its 2012 Annual Plan.</p> |
| Shemika S. Miller | <p>The respondent proposed that URCA should verify and confirm the</p> | <p>URCA agrees with this proposal requiring Licensees to certify</p> | <p>URCA will amend Clause 10.3 as indicated above.</p> |

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| | mandatory 360 on-air announcements required of Licensees in Clause 10.3, with Licensees annually certifying to URCA and maintaining logs confirming their compliance for inspection in the event of random onsite visits by URCA. | compliance with the clause and will amend the clause accordingly. | |
| Cross-reference to draft Code | Clause 10.4 | | |
| Draft Code provision | <p>Comments from Viewers or Listeners</p> <p>(1) Licensees should welcome comments from viewers or listeners, whether submitted by telephone, letter, fax, e-mail, an online electronic complaint form or other relevant digital service or application offered by the Licensee. Licensees should regard comments from viewers or listeners as valuable feedback on reactions to the Licensee's service.</p> <p>(2) Licensees must ensure that the substance of comments from viewers or listeners is properly recorded, and that such comments are promptly brought to the attention of management. Licensees are encouraged to share such comments with relevant members of staff, such as programme commissioners and programme-makers.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC proposed the redrafting of Clause 10.4 as it was not clear whether the clause applies to complaints, as welcoming and noting comments from listeners and viewers might be a good business practice but did not seem like something that URCA can require Licensees to do. | URCA disagrees with the proposal as URCA considers that there is a fine line between comments and complaints, and that any Licensee's "complaints line" will also be used by the public to make comments. URCA considers that Clause 10.4 effectively codifies what is invariably international 'best practice' in the broadcasting industry both abroad and in The Bahamas. | No action necessary. |
| Cross-reference to draft Code | Clause 10.6(5) | | |
| Draft Code provision | (5) The Licensee is under no obligation to respond to or record Code Complaints provided anonymously to the | | |

| Licensee or not made in accordance with this Part of the Code. | | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC proposed that Clause 10.6(5) of the draft Code should make provision for confidential complaints (under certain conditions and based on the nature of the complaint, at least for serious breaches defined by URCA) to be reported directly to URCA, on the premise that the identity of the complainant is not necessary to investigate alleged breaches of the Code. | URCA disagrees with the proposal for confidential complaints as this proposal fails to recognise established legal principles of procedural fairness (e.g., that the parties have the right to be heard by an unbiased tribunal; the right to know the allegations against them; the right to answer the allegations; the right to know who is making the allegation). URCA considers the dialogue process between the complainant and the Licensee under Clause 10.2 of the Code to be a key part of the complaints resolution procedure. URCA considers that if the complainant is reluctant to provide an accurate name and contact information, it is not reasonable for the Licensee to seriously devote its time to a thoughtful reply to the complainant because, by definition, "dialogue" involves two people. However, URCA considers that the clause could be strengthened by amending it to include a requirement that Licensees should not, under any circumstances, broadcast the name of a complainant or the | URCA will amend Clause 10.6(5) as follows: “(5) The Licensee is under no obligation to respond to or record Code Complaints provided anonymously to the Licensee or not made in accordance with this Part of the Code. <u>However, Licensees are prohibited from disclosing on-air to the public the name of any complainant or the particulars of any complaint received by the Licensee except when directed to do so by URCA or consequential to making an on-air apology to the complainant.</u> ” |

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| | <p>The BCC also proposed that the Code needs to include provisions whereby members of the public may make direct and general complaints to URCA on the premise that it is too burdensome to require, for example, a broadcast by broadcast, song by song complaint to a Licensee in the case of systemic violations of the Code, or, alternatively, the Code needs to specify how systemic violations by Licensees will be handled.</p> | <p>particulars of a complaint on-air, except when directed to do so by URCA or consequential to making an on-air apology to the complainant.</p> <p>URCA disagrees with this proposal and considers that the dialogue between the Licensee broadcaster and members of its audience is fundamental to the Code's complaints resolution process. URCA considers that the Licensee will benefit from the exchange by learning about the concerns and the level of tolerance of its audience and will have the opportunity, if appropriate, to institute changes to its programming decisions. The complainant receives a personal response from the Licensee explaining the reasons underlying the Licensee's broadcasting choices, which may satisfy the complainant's concerns. Since that dialogue frequently satisfies the complainant, many times it resolves the complaint without URCA having to intervene or adjudicate the matter. From URCA's standpoint, this "dialogue" process enables the "building of the record" (i.e., the presentation of arguments for</p> | <p>No action necessary.</p> |
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| | | <p>and against the broadcast in question) which is important if the matter is referred to URCA for it to review the actual broadcast for its compatibility with the Code. URCA considers that this dialogue between audience members and Licensees and the “building of the record” is lost if complainants can make direct and general complaints to URCA and the process deteriorates into an adversarial or inquisitorial process which it is not intended to be. Additionally, URCA considers that the draft Code does not permit for “general” complaints, as Clause 10.2 permits specific complaints. However, URCA considers that it is conceivable for multiple allegations of breaches of the Code to occur during a single programme. In that instance, it would be for the complainant to decide whether to complain to the Licensee under Clause 10.2 of the Code on a programme by programme basis or on a song by song basis. If systemic violations come to URCA’s attention, either through unresolved complaints from the public or through URCA’s own investigations, URCA is obliged to investigate the</p> | |
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| | | matter under Clause 10.9 of the Code. | |
| Cross-reference to draft Code | Clause 10.7(1) | | |
| Draft Code provision | (1) Except where a Code Complaint is, in the reasonable opinion of the Licensee, clearly frivolous, vexatious or an abuse of the Code process, Licensees must conscientiously consider written Code Complaints and must promptly provide a substantive response in writing to Code Complaints within thirty (30) calendar days of the receipt of the complaint. If the Licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within thirty (30) days, the Licensee must notify the complainant of the reason for the delay and, in any event, provide a final reply within forty (40) days of receiving the Code Complaint. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| BTC | BTC proposed that, as URCA indicates in Clause 10.9(20) of the draft Code that it aims to complete cases taken forward for investigation within sixty (60) `...working days...' after receipt or referral of a Code of Complaint, Licensees should be required to provide a final reply under Clause 10.7(1) of the draft Code within forty (40) `...business days...' of receiving the Code of Complaint. | URCA disagrees with this proposal as URCA considers that the timeframes for Licensees to respond to written Code Complaints in this clause should be based on calendar days, not business days. URCA considers that it should amend the clause to reflect that the timeframes are in calendar days. | URCA will amend Clause 10.7(1) as follows: “(1) Except where a Code Complaint is, in the reasonable opinion of the Licensee, clearly frivolous, vexatious or an abuse of the Code process, Licensees must conscientiously consider written Code Complaints and must promptly provide a substantive response in writing to Code Complaints within thirty (30) calendar days of the receipt of the complaint. If the Licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within thirty (30) <u>calendar</u> days, the Licensee must, <u>without delay</u> , notify the complainant of the reason for the delay and, in any |

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| | | | event, provide a final reply within forty (40) <u>calendar</u> days of receiving the Code Complaint.” |
| Cross-reference to draft Code | Clause 10.9 | | |
| Draft Code provision | GENERAL | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Linda Thomas | The respondent proposed that under Clause 10.9 , the first step following the referral of complaints to URCA should include a meeting or conference call (if possible and during and/or outside working hours if necessary) between the complainant, the complainant’s representative, URCA and the Licensee with the objective of arriving at a resolution without URCA having to use its regulatory powers. | URCA disagrees with this proposal and considers that the dialogue between the Licensee and members of its audience is fundamental to the Code’s complaints resolution process. URCA considers that the Licensee will benefit from the exchange by learning about the concerns and the level of tolerance of its audience and has the opportunity, if appropriate, to institute changes to its programming decisions. The complainant receives a personal response from the Licensee explaining the reasons underlying the Licensee's broadcasting choices, which may satisfy the complainant’s concerns. Since that dialogue frequently satisfies the complainant, many times it resolves the complaint without URCA having to intervene or adjudicate the matter. From URCA’s standpoint, this “dialogue” process enables the "building of the record" (i.e., the | No action necessary. |

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| | | <p>presentation of arguments for and against the broadcast in question) which is important if the matter is referred to URCA for it to review the actual broadcast for its compatibility with the Code. URCA considers that this dialogue between audience members and Licensees and the “building of the record” is lost during the dispute resolution process proposed by the respondent and could deteriorate into a confrontational, adversarial and/or inquisitorial process, which the Code’s complaints handling is not intended to be. Additionally, URCA considers that the proposed process does not lend itself well to the complaint handling process in the draft Code as alternative dispute resolution is typically geared towards acting as a means for disagreeing parties in commercial or relational disputes to negotiate and come to an agreement short of litigation, none of which URCA considers applies to the Code’s complaints handling process.</p> | |
| Cross-reference to draft Code | Clauses 10.9(8) and (9) | | |
| Draft Code provision | (8) If a complainant is not satisfied with the Licensee's response to the Code Complaint as required by Clause 10.7 of this Code, the complainant may refer his/her complaint to URCA (accompanied by the Licensee's | | |

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| | <p>response) and should do so as soon as possible, and in any event within twenty-one (21) calendar days of the Licensee’s final response or determination.</p> <p>(9) If the complainant has not received a response to, or a determination of, his/her Code Complaint from the Licensee within the relevant timeframes set out in Clause 10.6 of this Code, the complainant should submit the complaint to URCA within twenty-one (21) calendar days of the timeframes fixed by the procedures in Clause 10.6 of this Code for the Licensee to provide a response or determination of the Code Complaint.</p> | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | The BCC proposed that Clauses 10.9(8) and (9) of the draft Code should not overburden and thereby frustrate complainants and should require Licensees to automatically copy URCA on substantive responses involving serious breaches of the Code (to be defined by URCA) so that URCA automatically has carriage of the matter and the complainant is not burdened with matters that URCA should want to consider promptly. | URCA disagrees with this proposal and does consider that Clauses 10.9(8) and (9) place any burden on complainants other than the time taken, consistent with any other policy of due process, to refer an unresolved complaint to URCA. | No action necessary. |
| Cross-reference to draft Code | Clause 10.9(11) and (12) | | |
| Draft Code provision | <p>(11) All Code Complaints made or referred to URCA should include sufficient detail about the content that is the subject of the complaint. Specifically, complaints should include:</p> <ul style="list-style-type: none"> (a) the name/title of the programme or advertisement complained about; (b) the date and time of the programme or advertisement; (c) the television channel or radio station on which it was broadcast; (d) the nature of the complaint and (where possible) the particular parts of the programme or advertisement complained about; (e) the complainant's full contact details (including e-mail address where appropriate); and (f) the date when the complainant submitted a Code Complaint to the relevant Licensee; and (g) a copy of the Licensee’s response (if any) and the complainant’s reasons for dissatisfaction with this response. <p>The inclusion of these details (or as many of them as possible) is very important. A failure to provide them may mean that URCA is not able to properly investigate the complaint.</p> | | |

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| | (12) URCA will log and acknowledge every complaint that it receives within five (5) working days. URCA will itself carry out a process of initial assessment and investigation in accordance with Clauses 10.9(14) to 10.9(18) of this Code. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC proposed that if URCA adopted a unified CMS, all of the details outlined in Clauses 10.9(11) and (12), would already be in a database and would require no further action to furnish details of Code Complaints referred to URCA. | URCA agrees in principle with the concept of an automated Complaints Management System but cannot comment further. URCA considers that this proposal should be reviewed by the Industry Group as the costs of such a system would ultimately have to be borne by Licensees out of their annual URCA Fees. | URCA will refer to the Industry Group for review of the proposal that URCA invests in an automated Complaints Management System. |
| Cross-reference to draft Code | Clause 10.9(13) | | |
| Draft Code provision | (13) Unless a complainant specifically requests at the time a complaint is made to URCA that his/her name and contact details should remain confidential, URCA reserves the right to disclose this information to the Licensee. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC contended that Clause 10.9(13) would result in a partially confidential complaint because Clause 10.9(23) only binds the parties to confidentiality during the course of URCA's investigation. | URCA disagrees with the respondent as Clause 10.9(23) states that it applies 'to any relevant obligations under ... this Code' which would, perforce, include Clause 10.9(13). | No action necessary. |
| BTC | BTC contended that Clause 10.9(13) conflicts with Clause 10.6(5) thereby impeding further inquiries. BTC referred to the position in the Cayman Islands where "...Licensees have the | URCA agrees in principle with BTC's comments regarding anonymous complaints and considers that the dialogue between the Licensee and | URCA will amend Clause 10.9(13) as follows: “(13) Unless a complainant specifically requests at the time |

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| | <p>right to know the allegations against them and the identity of the complainant...” and proposed that URCA should not disclose a complainant's contact details to the Licensee, upon request, only if doing so would hinder URCA's investigation. BTC noted that URCA's assessment of all relevant factors is particularly important in light of Licensees being called upon to provide further representations to URCA under Clause 10.9(18), part of the overarching principles of transparency, fairness and non-discrimination introduced in the Communications Act, and proposed that disclosure of the complainant's identity should be consistent with those principles.</p> | <p>members of its audience is fundamental to the Code's complaints resolution process. However, URCA also considers that the circumstances in Clause 10.9(13) are different from the circumstances in Clause 10.6(5) because Clause 10.6(5) authorises the Licensee to disregard anonymous complaints. A complaint can only get to the stage of Clause 10.9(13) after the complainant has satisfied Clause 10.2(1) which includes a complainant identifying himself or herself to the Licensee and being dissatisfied with the Licensee's response. URCA considers that the complainant should have to provide URCA with exceptional circumstances as to why URCA should not disclose the complainant's name and contact details to a Licensee. If the complainant does not agree with URCA's reasons for disagreeing with the request, they can either withdraw the complaint or agree to the disclosure. URCA considers that it should amend Clause 10.9(13) accordingly.</p> | <p>a complaint is made <u>referred to URCA under this Clause</u> that his/her name and contact details should remain confidential <u>and provides URCA with exceptional circumstances to justify the request</u>, URCA reserves the right to disclose this information to the Licensee. <u>If the complainant disagrees with URCA's reasons for rejecting the request, the complainant may either withdraw the complaint or agree to the disclosure.</u>”</p> |
| CBL | CBL sought clarification on the operation of Clause 10.9(13) when read in conjunction with Clause 10.2(4), as | URCA considers that what the respondent refers to are the circumstances in Clause | |

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| | <p>Clause 10.9(13) provides an option for confidentiality when a complaint is referred under the Code or by way of URCA's initiated investigation while Clause 10.2(4) requires a complainant to disclose his/her name for it to constitute a complaint under the Code.</p> | <p>10.2(1)(c) which are different from the circumstances in Clause 10.9(13). URCA considers that Clause 10.2(1)(c) applies to complaints submitted to Licensees with full disclosure of the complainant's name while Clause 10.9(13) relates to a request by the complainant at the time of referring a complaint to URCA for investigation that the complainant's name/contact details should remain confidential. Clause 10.6(5) permits Licensees to disregard anonymous complaints not made in accordance with Part 10, which includes Clause 10.2(1)(c). URCA considers that the complainant should have to provide URCA with exceptional circumstances as to why URCA should not disclose the name and contact details of the complainant to the Licensee under Clause 10.9(13). If the complainant does not agree with URCA's reasons for disagreeing with the request, they can either withdraw the complaint or agree to the disclosure. URCA considers that it should amend Clause 10.9(13) accordingly.</p> | |
| Cross-reference to draft Code | Clause 10.9(14) | | |
| Draft Code provision | (14) URCA will first consider whether, on its face, a complaint raises any potentially substantive issues under | | |

| | <p>this Code which warrant investigation by it for:</p> <p>(a) any breach of this Code if the Licensee has not provided an adequate response to the complainant; or</p> <p>(b) any serious breach of this Code that may require some form of sanction, regardless of the Licensee's initial response.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | <p>The BCC repeated its earlier proposal that "serious breach" in Clause 10.9(14)(b) should be defined.</p> <p>The BCC also questioned how serious breaches would promptly come to URCA's attention, especially complaints that Licensees "resolve" or where complainants do not follow-up even though the Licensee disagreed with the complaint. The BCC questioned whether URCA would have to wait for the Licensees quarterly reports on complaints before finding "unresolved" allegations of serious breaches that complainants did not follow-up and whether Licensees would avoid possible sanctions if the complainant failed to refer the matter to URCA.</p> <p>The BCC noted Clauses 10.9(14)(b) and 10.9(27(a) use the term "serious breach" but the draft Code does not define or describe any other kind of breach. The BCC proposed that, in order to achieve efficiency and effectiveness in resolving alleged breaches in a co-regulatory system,</p> | <p>URCA agrees with the proposal and considers that it should amend Clause 10 of the Code by inserting an additional sub-clause defining serious breaches.</p> <p>URCA considers that serious breaches would come to its attention in the manner prescribed in Part 10 of the draft Code, either by way of referral by a complainant of an unresolved complaint or through URCA initiating its own investigation.</p> <p>URCA considers that it should amend Clause 10 of the Code by inserting an additional sub-clause defining serious breaches. URCA considers that it has previously addressed the respondent's concerns regarding the initiation of the complaints</p> | <p>URCA will amend Clause 10.9 by inserting a new Clause 10.9(31) to define "serious breaches" as follows and consequentially renumber the remaining sub-clauses:</p> <p><u>"(31) URCA will treat as a serious breach:</u></p> <p><u>(a) (a) any breach of Clause 4.1(1)(a) and (b), Clause 4.3(1), Clause 5.2, Clause 5.5(1) or Clause 5.5(2) of this Code;</u></p> <p><u>(b) any breach which URCA considers is so severe as to amount to a wanton disregard by the Licensee for the provisions of this Code by reason of the extent to which a Licensee's conduct goes beyond the type of conduct which would otherwise be acceptable under this Code;</u></p> <p><u>(c) any breach of the Code that also amounts to an offence contrary to any law of The Bahamas (other than the</u></p> |

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| | URCA should specify and classify a range of breaches from minor to serious, with alleged serious breaches being best handled promptly by URCA from the outset rather than by Licensees against whom the complaints are made. | handling process. | <u>Communications Act) and for which a sentence of imprisonment is prescribed as the punishment; or</u> <u>(d) any breach or failure to comply with any regulatory or other measures issued by URCA either in respect of compliance with this Code or issued under Part IX of the Communications Act.”</u> |
| Cross-reference to draft Code | Clause 10.9(20) | | |
| Draft Code provision | (20) URCA aims to complete those cases that it takes forward for investigation within sixty (60) working days after receipt or referral of a Code Complaint. However, the circumstances of individual cases can vary considerably and completion may in some cases take longer. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| BTC | BTC proposed that URCA should notify the Licensee and the complainant in writing if URCA requires more than sixty (60) working days to complete its investigations under Clause 10.9(20) of the draft Code of Practice. | URCA disagrees with this proposal as URCA considers that Clause 10.9(2) is founded on section 100(1)(c) of the Communications Act which specifies that URCA must ‘... use all reasonable efforts to make a determination no later than four months after receiving the application’. However, the section, like the clause, does not require URCA to notify the parties if more time is required to complete the investigation as the circumstances of individual cases vary considerably and completion may in some cases | No action necessary. |

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| | | take longer than anticipated. | |
| Cross-reference to draft Code | Clause 10.9(21) | | |
| Draft Code provision | Final decisions (21) Once URCA has received and considered the Licensee's representations (and/or any representations from persons with sufficient interest) on its preliminary determination, it will, in accordance with section 100(4) and (5) of the Communications Act, reach its final determination and inform the Licensee. URCA may at the same time, in accordance with section 100(6) of the Communications Act, issue an order under section 95 of the Communications Act unless the obligations in the preliminary determination have been complied with and the consequences of the contraventions have been remedied. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC proposed that under Clause 10.9(21) URCA should also consider the nature of any breaches with a view to determining if URCA can reasonably conclude that it was a repeated breach, and if so, after further investigation, any further breaches committed by the Licensee should compound any action taken by URCA. | URCA considers that the respondent's concerns are adequately addressed through the provisions of section 100 of the Communications Act which governs the processes and procedures that URCA must follow before issuing a final determination. | No action necessary. |
| Cross-reference to draft Code | Clause 10.9(21) (Urgent Complaints and Interim Orders) | | |
| Draft Code provision | New provision | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable | Consequential to amendments to Clause 6.14, URCA considers it should amend Clause 10.9 of the Code and provide an expedited process for complaints-handling during election periods or in cases where the urgency of the matter and the risk of serious and irreparable damage to the complainant necessitates that URCA issue an interim order until | URCA will amend Clause 10.9 by inserting new Clause 10.9(21) to (23) regarding urgent complaints and the issuing of interim order as follows, the consequential renumbering of the remaining clauses: <u>"Urgent Complaints and Interim Orders</u> (21) <u>In cases of urgency</u> |

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| | | <p>it is able to complete a full investigation into the matter.</p> | <p><u>due to the risk of serious and irreparable harm, any person, party or entity whose election programme or political advertisement has been rejected by a Licensee under Clause 6.14(1) of this Code, and any other person may refer the matter to URCA as an urgent complaint under section 96 of the Communications Act and this Clause 10.9(21) of this Code.</u></p> <p>(22) <u>Where the circumstances of the complaint so require, URCA may, within forty-eight (48) hours of receiving the complaint, issue an interim order for a limited period of time under section 96(1) and (2) of the Communications Act while it fully investigates the matter. The interim order will only address those actions or omissions that are likely</u></p> |
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| | | | <p><u>to result in serious and irreparable damage.</u></p> <p>(23) <u>Upon completion of its full investigation, URCA will issue an order under section 95 of the Communications Act that either reinforces, changes or revokes the interim order."</u></p> |
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| Cross-reference to draft Code | Clause 10.9(28) | | |
| Draft Code provision | <p>(28) The possible sanctions available to URCA include a decision to:</p> <ul style="list-style-type: none"> (a) issue a direction to the Licensee not to repeat a programme or advertisement; (b) issue a direction to the Licensee to broadcast a correction or a statement of URCA's findings which may be required to be in such form, and to be included in programmes at such times, as URCA may determine; (c) impose a financial penalty under section 109 of the Communications Act; (d) suspend a Licence under section 109 of the Communications Act; and/or (e) revoke a Licence under section 109 of the Communications Act. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC proposed that, in addition to issuing a direction to a Licensee (especially for an advertisement) under Clause 10.9(21), URCA should ensure that all Licensees, not just the offending one, are made aware that the offending material is not to be further broadcast. | URCA disagrees with the proposal and considers that under section 102(3) of the Communications Act, a determination arising out of a complaint is legally binding on the parties to the determination, that is, it is personal to the parties to the determination (<i>in personam</i>). URCA is obligated under section 101 of the Act to | No action necessary. |

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| | | <p>promptly publish its determinations on its website and, in the circumstances posed by the respondent this should be sufficient notice to other Licensees not to replicate the offending behaviour. In any event, URCA considers that if necessary after having made a determination regarding specific offensive material, it can invoke its power under section 96 to issue an interim order to other Licensees who also broadcast the same material.</p> | |
| Cross-reference to draft Code | Clause 10.11 | | |
| Draft Code provision | <p>Licensee to Record and Report Code Complaints to URCA</p> <p>(1) Licensees must keep a written record of all Code Complaints received by them and such record of Code Complaints must include:</p> <ul style="list-style-type: none"> (a) the date and time the complaint is received; (b) the name, e-mail or postal address and telephone contact information of the complainant; (c) the substance of the complaint; (d) the substance and date of the Licensee’s response(s), and each such record of Code Complaints must be retained by the Licensee for a period of three (3) years from the date of receipt of the complaint or until the complaint is satisfactorily resolved, whichever should first occur. <p>(2) Licensees must report to URCA, within ten (10) calendar days of the end of the months of March, June, September and December in each calendar year, or upon request, the number and details of all Code Complaints, including for each Code Complaint:</p> <ul style="list-style-type: none"> (a) the date received; (b) the date or dates of response; (c) details of any complaint upheld; and (d) details of any action taken by the Licensee. (e) These reports to URCA should not include the name or any other identifying information of any | | |

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| | <p>complainant.</p> <p>(3) URCA will publish a quarterly summary of this information on its website as part of its industry complaints data.</p> <p>(4) Upon receipt of a Code Complaint made in accordance with Clause 10.2(1) of this Code (and does not fall within Clause 10.2(2)), the relevant Licensee shall, in compliance with Clause 2.6 of this Code, secure recordings of the programme or broadcast to which the complaint relates.</p> | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | <p>The BCC contended that a computerized and centralized CMS would eliminate the need for Licensees to keep in-house records under Clause 10.11(1) (beyond temporary or emergency records).</p> <p>The BCC contended that a computerized and centralized CMS would eliminate the need under Clause 10.11(2) for Licensees to send quarterly reports to URCA.</p> <p>The BCC contended that with a computerized and centralized CMS, Licensees would be able under Clause 10.11(4) to efficiently upload digitized complaints-related broadcast recordings (voice and video).</p> | <p>URCA agrees in principle with the concept of an automated Complaints Management System but cannot comment further. URCA considers that these proposals should be reviewed by the Industry Group as the costs of such a system for URCA would ultimately have to be borne by Licensees out of their annual URCA Fees and the costs of such a system for Licensees would have to be borne by Licensees.</p> | <p>URCA will refer to the Industry Group for review of the proposals that Licensees and URCA invest in automated Complaints Management Systems.</p> |
| CBL | <p>CBL contended that the 3 year period for the retention of recordings in Clause 10.11(1) if a complainant is not satisfied with the outcome of a complaint is too long and should be in accordance with the rules of the Utilities Appeal Tribunal</p> | <p>URCA disagrees with this proposal as the proposal fails to consider that Clause 10.11(1) only obligates Licensees to keep <u>written records</u> of the particulars of Code Complaints set out in</p> | <p>No action necessary.</p> |

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| | <p>(UAT), but in the absence of rules by the UAT, the retention period should be three (3) months which is consistent with appeal provisions in the general law.</p> <p>CBL proposed that the Code should include in the process of referring a complaint, a requirement (for the complainant) to declare to URCA whether legal action has commenced or is likely to be pursued or not, whereby the legal case takes precedence and URCA suspends action on the complaint until the conclusion of the legal matter. CBL also proposed that if a complaint becomes the subject of legal proceedings, URCA would suspend further action on the matter upon notification by any party of the proceedings.</p> <p>CBL proposed that when a complaint is</p> | <p>paragraphs (a) to (d) for a period of 3 years from the date of receiving the complaint or until the complaint is satisfactorily resolved, <u>whichever occurs first</u>. URCA considers that the issue of the timeframes for keeping <u>audiovideo and/or audio recordings</u> is adequately addressed in Clause 2.4 of the Code.</p> <p>URCA disagrees with the proposals that complainants should be required to declare whether legal action has, or is likely to be, commenced as URCA considers that the issues at stake in litigation are different from a Code Complaint because the purpose of a Code Complaints is not the award of monetary damages to complainants. The issues at stake in litigation are invariably about breaches of legal rights, whereas Code Complaints relate to breaches of broadcasting standards under regulatory or other measures issued by URCA and, consequently, breaches of the conditions of a Licensee's licence.</p> <p>URCA disagrees with this</p> | <p>No action necessary.</p> <p>No action necessary.</p> |
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| | <p>referred to URCA, the complaints handling procedure should include a conciliation process.</p> <p>CBL contended that the draft Code is unclear whether URCA decisions are</p> | <p>proposal and considers that the dialogue between the Licensee and members of its audience is fundamental to the Code’s complaints resolution process. URCA considers that this dialogue between audience members and Licensees and the “building of a record” (i.e., the presentation of arguments for and against the broadcast in question) is lost during an alternative dispute resolution (ADR) process such as conciliation and could deteriorate into a confrontational, adversarial and/or inquisitorial process, which the Code’s complaints handling is not intended to be. Additionally, URCA considers that conciliation does not lend itself to the complaints handling process in the draft Code as conciliation is typically geared towards bringing opposing parties together with the goal of arriving at an agreement or resolution to their disagreement, which is not the purpose of the Code’s complaints handling process.</p> <p>URCA considers that under section 102(3) of the</p> | <p>No action necessary.</p> |
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| | binding and can be used as precedents in future matters. | Communications Act, a determination arising out of a complaint is legally binding on the parties to the determination, that is, it is personal to the parties to the determination (<i>in personam</i>). URCA is obligated under section 101 of the Act to promptly publish its determinations on its website and in the circumstances, considers publication should be sufficient notice to other Licensees not to replicate the offending behaviour. URCA considers that such determinations are only of precedential value in complaints where the issues are exactly the same, as complaints are treated on a case-by-case basis. | |
| Cross-reference to draft Code | Clause 10.12(5) | | |
| Draft Code provision | (5) Industry Group members will consider content issues in accordance with the requirements of section 53 of the Communications Act. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| BTC | BTC proposed that under Clause 10.12(5) of the draft Code, the Industry Group should also consider content regulation in the wider context of laws relating to slander, copyright, trademarks, the protection of children, medical legislation, the Penal Code and data protection. | URCA considers that the work of the Working Group and the work of the Industry Group have and always will take into consideration the laws of The Bahamas including the laws relating to slander, copyright, trademarks, the protection of children, medical legislation, the | No action necessary. |

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| | | Penal Code and data protection whenever they affect content regulation issues. However, URCA considers that these considerations must be made in accordance with the requirements of sections 53 and 55 of the Communications Act. | |
| Cross-reference to draft Code | Clause 10.12(6) | | |
| Draft Code provision | (6) Members will also monitor compliance with Codes of Practice issued by URCA and will advise URCA on other content-related issues including media literacy. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC questioned the meaning of Clause 10.12(6); how the Industry Group would monitor Licensees' compliance with the Code; whether this function would be carried out collectively, individually or both collectively and individually; what Industry Group members would do with their findings should they become aware of Code breaches; and whether the draft Code provides for such an occurrence which if does not, should be included. | URCA considers that in accordance with section 55(1) of the Communications Act and section 30 of the Utilities Regulation and Competition Authority Act, the Industry Group is a co-regulatory body established by URCA to assist in developing codes of practice under section 53(1) of the Communications Act applicable to the content provision operations of each section of the broadcasting industry in The Bahamas and to monitor compliance with such codes. URCA and the Industry Group will jointly monitor compliance with the Code in accordance with Clauses 10.12 and 10.13 of the draft Code and the Group will advise URCA on other content-related issues affecting | No action necessary. |

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| | | the broadcasting industry. Industry Group members will not be involved in the sanctioning process, which is exclusively reserved to URCA under the Communications Act but if they become aware of Code breaches, they have the right to submit complaints to other Licensees in accordance with Part 10 of the Code. | |
| Cross-reference to draft Code | Clauses 10.12(8) and (9) | | |
| Draft Code provision | <p>(8) The Industry Group has up to ten (10) members, appointed by URCA for terms of three (3) years. It is chaired by a designated member of URCA.</p> <p>(9) The majority of Industry Group members are part-time and drawn from diverse backgrounds throughout The Bahamas, including both lay members and members with extensive broadcasting experience. Members are appointed to represent to URCA the interests and opinions of:</p> <ul style="list-style-type: none"> (a) Public Service Broadcasters; (b) providers of content service intended for reception by subscribers of carriage services; (c) private Bahamian television and radio broadcasting stations; (d) independent production companies; (e) mainstream public opinion; (f) ethnic minority views; (g) people living in the Family Islands; and (h) young people. | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC requested the names of the persons who have served and are currently serving on the Industry Group and who they represent [according to the interests enumerated in Clause 10:12(9)(a)-(h)]. | URCA is unable to provide the names of the persons who participated in the Industry Working Group meetings at this late stage of the consultation process as this was not previously an issue and due to | No action necessary. |

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| | | <p>time constraints to conclude the consultation is unable to obtain their consent to the disclosure of their names but can provide the names of the entities who sent employees or officers who attended some or all of the meetings between 29 June 2010 and 17 February 2011 and then from 23 June to 18 August 2011 as follows: Ministry of Education (educational broadcasting and youth; Broadcasting Corporation of The Bahamas (public service broadcasting); Cable Bahamas Ltd. (subscription content service); Tribune Media (radio); STAR 106.5 FM (radio); Jones Communications (radio and television); Island 102.9 FM (radio); More 94 FM (radio); JOY 101.9 (radio); Diane Phillips & Associates (independent production company); Media Enterprises (independent production company); Grand Bahama Chamber of Commerce (northern Family Islands); Coast 97 FM (radio and southern Family Islands). URCA also invited persons from other organisations to participate on a 'one-off' basis in meetings dealing with specific issues but only the following accepted and participated, namely the School</p> | |
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| | <p>The BCC also wanted to know what part-time means; the names of part time, full time and paid members of the Group; and the source of their pay.</p> | <p>for the Blind (access services); Disability Affairs Unit of the Ministry of Education (access services); and the Bahamas Coalition of Evangelical Pastors (harm and offence).</p> <p>URCA considers “part-time” to mean, in the context of Clause 10.12(9), that the person would be receiving a salary while devoting 20 hours or less per week of their time and activities to content regulation and the work of the Industry Group. All of the members of the Working Group were unpaid volunteers, so consequently there were never any part-time, full-time or paid members. As the Industry Group has not yet been appointed, there are no current part-time, full-time or paid members and URCA has no plans for the members of the Industry Group from the broadcasting industry to become part-time, full-time or paid members. Only URCA personnel are remunerated but receive no extra remuneration for participating in the work and activities of the Industry Working Group and the Industry Group, which forms part of their normal duties at URCA.</p> | <p>No action necessary.</p> |
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| | <p>The BCC proposed the expansion of the Industry Group to include parents, teachers, the Bahamas Christian Council (BCC), the Commissioner of Police, and other appropriate stakeholders as well as the formation of sub-groups to focus on various parts of the Code of interest to the public, like “Harm and Offence,” “Protecting Young Persons,” and “Complaints Handling Process.”</p> | <p>URCA disagrees with this proposal as URCA considers that it runs contrary to URCA’s statutory mandate under section 55(1) of the Communications Act to establish industry groups to develop codes of practice in consultation with URCA that apply to the content provision operations of each sector of the content provision industry. URCA considers that, in addition to the public consultation process stipulated in Clause 1.5 of the Code whenever the Code is reviewed or amended, the Industry Group may invite the participation of non-members to provide input and feedback on specific parts of the Code as part of the review process. Alternatively, URCA may at some future point establish advisory bodies under section 29(2) of the URCA Act that can include representatives from some or all of the entities proposed by the BCC.</p> | <p>No action necessary.</p> |
| | <p>While the BCC had no objections on how URCA chooses to appoint members representing the broadcasting industry, they proposed a</p> | <p>URCA agrees with the proposal for transparency in the appointment of members of the Industry Group. URCA disagrees</p> | <p>No action necessary.</p> |

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| | transparent process to appoint other members, such as inviting applications from members of the public who wish to be considered as members of the Industry Group or a sub-group, thereby providing URCA with a pool of people to select from. | with the proposal to invite applications from members of the public for the reasons stated above. | |
| URCA | Not applicable. | | URCA will: (1) create a new Part 11 of the Code titled: <u>Part 11:</u> <u>“The Industry Group and Code Administration”</u> ; and (2) insert Clauses 10.12 and 10.13 into the new Part 11 and renumber them as Clauses 11.1 and 11.2 respectively. |
| Cross-reference to draft Code | Clause 10.13(3) | | |
| Draft Code provision | (3) URCA will publish as part of its Annual Report a report on Code administration by Licensees. This report will be available to the public and will contain the number and substance of Code Complaints received by Licensees and by URCA, details of each complaint upheld and of the action taken by Licensees and by URCA in each case. | | |
| Name of Respondent | Response to Consultation | URCA’s Comments | URCA’s Final Decision |
| Bahamas Christian Council | The BCC proposed that if URCA adopted a unified CMS, the Code Complaints report under Clause 10.13(3), would be easily compiled. | URCA agrees in principle with this proposal, subject to URCA’s earlier comments regarding the costs associated with purchasing such a system. URCA cautions that the compilation of data on Code Complaints is only one part of the Annual Report on Code | No action necessary. |

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| | | administration. | |
| Cross-reference to draft Code | Clause 10.12 and Clause 10.13 | | |
| Draft Code provision | <p>Functions and Role of the Industry Group</p> <p>(1) The Industry Group is a co-regulatory body of URCA with delegated and advisory responsibility for the content provision operations of each of those sections of the electronic communications industry. It is established under section 55(1) of the Communications Act and section 30 of the URCA Act.</p> <p>(2) URCA will seek advice and recommendations from the Industry Group on any content-related aspects delegated to the Industry Group.</p> <p>(3) The Industry Group serves as URCA’s primary forum for the regulation of television and radio broadcasting quality and standards. The Group is charged with understanding, analysing and championing the voices and interest of the viewer, the listener and the public in The Bahamas.</p> <p>(4) The Industry Group will examine issues where the interest of the public extends beyond the interest of consumers, with focus on those aspects of the public interest which competition and market forces do not reach.</p> <p>(5) Industry Group members will consider content issues in accordance with the requirements of section 53 of the Communications Act.</p> <p>(6) Members will also monitor compliance with Codes of Practice issued by URCA and will advise URCA on other content-related issues including media literacy.</p> <p>(7) The Industry Group submits a formal annual report to URCA about its activities. That report will inform the content-related sections of URCA’s Annual Report.</p> <p>(8) The Industry Group has up to ten (10) members, appointed by URCA for terms of three (3) years. It is chaired by a designated member of URCA.</p> <p>(9) The majority of Industry Group members are part-time and drawn from diverse backgrounds throughout The Bahamas, including both lay members and members with extensive broadcasting</p> | | |

| | <p>experience. Members are appointed to represent to URCA the interests and opinions of:</p> <ul style="list-style-type: none"> (a) Public Service Broadcasters; (b) providers of content service intended for reception by subscribers of carriage services; (c) private Bahamian television and radio broadcasting stations; (d) independent production companies; (e) mainstream public opinion; (f) ethnic minority views; (g) people living in the Family Islands; and (h) young people. <p>Code Administration</p> <p>(1) URCA will meet as often as necessary but not less than once every six (6) months with Industry Groups established under section 55 of the Communications Act to review the administration of the Code, the success of awareness-raising campaigns, challenges facing Licensees in terms of compliance and sharing of best practice, and other issues arising from the complaints-handling procedures.</p> <p>(2) The role of the Industry Group will be assessed as part of the review of the administration of the Code, with a view to considering whether the Industry Group should play an on-going role in the development of Codes of Practice and of the complaints-handling process, and what that on-going role should be.</p> <p>(3) URCA will publish as part of its Annual Report a report on Code administration by Licensees. This report will be available to the public and will contain the number and substance of Code Complaints received by Licensees and by URCA, details of each complaint upheld and of the action taken by Licensees and by URCA in each case.</p> | | |
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| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| URCA | Not applicable. | URCA considers that it should create a new Part 11 of the Code titled "The Industry Group and Code Administration" consisting of Clauses 10.12 and 10.13 as URCA considers that these | URCA will: (1) create a new Part 11 of the Code titled " <u>Part 11: The Industry Group and Code Administration</u> "; |

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| | | <p>clauses should be separated from complaints-handling in Part 10 and renumber Clause 10.12 and 10.13 as Clauses 11.1 and 11.2 respectively. URCA further considers that it should fully revise Clause 10.12 (i.e., Clause 11.1) to clarify the role, functions and composition of the Industry Group in keeping with Part IX of the Communications Act, particularly s. 55.</p> | <p>(2) insert Clauses 10.12 and 10.13 into the new Part 11 and renumber them as Clauses 11.1 and 11.2 respectively;</p> <p>(3) amend Part 11 and Clause 10.12 (i.e., Clause 11.1) as follows:</p> <p><u>PART 11 THE INDUSTRY GROUP AND CODE ADMINISTRATION</u></p> <p><u>This Part of the Code contains framework for the appointment of persons as members of the Industry Group, its mandate how it will monitor compliance with the Code by Licensees.</u></p> <p>10.12<u>11.1</u> Functions and Role of the Industry Group</p> <p>(1) The Industry Group is a co-regulatory body of URCA with delegated and advisory responsibility for the content provision operations of each of those sections of the electronic communications</p> |
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| | | | <p><u>broadcasting industry in The Bahamas</u>. It is established under section 55(1) of the Communications Act and section 30 of the URCA Act.</p> <p>(2) URCA will seek advice and recommendations from the Industry Group on any content-related aspects delegated to the Industry Group.</p> <p>(3) The Industry Group serves as URCA's primary <u>advisory forum for the development of content regulation of television, and radio and other forms of content provision, broadcasting, quality and broadcasting standards</u>. The <u>Industry Group</u> is charged with understanding, analysing and championing <u>representing the voices views and interests of the viewer, the listener and the public content provision operations of</u></p> |
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| | | | <p><u>each section of the broadcasting industry in The Bahamas.</u></p> <p>(4) The Industry Group will examine issues where the interest of the public extends beyond the interest of consumers, with focus on those <u>all</u> aspects of <u>each section of the public interest which competition and market forces do not reach content provision operations of the broadcasting industry in The Bahamas and monitor the compliance of Licensees with this Code and any other codes of practice applicable to content provision operations.</u></p> <p>(5) Industry Group members will consider content <u>regulation</u> issues in accordance with the requirements of section 53 of the Communications Act.</p> <p>(6) Members will also</p> |
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| | | | <p>monitor compliance with Codes of Practice issued by URCA and will advise URCA on other content-related issues including media literacy <u>and public awareness</u>.</p> <p>(7) <u>URCA will, in collaboration with The the Industry Group, submits prepare</u> a formal annual report to URCA about its <u>the</u> activities of the Industry Group. That report will inform the content <u>regulation-related</u> sections of URCA’s Annual Report.</p> <p>(8) The Industry Group has up to ten (10) members, appointed by URCA for terms of three (3) years. It is chaired by a designated member of URCA.</p> <p>(9) The majority of Industry Group members are part-time and drawn from diverse backgrounds throughout The Bahamas, including both lay members and members</p> |
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| | | | <p>with extensive broadcasting experience. Members are appointed to represent to URCA the interests and opinions of:</p> <ul style="list-style-type: none"> (a) <u>Licensees designated as Public Service Broadcasters;</u> (b) providers of <u>Licensees providing content service intended for reception by subscribers of carriage services and on-demand audiovisual media services, including cable television service providers and direct-broadcast satellite television services;</u> (c) <u>Licensees operating private Bahamian television and radio broadcasting stations;</u> (d) independent production companies; (e) mainstream public opinion <u>the Ministry of Education;</u> (f) ethnic minority views <u>Licensees providing dedicated internet video</u> |
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| | | | <p><u>/television and radio/audio webcast programming services;</u></p> <p>(g) people living <u>Licensees operating in the Family Islands; and</u></p> <p>(h) young people <u>Licensees providing teletext services.</u></p> |
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Question 11:

Do you have any further comments to make on the proposals in this consultation document that are not covered or raised by the other consultation questions?

The following comments were received in respect of this Question:

| Cross-reference to draft Code | GENERAL FURTHER COMMENTS | | |
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| Draft Code provision | None | | |
| Name of Respondent | Response to Consultation | URCA's Comments | URCA's Final Decision |
| Bahamas Christian Council | The BCC contended that certain Parts of the code are unclear regarding their practical outworking and proposed that URCA should identify them while developing and publishing guidelines to assist Licensees and the public to understand how the Code actually works as is being proposed in Trinidad and Tobago in their draft content regulation rules. | URCA agrees with the respondent's proposal regarding the need to publish guidelines to assist Licensees and the public in understanding how the Code works and considers it should refer that proposal to the Industry Group for review. URCA will publish the final version of the Code following the conclusion of this public consultation and, in consultation with the Industry Group, will as soon as reasonably practicable thereafter, develop guidelines which will expand gradually as it becomes more apparent to URCA and the Industry Group which issues in the Code of Practice need to be clarified. | URCA will refer to the Industry Group for review the proposal of publishing guidelines to assist Licensees and the public in interpreting and applying the Code. |
| | The BCC also proposed that, for the protection of the Bahamian public and URCA's Licensees, the Bahamas | URCA notes that this proposal is a legal inter-jurisdictional or inter-governmental matter | No action necessary. |

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| | Government should either enforce laws (if they exist) or pass laws (if none exist) to address the practice of installing Satellite TV (like DIRECTV) in The Bahamas as the BCC's inquiries indicate that the laws of the United States prohibit DIRECTV from offering service outside of that country. | addressed to the Bahamas Government and not to URCA and, in any event, involves copyright enforcement and other issues that are currently outside of URCA's jurisdiction. URCA considers that the only potential issue raised by the BCC's proposal is that of licensing and regulating such persons as content service providers, which issue URCA has addressed in Part 1 of this document. | |
| Bahamas Coalition of Evangelical Pastors | The BCEP adopted the Bahamas Christian Council's response to this question. | URCA acknowledges and thanks the BCEP for its comment in response to Question 11. | No action necessary. |
| BTC | BTC noted that there was no discussion of media literacy in the Public Consultation. BTC commented that while the regulator needs to ensure that there is compliance with the Code, the regulator also has a responsibility to educate the public so they monitor the behaviour of Licensees. BTC contended that, in developing the draft Code of Practice, URCA had not attached sufficient weight to the role of consumer education/awareness, and, based on the relatively immature stage of development of consumer awareness in the communications sector, a consistent programme of consumer education/awareness by URCA would be both appropriate and reap long term beneficial results. | URCA agrees that the drafting of the Code of Practice and input and feedback received from the public to this consultation strongly indicate that, going forward, URCA should consider conducting media and public awareness initiatives about the Code of Practice. URCA considers that such initiatives would have to emanate from its 2012 Annual Plan as part of community outreach and similar programmes. | URCA will review its ability to conduct media and public awareness initiatives within its 2012 Annual Plan. |

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| BCB | <p>The BCB stated that it was generally in agreement with the proposed Code of Practice for the regulation of content and audiovisual media services and welcomed the opportunity to highlight and comment on a few areas of particular interest to it.</p> <p>Regarding protection of children, the BCB stated that the proposed “watershed” period in the Code was significant in seeking to provide protection for children by allowing the broadcast of certain content only after 9.00 PM. The BCB noted that, in addition to programme scheduling, the draft Code also requires the publishing of audience advisories and the publication of programme classifications for the benefit of the public and the protection of children as no television programme classification system currently exists in The Bahamas.</p> <p>The BCB contended that while cable television providers would be able to escape the application of some clauses of the draft Code because it is generally not in control of its programme content, the BCB noted that the Code seeks to ensure that Licensees are responsible for what they broadcast, which proposal the BCB supported.</p> | <p>URCA acknowledges and thanks the BCB for these comments.</p> <p>URCA acknowledges and thanks the BCB for these comments.</p> <p>URCA acknowledges and thanks the BCB for these comments but considers that cable television providers in their capacities as audiovisual media services are wholly subject to the Code’s provisions and in their capacities as content services and carriages services are subject to a determination made under the Communications Act as to how</p> | <p>No action necessary.</p> <p>No action necessary.</p> <p>No action necessary.</p> |

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| | <p>The BCB noted that the draft Code relaxes the strict advertising and sponsorship rules previously in existence under the Broadcasting Act regime and proposes to allow Licensees the flexibility and creativity to best schedule commercial and political advertisements on their stations to increase revenue and maximize audience retention.</p> | <p>and what parts of the Code's provisions will apply to them.</p> <p>URCA acknowledges and thanks the BCB for these comments.</p> | <p>No action necessary.</p> |
| | <p>The BCB expressed its concern over what it contended is an unfair competitive advantage enjoyed by Cable Bahamas Limited (CBL) in broadcasting on the premise that CBL is not a content provider but an infrastructure system. The BCB contended that CBL was originally required to distribute ZNS (as part of CBL's channel line-up) and provide for a community access channel which has since transformed into original programming and free airtime for local producers. The BCB disagreed with CBL being in the original content producing business versus simply facilitating local content and contended that the issue requires clarification.</p> | <p>URCA acknowledges and thanks the BCB for these comments. However, URCA considers that respondents and the public should understand that when the Communications Act came into force on 1st September 2009 and CBL obtained an Individual Operating Licence (IOL) under the new licensing regime, the obligations that CBL had under its cable television franchise to provide community access channels and similar amenities were not duplicated in the new IOL. Consequently, CBL's IOL allows it to establish, maintain and operate a network or provide a carriage service offering electronic communications services which</p> | <p>No action necessary.</p> |

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| | <p>The BCB also contended CBL is now broadcasting advertisements on multiple cable channels at very low cost that amounted to ‘dumping’ (i.e., flooding the market with cheap advertisements) to the detriment of its competitors as free-to-air television stations do not have the same revenue base as CBL. The BCB questioned whether CBL should be allowed to dramatically undersell advertisements on its various channels and whether it</p> | <p>include broadcasting, voice communications, internet and cable television. The BCB questions whether CBL can produce original content versus simply facilitating local content. URCA refers to its review in 2010 on the provision of Public Service Broadcasting in The Bahamas when research conducted by URCA found that focus group participants stated that they wanted to see more providers of original Bahamian content. Rather than being anti-competitive, URCA’s research indicates that the production of more original Bahamian content by entities like CBL provides a competitive stimulus that should also encourage the BCB to respond in similar fashion.</p> <p>URCA acknowledges and thanks the BCB for these comments. URCA considers that the BCB’s claims of anti-competitive conduct (i.e., abuse of a dominant position) by CBL in the under-pricing and broadcasting of advertisements on multiple cable channels to the detriment of CBL’s competitors is not the subject of this public consultation. URCA considers</p> | <p>No action necessary.</p> |
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| | <p>amounted to an unfair competitive advantage requiring an investigation by URCA.</p> <p>The BCB acknowledged that it has been designated as a public service broadcaster and, as a consequence, the Code appeared to distinguish public service broadcasters and commercial broadcast entities through measures such as a 16 minute per hour limit on advertisements for public service broadcasters versus no per hour limits on advertising and sponsorship broadcast by commercial broadcasters. The BCB also agreed with the obligation in the draft Code for Public Service Broadcasters to broadcast, free of charge, emergency messages relating to hurricane warnings, floods, fires, national and local emergencies or disasters and other similar safety messages emanating from national or</p> | <p>that advertising and, consequently, the issues of dominance in advertising and selling advertising at below market rates are not “electronic communications services” as defined in s. 2 of the Communications Act. However, the issue of abuse of a dominant position can be investigated following a properly submitted complaint to URCA made under s. 69 of the Communications Act and URCA’s Competition Guidelines in ECS COMP. 7 and ECS COMP. 9.</p> <p>URCA acknowledges and thanks the BCB for these comments. As URCA has stated elsewhere in this document, having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), URCA considers that it should delete all proposals in the draft Code relating to PSB and more properly include them in its recommendations to the Minister.</p> | <p>URCA will delete all proposals in the draft Code relating to PSB and more properly include them in its PSB recommendations to the Minister under s. 60(1) of the Communications Act.</p> |
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| | <p>local government and national or local emergency service organizations, which the Corporation has always done, and notes that other Licensees are encouraged to also broadcast these messages free of charge.</p> <p>The BCB noted that it supports the proposal in the draft Code and currently broadcasts free of charge public service advertisements providing publicity for government agencies and registered charitable or community service organizations. The BCB also noted the relatively new requirement in the draft Code for public service broadcasters to provide access services such as signing or close caption for the hearing and visually impaired during nationally televised news programmes which the BCB, in conjunction with the Ministry of Education and Culture's Disability Unit, has been providing since 2009.</p> <p>The BCB stated that it believes the public will appreciate having a recognizable complaints handling process in the draft Code that involves Licensees publicising the complaints handling procedure along with time lines, thereby ensuring that Licensees have an opportunity to first resolve Code complaints and only if the complainant is dissatisfied or the complaint not resolved, the matter is</p> | <p>URCA acknowledges and thanks the BCB for these comments. URCA takes special note of the comment that the BCB, in conjunction with the Ministry of Education and Culture's Disability Unit, has been providing signing for the hearing impaired during its nationally televised news programme since 2009.</p> <p>URCA acknowledges and thanks the BCB for these comments.</p> | <p>No action necessary.</p> <p>No action necessary.</p> |
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| | <p>referred to URCA for resolution, although URCA may investigate complaints without referral.</p> <p>The BCB contended that the requirement in the draft Code for Licensees to keep a written record of all Code Complaints and provide URCA with quarterly reports imposes additional record keeping responsibilities on all Licensees and indicates to the BCB that content regulation will be complaint-driven because URCA is currently unable to monitor Licensees' content.</p> <p>The BCB also agreed with the proposed review period in the draft Code allowing timely adjustments to the document in the future.</p> | <p>URCA acknowledges and thanks the BCB for these comments but considers it should clarify that in addition to content regulation being complaints-driven, the Code also provides for URCA to conduct its own investigations</p> <p>URCA acknowledges and thanks the BCB for these comments.</p> | <p>No action necessary.</p> <p>No action necessary.</p> |
| CBL | <p>CBL noted that the Interim Codes of Practise issued by URCA in 2010 will remain in force until new Codes of Practice are published but proposed that there should be a transition period of six (6) to twelve (12) months before the new Code comes into effect so that Licensees could adapt their operations to the various requirements (i.e., complaint handling procedure, classifications, watershed periods, on-air announcements of Code complaints submission procedures, reporting requirements, etc.). CBL noted that a transition period would prevent the</p> | <p>URCA thanks CBL for these comments but disagrees with the proposal for a 6 to 12-month transition period before the new Code replaces the Interim Codes issued in 2010. As URCA pointed out in the consultation document, The Bahamas is not a stranger to content regulation. URCA considers that the Interim Codes made clear that the Interim Codes would only continue in effect until replaced by a new Code. URCA considers that the new Code should come</p> | <p>URCA will bring the new Code into full force on the day it is published, but, as a matter of policy, will treat any breaches with leniency (other than breaches relating to political broadcasts and political advertisement) for a period of 1 month.</p> |

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| | <p>Code provisions in Part 6 on political broadcasts and political advertisements from applying to the 2012 general elections and proposed that Part 6 of the Code could come into effect immediately. CBL proposed alternatively that if the Code comes into effect immediately, the penal aspects of the new Code should be delayed from coming into effect for six (6) to twelve (12) months during which time the Licensees would comply with the Code but URCA would not enforce any breaches or omissions during the transition period.</p> <p>CBL proposed that as the draft Code does not address how the Code will apply to programmes produced before its publication, those programmes (except for the watershed period) should be exempt from provisions of the Code such as the requirement to have ratings or the obtaining of parental consent for participants, and Licensees would still be obliged to broadcast such programmes in the appropriate time period.</p> | <p>into full force on the day it is published, but that URCA should, as a matter of policy, treat any breaches with leniency (other than breaches relating to political broadcasts and political advertisement) for a period of 1 month.</p> <p>URCA thanks CBL for these comments but disagrees with the proposal to exempt programmes produced before the publication of the new Code (except for the watershed period) from provisions of the Code. URCA considers that programmes produced before the new Code comes into effect were first subject to the repealed Broadcasting Regulations of 1992 and 1993 and, since January or April of 2010, to the Interim Codes of Practice. URCA considers that it should be pragmatic during the transition period but also considers that scheduling decisions can easily be adjusted and advisories</p> | <p>No action necessary.</p> |
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| | | <p>provided for programmes that have already been made, so that these issues should not cause undue difficulties for Licensees. URCA considers that while the watershed period and appropriate time periods would apply to the broadcasting of programmes produced before the new Code, URCA considers that the pragmatic approach towards the issue of obtaining parental consent for programmes produced before the new Code comes into effect is there was no requirement for such consent in either the Regulations or Interim Codes.</p> | |
| Demetra Rolle | <p>This respondent agreed with the statement in paragraph 2 of the Consultation Document that "As a consequence of their ubiquity and impact, radio and TV stations have the primary responsibility for ensuring that the material they broadcast reflects community values and standards".</p> | <p>URCA acknowledges and thanks the respondent for her comments.</p> | <p>No action necessary.</p> |
| Derek Smith | <p>This respondent cautioned that care was required in monitoring and enforcing the latent profanity that the respondent contends is not in line with Bahamian ethical practices but insidiously and pervasively seeps across the airways, mostly through presenters and the lyrics in songs.</p> | <p>URCA acknowledges and thanks the respondent for his comments.</p> | <p>No action necessary.</p> |

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| <p>Linda Thomas</p> | <p>The respondent questioned (1) how long URCA would retain records of complaints received and processed by it; (2) whether complaints adjudicated by URCA could be appealed; (3) whether URCA was able to say how much it would cost Licensees to implement the Code; (4) whether implementation of the Code would result in increased advertising costs, increased costs passed on to consumers or increases in the cost of cable television; (5) whether URCA would hire more people to carry out enforcement of the Code; and (6) the date when the Codes take effect.</p> | <p>URCA acknowledges and thanks the respondent for her comments and responds thereto as follows: (1) There are no time limits on how long URCA retains records complaints or any other matter that it receives. (2) Persons dissatisfied with URCA's decision on a Code Complaint can appeal the outcome to the Utilities Appeal Tribunal pursuant to Clause 10.10 of the draft Code and Part XVIII of the Communications Act. (3) URCA currently has no knowledge or information on how much it will cost Licensees to implement the Code but considers that the new Code effectively codifies what is invariably international 'best practice' in the broadcasting industry both abroad and in The Bahamas. (4) URCA currently has no knowledge or information on whether implementation of the Code would result in increased advertising costs, increased costs to consumers or increases in the cost of cable television but considers that the new Code effectively codifies what is invariably international 'best practice' in the broadcasting industry both abroad and in The Bahamas. (5) URCA currently has no plans to hire additional</p> | <p>No action necessary.</p> |
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| | | personnel solely for the purpose of enforcing the Code. (6) URCA anticipates that the new Code will come into effect before the end of February 2012. | |
| Shemika S. Miller | <p>The respondent expressed her agreement with the Consumer Centre section of URCA’s website which the respondent described as very informative, user friendly and adequately supports URCA’s goal of consumer empowerment.</p> <p>The respondent proposed that URCA should state the core values of the Code, namely “fairness”, “co-regulation”, “transparency”, and “empowerment of the Bahamian people” in the introduction to the Code as evidence of their importance.</p> <p>The respondent proposed that the comment on page 5 (paragraph 10) of the Consultation Document, regarding the assurance that broadcast programmes reflect “values expected by members of the public” should be limited to “wholesome values” because, over time, the prevailing values in The Bahamas may degrade immorally and URCA should not require Licensees to reflect such values, even if they become “expected” or “the standard”.</p> | <p>URCA acknowledges and thanks the respondent for her comments.</p> <p>URCA agrees with this proposal and considers that it should amend the Outline of the Code of Practice accordingly.</p> <p>URCA disagrees with this proposal and considers that the cited text does constitute part of the substantive provisions of the Code.</p> | <p>No action necessary.</p> <p>URCA will amend the Outline of the Code of Practice to include the core values of the Code, namely “fairness”, “co-regulation”, “transparency”, and “empowerment of the Bahamian people” as evidence of their importance.</p> <p>No action necessary.</p> |

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| | <p>The respondent considered that many of the Code provisions require market research (e.g., regarding viewer interest and feedback) and proposed that URCA should decide whether it will perform/purchase any such research; whether Licensees will be required to submit such research to URCA; or whether Licensees must simply provide evidence that such research was done.</p> <p>The respondent proposed the organising of an annual awards program or gala, with awards, trophies, titles, plaques, banners, etc., and bragging rights, to further encourage Licensees to behave in accordance with Codes, taking into account survey results, history of breaches, reports from onsite visits, etc., as the basis for determining awardees.</p> <p>The respondent proposed that before publication, the Code should undergo proofreading for minor errors such as:</p> <ul style="list-style-type: none"> • Clause 8.24(2) is listed twice (the numbers not the data). • The word “than” is missing from | <p>URCA acknowledges and thanks the respondent for her comments. URCA agrees with this proposal in principle and considers that, having regard to the requirement in s. 60(1) of the Communications Act for URCA to make recommendations to the Minister regarding Public Service Broadcasting (PSB), it should include conducting market research from time to time into viewer interests, programming tastes, etc., in its recommendations to the Minister.</p> <p>URCA acknowledges and thanks the respondent for her comments. URCA agrees with this proposal in principle but considers that it should be referred to the Industry Group for review.</p> <p>URCA acknowledges and thanks the respondent for her comments and considers that it should make such corrections or amendments to the published version of the Code as might be necessary.</p> | <p>URCA will include in its recommendations to the Minister under s. 60(1) of the Communications Act regarding Public Service Broadcasting (PSB) for URCA to conduct market research from time to time into viewer interests, programming tastes, etc.</p> <p>URCA will refer to the Industry Group for review the proposal to organise an annual awards program or gala, with awards, trophies, titles, plaques, banners, etc., and bragging rights, to further encourage Licensees to behave in accordance with Code.</p> <p>URCA will make any proofreading corrections or amendments to the published version of the Code as might be necessary.</p> |
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| | <p>line 11 of Clause 9.6(4)(f).</p> <ul style="list-style-type: none"> • Change “have provide” in Clause to “have provided”. • Capitalization should be consistent throughout the document, such as the headings in Sections 1.1 and 1.2. • In the Table of Contents, change Section 1.3 to read “Structure of the remainder...” | | |
| <p>Rev. Antonio Beckford</p> | <p>The respondent contended that references to freedom of speech and freedom of expression in the ‘Outline of the Code of Practice’ are protected by the Bahamas Constitution, and by placing limitations on the church in the draft Code prevents the church and, by extension, its members from being able to enjoy these freedoms.</p> | <p>URCA acknowledges and thanks the respondent for his comments. URCA agrees in principle that the Code places some limitations on the content of religious programmes but considers that such limitations as there are in the Code on religious programmes are not inconsistent with the provisions of Article 23 of the Bahamas Constitution and are consistent with URCA’s responsibility under s. 53 of the Communications Act to ensure that broadcasting inures to the benefit of Bahamian society in general, and to protect vulnerable groups within the society.</p> <p>URCA disagrees with the respondent that the provisions of the Code violate</p> | <p>No action necessary.</p> |

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| | | <p>the rights or freedoms of speech and expression of the church as a body politic or, by extension, its members. URCA considers that, in addition to the reasons given above, the provisions of the Code place a necessary but appreciable limitation on religious programmes to both protect the quality of Bahamian broadcasting, and also to protect persons from exploitation.</p> | |
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3. CODE OF PRACTICE FOR CONTENT REGULATION

Outline of the Code of Practice

Broadcasting is a fundamental form of exercise of the right to freedom of expression, from the perspective of both the person providing a content service and the person receiving that service. The former is exercising his or her right to hold opinions and to impart ideas and information without interference, and the latter has a right to receive the views so imparted. These rights are enshrined in Article 23 of the Constitution of the Commonwealth of The Bahamas, which also contains the important caveat that they may be limited by law to the extent reasonable in the interests of particular causes including defence, public safety, public order, public morality and public health. Freedom of expression may also be limited to protect the rights, reputations and freedoms of other persons, to protect confidences, and to maintain the authority and independence of the courts.

The Communications Act expressly contemplates such limitations through Codes of Practice binding on providers of audiovisual media services, to achieve aims consistent with Article 23 of the Constitution, as set out in section 53 of the Communications Act. The Communications Act also recognises through section 52 of the Communications Act that it may also be appropriate for URCA, by determination, to regulate other content services (which are not audiovisual media services) intended for reception by subscribers of carriage services or by broadcasting in The Bahamas.² This Code of Practice for Content Regulation seeks to achieve those aims as well as others determined by URCA in consultation with the industry to be in the best interests of the public in The Bahamas. The core values and concepts of content regulation are reflected in this Code of Practice, namely fairness, co-regulation, transparency and empowerment of the Bahamian people and are stated here to emphasise their importance.

The Code of Practice is divided into eleven (11) Parts. Each Part of the Code focuses on either interpretative and administrative issues or specific content related objectives identified as important to the development of a broadcasting sector which serves to enhance and enrich the social fabric of The Bahamas. The objectives of each of Parts 1 to 11 of the Code are set out in greater detail below:

Part 1 – Interpretation, Purpose and Applicability

Part 1 sets out definitions, which aid interpretation of the provisions of the Code, and establishes the boundaries of the Code’s applicability.

² The term ‘audiovisual media service’ is defined in the Communications Act to refer to content services for which the Communications Act Licensee has “editorial control”. This term therefore excludes, for example, the foreign produced channels delivered by pay television providers, which are covered by the wider term “content services” contemplated in section 52. URCA intends to regulate the content provided on all content services.

Part 2 – Operational and Technical Rules

This Part of the Code contains Operational and Technical rules which generally underpin the more “content related” rules within the remainder of the Code. These rules ensure that Licensees have in place appropriate systems and procedures to enable effective application of the principles and rules set out in the Code.

Part 3 – Underlying Principles for Broadcasting in The Bahamas

This Part of the Code contains the underlying principles that the Code seeks to engender in Bahamian broadcasting. It includes positive rules designed to encourage broadcasters to offer certain kinds of subject matter of particular relevance to Bahamian audiences and importance to the development of Bahamian culture and society.

Part 4 – Harm and Offence

Part 4 of the Code addresses various areas in which broadcast content has the potential to harm the public within The Bahamas either individually or collectively as a society, and seeks to put in place standards to protect against such harm. It includes issues such as preservation of law and order, harmful and offensive material, religious programming and contests and promotions.

Part 5 – Protection of Young Persons

Part 5 of the Code is intended to ensure that Licensees adopt responsible policies through scheduling, advisories and programme classifications so as to limit the exposure of children and young persons in various age ranges to potentially harmful or unsuitable broadcast material that is intended for, and acceptable only to, adult audiences.

Part 6 – Political Broadcasts and Political Advertisements

This Part of the Code sets out the standards applicable to the broadcasting of political advertisements and election programmes arranged and paid for by potential candidates, actual candidates, political parties and other persons or entities outside of election periods and during the period preceding a parliamentary general election or bye-election, a referendum or a local government election.

Part 7 – Advertising and Sponsorships

Part 7 of the Code is intended to ensure that advertisements and sponsorships are legal, decent and truthful and that they are presented with a sense of obligation to the consumer, whether they are directed at adults or at children, and to society.

Part 8 - News and Factual Programmes

Part 8 of the Code is intended to ensure that news, current affairs and factual programmes are presented accurately and impartially; are presented fairly, having regard to the likely composition of the audience and, in particular, the presence of children; and that they take account of personal privacy. Coverage of controversial issues, including subjects that some people may find offensive, is encouraged provided the coverage is presented carefully, taking into account cultural differences in communities or localities throughout The Bahamas, where relevant.

Part 9 - Access Services

This Part of the Code sets out the standards to encourage and ensure access by persons with hearing or visual impairments to content delivered via audiovisual media services, particularly where that content is of public significance as in the case of news and current affairs, and emergency information.

Part 10 – Complaints Handling Process

Part 10 contains the procedures for complaints about matters addressed in the Code.

Part 11 – The Industry Group and Code Administration

This Part of the Code contains the framework for the establishment of the Industry Group, the appointment and composition of its members of the Industry Group, its mandate and the process by which it will monitor compliance with the Code by Licensees.

PART 1: INTERPRETATION, PURPOSE AND APPLICABILITY

This Part of the Code contains the definitions and interpretation of words and phrases used in the Code; the purpose of the Code and its regulatory framework under the Communications Act; the persons to whom and situations in which the code applies; the circumstances under which non-compliance with the Code might be excused and the establishment of an on-going review process for the Code.

1.1 Definitions and Interpretation

(1) Terms used in this Code shall have the following meanings:

Access services means services which make the content in audiovisual media services accessible to persons who are deaf, hard of hearing or visually impaired using facilities such as subtitles (closed or open captioning), described video, audio description and signing.

Adult means a person who has attained the age of eighteen (18) years.

Advertisement means any form of message or announcement made aurally or using text or images, of any duration broadcast by a Licensee, whether in return for payment by an advertiser or not, or for self-promotional purposes of the Licensee, and the whole or a substantial purpose of which involves the direct or indirect promotion of a programme, product, service, belief or course of action.

Animation includes:

- (a) computer-assisted animation (the technique of revising existing animated material using computer technology);
- (b) computer-generated animation (the technique of generating animated movement principally or wholly through digital image synthesis using computers and computer programs);
- (c) frame-by-frame animation (the process of filming or otherwise recording a series of poses of figures, objects or shapes, or drawings, each slightly displaced from the preceding pose, or of drawing them in sequence on successive frames of recording material, one or more frames at a time. When the film is projected or the recording is played, the rapid projection of the multiple images gives the illusion of movement); and
- (d) continuous action animation (the process of filming real figures, shapes or objects as they are manipulated using mechanical or other devices. When the film or recording is played, the rapid projection of the multiple images gives the illusion of movement. Examples of continuous action animation would include puppets controlled by a puppeteer and filmed continuously in real time, and pixilation animation using live action shots of real people in real locations, manipulated to achieve the

effect of having actors jump, jerk or twitch as if they were being animated).

Audio description (also known as described video) refers to an additional narration track for blind and visually impaired consumers of visual media, such as television programmes and feature films, and consists of a narrator talking through the presentation, describing what is happening on the screen during the natural pauses in the audio, and sometimes during dialogue if deemed necessary.

Audiovisual media service has the meaning given in section 2 of the Communications Act, namely a service for the provision of material with a view to its being comprised in signals conveyed by means of a network which is under the editorial responsibility of the service provider of that service and includes a “cable system” as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.

Authorised officer refers to the general manager or chief executive officer of the Licensee, or any person authorised by that person, on matters relating to compliance with this Code.

Broadcasting Act means the Broadcasting Act (Ch. 305).

Broadcasting has the meaning given in section 2 of the Communications Act, namely a service which consists in the provision of:

- (a) television programmes;
- (b) radio programmes; or
- (c) teletext services,

so as to be available for reception by members of the public.

Broadcasting station or **station** means a station equipped and used by a Licensee to transmit or broadcast radio or television programmes to the general public.

Candidate has the meaning given to it in section 2 of the Parliamentary Elections Act (Ch. 7), namely any person who stands nominated as a candidate for election for any parliamentary constituency or local government district.

Carriage service has the meaning given in section 2 of the Communications Act, namely any service consisting in whole or in part or the conveyance of signals by means of a network, except in so far as it is a content service, including the provision of ancillary services to the conveyance of signals and conditional

access or other related services to enable a customer to access a content service and includes a “cable system” as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.

Channel means a range of frequencies (or, equivalently, wavelengths) assigned by URCA for the operation of a particular radio station, television station or television channel on a carriage service, content service or audiovisual media service. It may also be used to refer to the station operating on a particular frequency.

Children refers to persons who have not yet attained the age of eighteen (18) years, and includes **younger children** (being persons who have not yet attained the age of twelve (12) years), and **older children** (being persons who have attained the age of twelve (12) years but have not yet attained the age of eighteen (18) years).

Children’s programme, younger children’s programme and older children’s programme refer to programmes that are intended for or targeted at children, younger children and older children, respectively.

Closed captioning means text on a television screen representing speech and sound effects, synchronised as closely as possible to the television soundtrack, accessible at the option of the viewer using controls on his or her television received. For the purposes of this Code, close captioning shall be in the English language.

Code means this Code of Practice for the Regulation of Content Services and Audiovisual Media Services issued by URCA under sections 52 and 53 of the Communications Act.

Communications Act means the Communications Act, 2009.

Constitutional Referendum Act means the Constitutional Referendum Act (Ch. 1).

Content means programming or advertising material.

Content service has the meaning given in section 2 of the Communications Act, namely a service either for the provision of material with a view to its being comprised in signals conveyed by means of a network or that is an audiovisual media service and includes a “cable system” as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part

receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.

Copyright Act means the Copyright Act (Ch. 323).

Current affairs programme means a programme the primary purpose of which is to provide interviews, analysis, commentary or discussion, including open-line or call-in discussion with the audience, about current issues.

Editorial responsibility has the meaning given in section 2 of the Communications Act, namely the exercise of effective control both over the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of on-demand audiovisual media services.

Election means a parliamentary general election, parliamentary bye-election, referendum or local government election.

Election period means:

- (a) for a parliamentary general election, the period beginning with the date of the dissolution of Parliament;
- (b) for a parliamentary bye-election, the period beginning with the date of issuing of a writ of the election;
- (c) for local government elections, the period beginning with the last date for the publication of notices of the election;
- (d) for a referendum (to which the Constitutional Referendum Act (Ch. 1) applies), the period beginning with the proclamation by the Governor-General for the holding of a referendum.
- (e) In all cases, the election period ends with the close of the poll.

Emergency broadcast means a broadcast during and relating to an imminent or actual threat affecting a community or a locality within The Bahamas whereby life and/or property are at risk and which requires a significant and coordinated response by Governmental agencies, emergency services, or other essential service organisations.

Factual programming means programming for the purpose of presenting facts and information about a matter or matters of interest to the general public or to particular audiences.³

³ Factual programmes may include the following genres: news, documentary, educational, magazine, discussion, review, talk/chat show, special interest (hobby, leisure interests, makeover, and how-to formats), history, archaeology, science, medicine, technology, consumer affairs, nature and wildlife,

ITU means the International Telecommunication Union, an organ of the United Nations and headquartered in Geneva, Switzerland.

Licensee has the meaning given in section 2 of the Communications Act.

Major political party means a political party representing at least one-fourth of the constituencies of the House of Assembly.

Network has the meaning given in section 2 of the Communications Act.

News programme means a broadcast programme solely or predominantly for the purpose of presenting new or recent factual information of local, national and international public interest.

On-demand audiovisual media service has the meaning given in section 2 of the Communications Act, namely a content service provided to allow the user to view programmes at the moment selected by the user at his or her individual request on the basis of a catalogue of programmes selected by the audiovisual media service provider and includes a “cable system” as defined in section 2 of the Copyright Act, namely a facility located in The Bahamas that in whole or in part receives television broadcast signals transmitted within The Bahamas or outside The Bahamas, and diffuses secondary transmissions of such signals or programs by wires, cables or other communication channels to subscribing members of the public in The Bahamas who pay for such service.

Parliamentary Commissioner means the Parliamentary Commissioner as defined in the Parliamentary Elections Act (Ch. 7).

Parliamentary Elections Act means the Parliamentary Elections Act (Ch. 7).

Party political broadcast has the meaning given in section 2 of the Communications Act, namely a broadcast transmission that has been edited by or on behalf of a political party.

Political advertisement means any advertisement which is intended or calculated to advance the interests of any particular political party or candidate, for which advertisement the Licensee has received or is to receive, directly or indirectly, any money or other consideration.

Political broadcast means a programme that:

- (a) encourages or persuades, or appears to encourage or persuade, voters to vote, or not to vote, for a political party or the election of any person

- at an election; or
- (b) advocates support for, or opposes, a candidate or political party; or
- (c) takes a position on an issue with which a political party or candidate is associated; or
- (d) notifies the public of meetings of any kind held or to be held in connection with an election.

A political broadcast does not include the broadcast:

- (i) of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news that is not a party political broadcast;
- (ii) of the promotion of the sale of a book, by an election candidate for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election;
- (iii) of the contents of a document broadcast by a person or a group to their members, employees or shareholders, as the case may be, that is not a party political broadcast; or
- (iv) by an individual, on a non-commercial basis on the Internet, of his or her personal political views.

Political party means an organised group of people with similar political aims and opinions on a wide range of national issues that:

- (a) has a leader;
- (b) ~~holds a national conference of members of the party at least once in any period of eighteen (18) months between parliamentary elections;~~ and
- (b) seeks to influence public policy by making nominations and contesting elections in the hope of gaining control over governmental power and the organisation of the government through getting its candidates elected to the House of Assembly.

Programme (and **programming**) has the meaning given in section 2 of the Communications Act, namely a set of moving images with or without sound constituting an individual item within a schedule or a catalogue established by an audiovisual media service provider and whose form and content is comparable to the form and content of television broadcasting. The terms programme and programming do not include advertisements.

Public Service Broadcaster means a Licensee designated as a public service broadcaster pursuant to section 61 or section 115 of the Communications Act.

Religious programme means programming the focus of which is religious or spiritual belief, or which explores one or more of the following issues as a predominant theme in the programme:

- (i) a recognisable religious perspective forming a significant part of the overall narrative;
- (ii) an exploration of people's daily lives whose attitudes could be said to be informed by a religious background or tradition; or

(iii) an exploration of people's perception of, and attitudes to, philosophies which address the significant life questions that affects them, demonstrating an approach that bears in mind a religious or spiritual faith/belief context.

Series means more than one programme dealing with the same or related issues, themes or characters broadcast by a Licensee over a period of time determined by the Licensee and aimed at the same or a similar audience.

Signal has the meaning given in section 2 of the Communications Act.

Signing is an access service comprising the provision of sign language interpretation of the audible content of television programming for persons who are deaf or hard of hearing, usually by superimposing the image of a person performing sign language over part of the television image of the programme being interpreted.

Sponsorship means any contribution made by a person or undertaking to the financing of broadcasting programmes or their distribution with a view to promoting the person's name, trade mark, image, activities or products.

Subscriber has the meaning given in section 2 of the Communications Act, namely any customer of a Licensee who is party to a contract with the Licensee for the provision of networks or carriage services.

Surreptitious advertising means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the Licensee to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for any money or other consideration.

Television broadcast has the meaning given in section 2 of the Communications Act.

Undertaking has the meaning given in section 2 of the Communications Act.

Utilities Appeal Tribunal means the Utilities Appeal Tribunal established by the Utilities Appeal Tribunal Act, 2009.

URCA means the Utilities Regulation and Competition Authority established by the URCA Act.

URCA Act means the Utilities Regulation and Competition Authority Act, 2009.

Watershed means the period outside which material that is unsuitable for children cannot be broadcast. The watershed commences at 9:00 PM/21:00

hours in the evening and ends at 5:00 AM/05:00 hours on the following morning and, as a consequence, material that is unsuitable for children can only be broadcast during this period.

(2) In this Code, the word **context** includes (but is not limited to):

- (a) the overall editorial content of the programming;
- (b) the station or channel on which the material is broadcast;
- (c) the time of broadcast;
- (d) what other programmes are scheduled before and after the programme or programmes concerned;
- (e) the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally or programmes of a particular description;
- (f) the likely size and composition of the potential audience and likely expectation of the audience;
- (g) the extent to which the nature of the content has been brought to the attention of the potential audience (for example, by giving descriptive information either within the broadcast or in promotional material); and
- (h) the effect of the material on viewers or listeners who may unexpectedly come across it.

(3) For the purpose of interpreting the provisions of this Code:

- (a) headings and titles used in this Code are for reference purposes only and shall not affect its interpretation or construction;
- (b) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (c) use of the word 'include' or 'including' is to be construed as being without limitation;
- (d) the definition of any terms or expressions in this Code shall extend to the grammatical variations and cognate expressions of such word or term;
- (e) except where the context otherwise requires, words or expressions not specifically defined in Clause 1.1(1) above shall have the meaning assigned to them in the Communications Act.
- (f) references to "persons" shall include undertakings;
- (g) words importing:
 - (i) the singular only shall include the plural and vice versa;
 - (ii) the whole of any word shall be treated as including a reference to any part of that word; and
 - (iii) any gender shall include all other genders.

(4) Where there is any conflict between the provisions of this Code and the Communications Act, the provisions of the Communications Act shall prevail.

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| 1.2 | <p>Purpose of the Code</p> <p>(1) This Code has been developed in accordance with the requirements of sections 52, 53 and 54 of the Communications Act.</p> <p>(2) This Code is intended to:</p> <ul style="list-style-type: none"> (a) ensure that Licensees providing content services and audiovisual media services in The Bahamas have regard to prevailing community standards in broadcast material, while protecting the right of Licensees to responsible freedom of speech; (b) regulate content services intended for reception by subscribers of carriage services or by broadcasting to the public in The Bahamas; (c) ensure that audiences in The Bahamas are assisted in making informed choices about the content that they and their children watch and listen to; (d) provide uniform, speedy and effective procedures for the handling of complaints from the public about programme content or compliance with the Code; and (e) provide a methodology for periodic public review of the relevance and effectiveness of the Code. |
| 1.3 | <p>Regulatory Framework</p> <p>(1) The Code covers the matters expressly outlined in section 53(2) and (3) of the Communications Act, and other content that is of concern to the community.</p> <p>(2) Section 53 of the Communications Act requires URCA to issue codes of practice that are to be observed by Licensees providing audiovisual media services in The Bahamas. This Code is issued pursuant to that power. The Licences issued by URCA impose a condition on each Licensee in which the Licensee undertakes to comply with the conditions of the Licence, regulatory and other measures issued by URCA, and the provisions of the Communications Act. Licensees providing audiovisual media services in The Bahamas who do not comply with the Code may be subject to a range of penalties under the Communications Act.</p> <p>(3) Section 52 of the Communications Act empowers URCA, by determination to issue regulatory and other measures to regulate content services intended for reception by subscribers of carriage services or by broadcasting in The Bahamas. URCA may, by determination, apply any or all of the provisions of this Code to other persons providing content services for reception by subscribers of carriage services or by broadcasting in The Bahamas, <u>and on-demand audiovisual media services.</u></p> |

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| <p>1.4</p> | <p>Requirement to Comply with the Code</p> <p>(1) Every Licensee that provides audiovisual media services in The Bahamas must, in accordance with section 53(1) of the Communications Act, comply with and observe the Code in respect of the content provided. Other Licensees that provide content services, <u>carriage services or on-demand audiovisual media services</u> shall, pursuant to section 52 of the Communications Act, comply with and observe the Code to such extent as they are required to do so by URCA by determination.</p> <p>(2) A breach of the Code may be mitigated, and penalties avoided by the Licensee, if the Licensee:</p> <ul style="list-style-type: none"> (a) can demonstrate to URCA’s satisfaction that the failure to comply with the Code was due to: <ul style="list-style-type: none"> i. a reasonable mistake; ii. reasonable reliance on information supplied by another person; iii. an act or failure to act of another person, or an accident or some other cause beyond the Licensee’s control, provided the Licensee took reasonable precautions and exercised due diligence to avoid the act or failure to act of such other person; or iv. an act or failure to act which, in all the circumstances, was clearly peripheral or incidental, and unlikely to offend or materially mislead the public, and (b) Promptly takes all reasonable steps to remedy the failure to comply, if capable of remedy. <p>(3) This Code does not apply to content which is delivered <u>by Licensees</u> solely via the Internet, and which is available for access by any person situated within or outside The Bahamas via the Internet unless that content is targeted at persons within The Bahamas by virtue of it being promoted or advertised within The Bahamas.</p> |
| <p>1.5</p> | <p>Review of the Code</p> <p>URCA will, in consultation with the Industry Group established <u>by URCA</u> in accordance with section 55(1) of the Communications Act, formally review the Code after it has been in effect for three (3) years. If, before the next review period, any substantive changes to the Code are needed, URCA will, in consultation with the industry working group <u>Industry Group</u>, give the public <u>all stakeholders</u> an adequate opportunity under section 11 of the Communications Act to comment on any proposed changes <u>to the Code</u>.</p> |

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| <p><u>1.6</u></p> | <p><u>Application of the Code to content delivered via Carriage Services, Content Services and On-Demand Audiovisual Media Services</u></p> <p><u>The provisions of Clause 2.4, Clauses 3.2 to 3.5, Clauses 4.1 to 4.17, Clauses 6.1 to 6.14, Clauses 7.1 to 7.12, and Clauses 8.1 to 8.26 of this Code shall not apply to content delivered via a carriage service, a content service or an on-demand audio-visual media service to adult persons subscribing to the service who specifically select the content in question, provided that the Licensee providing such services shall, so far as it is able to, take all reasonable steps to:</u></p> <p>(a) <u>inform the adult subscriber through classifications and/or advisories as are required by Clauses 5.10 and 5.11 this Code of the nature of the programming;</u></p> <p>(b) <u>ensure that an adequate parental control mechanism has been implemented in conjunction with the advisory and classification system and filtering technology set out in Clauses 5.10 and 5.11 of this Code, which enables adult subscribers to prevent access to unsuitable content by children; and</u></p> <p>(c) <u>provide appropriate training, instructional materials, and assistance to subscribers regarding the use and operation of parental control mechanisms through filtering technology, and guidelines for the maintenance of security from accidental or unsanctioned use by children.</u></p> |
| <p><u>1.7</u></p> | <p><u>Repeal and Replacement of Interim Codes of Practice</u></p> <p><u>This Code of Practice repeals and replaces the Interim Code of Practice for Political Broadcasts issued by URCA on 19 January 2010 (ECS 01/2010) and the Interim Code of Practice for Broadcasting Content issued by URCA on 9 April 2010 (ECS 10/2010).</u></p> |

PART 2: OPERATIONAL AND TECHNICAL RULES

This Part of the Code contains Operational and Technical rules which generally underpin the more “content related” rules within the remainder of the Code, so as to ensure that Licensees have in place appropriate systems and procedures to enable effective application of the principles and rules set out in the Code.

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| | <i>Operational Rules</i> |
| 2.1 | Programme Selection and Broadcast (1) The Licensee is responsible for ensuring compliance with this Code, whether pre-recorded or live, regardless of whether it has delegated such responsibility to its programming personnel or other agents as part of its day-to-day business. (2) The Licensee’s discretion in selecting programmes must be exercised responsibly and in good taste. In particular, nothing should be selected for broadcasting that is: (a) contrary to law, including the Communications Act, the Broadcasting Act and regulatory or other measures issued by URCA; or (b) contrary to this Code. |
| 2.2 | Code to be made available to Licensee’s employees and agents Every Licensee shall ensure that all of its employees and agents involved in any matter covered by this Code on the Licensee’s behalf are provided with a copy and made aware of the provisions of this Code, which shall be readily available to such persons at all times. |
| 2.3 | Contracts subject to the Code All contracts entered into by or on behalf of a Licensee for the broadcasting of programming or advertisements shall be made subject to and comply with this Code. |
| | <i>Technical Rules</i> |
| 2.4 | Retention and Production of Station Recordings (1) Every Licensee shall make and maintain in an appropriate and commonly used format complete and accurate recordings of all material broadcast by the Licensee. (2) The Licensee must keep recordings made pursuant to this Clause for the longest of the following periods: (a) six (6) weeks starting on the day after the material was broadcast; (b) if a complaint has been made to the Licensee under Part 10 of this Code |

in relation to material contained in a broadcast – one (1) year from the date on which the complaint is resolved; or
(c) any longer period specified by URCA in writing.

- (3) The Licensee shall provide URCA with access (i.e., the ability to listen to or view the recording at the Licensee's place of business) to any recording made pursuant to this Clause or provide a copy to URCA in a format requested by URCA, within three (3) working days of its receipt of a written request from URCA to do so.
- (4) If a person making a complaint under Part 10 of this Code considers that a recording made by a Licensee under Clause 2.4(1) of this Code, and being held by the Licensee under Clause 2.4(2) of this Code, is admissible in evidence in legal proceedings instituted, or proposed to be instituted, in a court, the person may give to the Licensee a notice in writing informing the Licensee that the recording may be required by the person giving the notice for the purposes of the legal proceedings.
- (5) If such a notice under Clause 2.4(4) of this Code is given to a Licensee in respect of a recording, the Licensee must, subject to this Clause 2.4, retain the recording until the legal proceedings or the proposed legal proceedings to which the notice relates have been finally determined, and shall produce the recording pursuant to any court order requiring it to do so.
- ~~(6) If the legal proceedings contemplated by Clause 2.4(4) are not instituted within a period of three (3) months after the notice is given to a Licensee, Clause 2.4(5) of this Code ceases to apply to the recording at the end of that period.~~
- (6) If ~~URCA~~ the librarian or archivist of a library or archive prescribed by the Minister responsible for copyrights under sections 67 to 71 of the Copyright Act (Ch. 323) is of the opinion that the subject matter of a recording made pursuant to this Clause 2.4 is of sufficient historic importance to justify its being permanently preserved, ~~URCA~~ the librarian or archivist may request URCA to direct, in writing, the Licensee ~~or other person~~ who has custody of the recording to deliver it, free of charge, for safe keeping to such librarian or archivist as person or authority specified by URCA, and the Licensee ~~or person~~ to whom the direction is given must comply with the direction.
- (7) A Licensee must, without charge, make available to URCA, upon request, any recording made by the Licensee pursuant to Clause 2.5(1) of this Code that has been retained by the Licensee (whether or not the Licensee is, at the time of the request, under an obligation to retain the recording).

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| 2.5 | <p>Station Identification</p> <p>(1) Every Licensee shall cause each of its broadcasting stations to be identified to its audience as follows at intervals provided by ITU regulations:</p> <ul style="list-style-type: none"> (a) at frequent intervals during the course of transmissions, including those made for tests, adjustments or experiments, otherwise commencing at the beginning and concluding at the ending of each transmission period of operation, otherwise <u>at least four (4) times each day, one of which must be during each of the following time periods: 12:00 AM (midnight) to 6:00 AM, 6:01 AM to 12:00 PM (noon), 12:01 PM to 6:00 PM, and 6:01 PM to 12:00 AM (midnight); and</u> (b) hourly, preferably within the period from five minutes before to five minutes after the hour, at a natural break in programming. Licensee may make these announcements aurally (for radio) and visually (for television). <p>(2) Official station identification shall consist of:</p> <ul style="list-style-type: none"> (a) the name of the Licensee; (b) the broadcasting station's radio frequency or channel number as stated on the station's Licence; and (c) the broadcasting station's call letters, call sign or station identification immediately followed by the community or communities specified in its Licence as the station's territorial location. |
| 2.6 | <p>Technical Standards</p> <p>(1) All broadcasts must conform to any technical standards published by URCA in accordance with section 58(b) of the Communications Act.</p> <p>(2) Any person or entity wishing to have content broadcast by a Licensee may be required by the Licensee to submit that content to the Licensee concerned:</p> <ul style="list-style-type: none"> (a) in completed form, ready for broadcast (including a typed copy of the script, if required); (b) up to ninety-six (96) hours before the time when that advertisement or programme is to be broadcast; and (c) where relevant, pre-recorded and in a form and manner that complies with technical standards acceptable to that Licensee. <p>(3) Every Licensee that intends to adopt technical standards as contemplated by Clause 2.6(2)(c) of this Code shall, by no later than 1st March 2012 and thereafter at least two months prior to the Licensee making any changes thereto, submit such technical standards for URCA's non-objection. URCA may, if it considers a Licensee's technical standards are unreasonable, direct that Licensee in writing to amend its technical standards.</p> <p>(4) Every Licensee to whom content has been submitted by any person or entity for broadcast shall be entitled to refuse to broadcast that content if it</p> |

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| | does not comply with URCA's or the Licensee's technical standards, this Code or any written law in The Bahamas. |
| 2.7 | <p><u>Promotions, Previews and Trailers</u></p> <p>(1) <u>Any promotions of the Licensee's programming must comply with the requirements for the watershed and the other rules in this Code during the time period in which such promotion is broadcast, regardless of the brevity of the promotion.</u></p> <p>(2) <u>If, in the promotion for a programme, a Licensee includes an advisory that the programme contains material which may seriously distress or seriously offend the audience, then that advisory must comply with the requirements of Clause 5.10 of this Code for the period in which it is broadcast.</u></p> <p>(3) <u>Where a Licensee broadcasts any preview or trailer, the Licensee must ensure that such previews or trailers meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such previews or trailers carry such classifications and/or advisories as are required by this Code.</u></p> |

PART 3: UNDERLYING PRINCIPLES FOR BROADCASTING IN THE BAHAMAS

This Part of the Code contains the underlying principles that the Code seeks to engender in Bahamian Broadcasting. The Code also establishes positive encouragement for the inclusion of certain kinds of subject matter of particular relevance to Bahamian audiences and importance to the development of Bahamian culture and society.

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| 3.1 | <p>Standards of Taste and Decency</p> <p>(1) Without limitation to the specific rules set out elsewhere in this Code, Licensees shall in the selection, preparation and scheduling of programming for broadcast via any means of electronic communications, seek to provide content which is consistent with the standards of good taste and decency which are generally prevalent and accepted in Bahamian society.</p> <p>(2) Consistent with the principles set out above, Licensees shall seek to avoid the broadcast of content which would be considered by the general public in The Bahamas to be harmful, abusive, offensive, discriminatory or otherwise contrary to the standards of taste and decency which generally obtain in Bahamian society.</p> <p>(3) This clause shall not apply to content which is delivered via a carriage service to adult persons subscribing to the service who specifically select the content in question, having been provided with adequate information regarding the nature of the content, consistent with the provisions of Clauses 5.10 and 5.11 of this Code.</p> |
| | <p><i>Positive Rules</i></p> |
| 3.2 | <p>General Programming</p> <p>Recognising that the public has varied tastes in programming material, every Licensee is encouraged to ensure that, as far as possible, programmes with a Bahamian-based focus are broadcast on a regular basis, taking into account Bahamian interests and concerns and ensuring that such programmes conform to this Code.</p> |
| 3.3 | <p>Community Activities and Diversity of Interests</p> <p>Every Licensee is encouraged to broadcast programming that serves the diversity of interests within The Bahamas and different audiences within The Bahamas.</p> |
| 3.4 | <p>Educational Content</p> <p>Licensees are encouraged to provide educational broadcasts to the extent practicable within their programming schedules to augment the educational and</p> |

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| | cultural influences of schools and other educational and cultural institutions in The Bahamas. |
| 3.5 | Bahamian Music Licensees who solely or primarily broadcast musical items are encouraged to include within their programmes music performed by Bahamians. |

PART 4: HARM AND OFFENCE

Part 4 of the Code addresses various areas in which broadcast content has the potential to harm the public within The Bahamas either individually or collectively as a society, and seeks to put in place standards to protect against such harm. It addresses issues such as preservation of law and order, harmful and offensive material, religious programming and contests and promotions.

Preservation of Law And Order

4.1

Crime

(1) The following categories indicate material which is of a criminal nature that will invariably be unsuitable for broadcast:

(a) material which:

- (i) is reasonably likely to encourage or incite the commission of a crime;
- (ii) is reasonably likely to lead to public disorder;
- (iii) threatens harm or evil;
- (iv) presents detailed depiction of the use of illegal drugs, or instruction in or encouragement of illegal drug use;
- (v) advocates or promotes hatred in any form (up to and including genocide) against, or vilifies, any person or identifiable group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or physical or mental disability;
- (vi) circulates or makes available false information regarding the outbreak of a deadly or contagious disease.

(b) descriptions or demonstrations of criminal techniques which:

- (i) contain essential details that could enable the commission of a crime;
- (ii) explain criminal techniques that might invite imitation;
- (iii) prejudice the success of attempts to deal with, detect or prevent crime;
- (iv) endanger the security of The Bahamas;
- (v) amount to propaganda for war;
- (vi) could endanger lives;
- (vii) prejudice the success of attempts to deal with a hijacking or kidnapping.

(c) a programme which, when considered in all of its circumstances, falsely simulates news or events in such a way as to mislead or alarm the public.

(2) Save for sub-Clauses 4.1(1)(a)(i), (ii), (iv), and 4.1(1)(b)(iii), (iv), (vi) and (vii), exceptions to the provisions of Clause 4.1(1) of this Code may be justifiable during the watershed in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious or educational purpose or where the depiction or demonstration is non-explicit.

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| | <p>(3) Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.1(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> |
| <i>Harmful and Offensive Material</i> | |
| 4.2 | <p>Malicious or Scandalous Allegations</p> <p>(1) The Licensee shall not broadcast information about any person or undertaking or any event which is incorrect, untrue or misleading, and which the Licensee knew, ought to have known, or would have discovered through reasonable investigation, to be incorrect, untrue or misleading.</p> <p>(2) Where a Licensee discovers that incorrect, untrue or misleading information has been broadcast, the Licensee shall take steps immediately to broadcast a correction of the information, and shall broadcast an apology to any person about whom the incorrect or misleading information was broadcast. The Licensee shall transmit the correction and apology at a time or times and in such a manner as is likely to reach as much as possible of the audience that would have seen or heard the original broadcast.</p> <p>(3) Where a third-party (for example, a caller on a call-in talk show) does not comply with the rules set out in this Code and such non-compliance is broadcast, the Licensee shall promptly terminate the broadcast of such content and immediately during the programme or as soon as possible thereafter make an apology and correction.</p> <p>(4) Humorous or satirical programmes shall not be in breach of the rules contained in this Clause so long as the humorous or satirical intent is clear to any reasonable person. However, this Clause does not permit the use of threats toward any individual or group of persons.</p> |
| 4.3 | <p>Human Rights, Exploitation, Diversity and Negative Portrayals</p> <p>(1) Licensees shall ensure that their programming does not contain:</p> <ul style="list-style-type: none"> (a) abusive or unreasonably discriminatory material or comment; or (b) the negative portrayal, degradation or exploitation of any person, based on matters of race, nationality, ethnicity, religion, age, gender, sexual preference, or physical or mental disability. |

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| | <p>(2) Negative portrayal can take many different forms, including (but not limited to) stereotyping, stigmatization and victimization, derision of myths, traditions or practices, degrading material, and exploitation.</p> <p>(3) Exceptions to the provisions of Clause 4.3(1) of this Code may be justifiable in the context of programmes with a legitimate historical, educational or news purpose provided that the inclusion of such content is as limited as possible within the context of the particular programme.</p> |
| 4.4 | <p>Sexual Content</p> <p>(1) A Licensee may not broadcast material which contains a scene or scenes, simulated or real, of any of the following:</p> <ul style="list-style-type: none"> (a) child pornography; (b) bestiality, incest or rape; (c) <u>incest or rape</u>; (d) explicit violent sexual conduct; (e) explicit sexual conduct which violates the right to human dignity of any person in the sense that it advocates a particular form of hatred based on gender or which degrades a person or which constitutes incitement to cause harm; (f) the explicit infliction of or explicit effects of extreme violence which constitutes incitement to cause harm; (g) the depiction of exploitative or non-consensual sexual relations as being desirable; or (h) participating in, engaging in or assisting another person to engage in sexual conduct or a lewd display of nudity by a person who is, or <u>who</u> is depicted as being, under the age of 18 years. <p>(2) Save for the content described in <u>Clause 4.4(1)(a), (d)(b), (e) and (g)(h)</u>, exceptions to the provisions of Clause 4.4(1) of this Code may be justifiable during the watershed in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical or educational purpose <u>or where provided that the depiction or demonstration is as limited and non-explicit as possible having regard to the context, and that it does not present the conduct as being desirable or socially acceptable.</u></p> <p>(3) Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.4(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes outside or in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that any such programmes broadcast meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> |

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| 4.5 | <p>Suicide and Self-Harm</p> <p>Methods of suicide and self-harm must not be included in programmes broadcast outside the watershed under any circumstances, and during the watershed except in exceptional circumstances where they are editorially or contextually justified.</p> |
| 4.6 | <p>Exorcism, the occult and the paranormal</p> <p>(1) Licensees must treat demonstrations of exorcism, the occult, the paranormal, divination, or related practices that purport to be real (as opposed to entertainment) with due objectivity. In this context, “due objectivity” means duly striving (as far as possible or practicable) to reduce or eliminate biases, prejudices, or subjective evaluations by relying on and providing the audience with verifiable data.</p> <p>(2) Licensees are responsible for making clear to their audience if a demonstration of exorcism, the occult, the paranormal, divination, or related practices is for entertainment purposes.</p> <p>(3) Licensees are not permitted to broadcast demonstrations of exorcism, the occult, the paranormal, divination, or related practices (whether such demonstrations purport to be real or are for entertainment purposes) containing life-changing advice directed at individuals. In this context, “life-changing advice” includes direct advice upon which individuals could reasonably act or rely about health, finance, employment or relationships.</p> |
| 4.7 | <p>Hypnotic and other techniques, simulated news and photosensitive epilepsy</p> <p>(1) When broadcasting material featuring demonstrations of hypnotic techniques, Licensees are responsible for preventing hypnosis and/or adverse reactions in viewers and listeners. The hypnotist must not broadcast his/her full verbal routine or be shown performing directly into a camera.</p> <p>(2) In instances when Licensees broadcast simulated news (for example, in drama or in documentaries), it must be presented in such a way that there is no reasonable possibility of the audience being misled into believing that they are listening to, or watching, actual news. In those circumstances, Licensees must take reasonable measures to ensure that such programmes carry advisories at the start of the programme and, if necessary, after each advertising break, and such classifications as are required by this Code.</p> <p>(3) Licensees operating television stations must take precautions to maintain a low level of risk to viewers who have photosensitive epilepsy. Where it is not reasonably practicable to follow these rules, and where such Licensees can</p> |

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| | <p>demonstrate that the broadcasting of flashing lights and/or patterns is editorially justified, (for example, in news reports), viewers should be given an adequate verbal and also, if appropriate, text warning at the start of the programme or programme item.</p> |
| 4.8 | <p>Violence in all Programme Genres</p> <p>(1) The following categories of violence indicate material that will invariably be unsuitable for television programmes:</p> <ul style="list-style-type: none"> (a) sustained, relished or excessively detailed acts of violence; (b) unduly bloody or horrific depictions; (c) strong violence that has high impact or which is gratuitous or exploitative (“gratuitous” in this context means material which does not play an integral role in developing the plot, character or theme of the material as a whole); <p>(2) Exceptions to the provisions of Clause 4.8(1) of this Code may be justifiable during the watershed in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose provided that the representation is limited and non-explicit.</p> <p>(3) Care should be taken at all times when scheduling programmes containing material listed in Clause 4.8(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that any such programmes broadcast meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> |
| 4.9 | <p>Violence in News and Current Affairs Programming</p> <p>(1) Within their news and current affairs programming, Licensees shall:</p> <ul style="list-style-type: none"> (a) use appropriate editorial judgment in the reporting of, and the pictographic images of, violence, aggression or destruction; (b) use caution in the selection of, and repetition of, video depicting violence; (c) advise viewers in advance of showing scenes of extraordinary violence, or graphic reporting on delicate subject matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates when children could be viewing; (d) exercise discretion in the use of explicit or graphic language related to |

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| | <p>stories of destruction, accidents or sexual violence, that could disturb children and their families;</p> <p>(e) exercise judgment during live coverage of domestic terrorist events or civil disorders, to ensure news coverage does not become a factor in inciting additional violence.</p> <p>(2) While Licensees shall not exaggerate or exploit situations of aggression, conflict or confrontation, they shall be equally careful not to sanitize the reality of the human condition.</p> |
| 4.10 | <p>Violence against women</p> <p>(1) Licensees shall not broadcast programming material that sanctions, promotes or glamorises any aspect of violence against women.</p> <p>(2) Licensees shall ensure that women are not depicted as victims of violence unless the violence is integral to the subject of the report. Licensees shall be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence.</p> |
| 4.11 | <p>Violence against Specific Groups</p> <p>(1) Licensees shall not broadcast programming material that sanctions, promotes or glamorises violence based on race, nationality, ethnicity, religion, gender, sexual preference, age, or mental or physical disability.</p> <p>(2) Exceptions to the provisions of Clause 4.11(1) of this Code may be justifiable <u>outside the watershed</u> in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose provided that the representation is limited and non-explicit.</p> <p>(3) Care should be taken at all times when scheduling programmes containing material listed in Clause 4.11(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that apply to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> |
| 4.12 | <p>Violence against Animals</p> <p>(1) Licensees shall not broadcast programming material that sanctions, promotes or glamorises violence against animals. However, Licensees shall not be restricted in the television broadcast of legally sanctioned sporting</p> |

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| | <p>and other activities associated with animals. In such broadcasts, judgment shall be used in the selection of video and associated audio, particularly if the broadcast is outside of the watershed.</p> <p>(2) Exceptions to the provisions of Clause 4.12(1) of this Code may be justifiable <u>outside the watershed</u> in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose or where the representation is non-explicit.</p> <p>(3) Care should be taken at all times when scheduling programmes containing material listed in Clause 4.12(1)(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> |
| | <p><i>Religious Programming</i></p> |
| <p>4.13</p> | <p>Broadcasts of religious programming</p> <p>Licensees may make available opportunities for the purchase of airtime for religious programming available to the community. The general purpose of religious programming should be to promote the spiritual harmony and understanding of humanity and of administering broadly to the varied religious needs of the community. <u>While it is understood that the religious freedom guaranteed to all persons in The Bahamas necessarily implies the right to question and disagree with alternate belief systems, a</u> Licensee must ensure that any religious programming, which simultaneously reaches <u>is likely to reach</u> persons of all creeds and races, shall not be used by the Licensee or any person to convey attacks upon another race or religion.</p> |
| <p>4.14</p> | <p>Solicitation of funds in religious programming</p> <p>Except for the customary announcement of the offering or collection during a church service, the solicitation of funds in any religious programme originating or recorded in The Bahamas must not exceed one (1) minute during every thirty (30) minutes of broadcast time.</p> |
| <p>4.15</p> | <p>Identification of religious programming</p> <p>Where a particular religion or religious denomination is the subject, or one of the subjects, of a religious programme, Licensees are responsible for making clear to the audience the identity of the religion and/or denomination under discussion through visual notices, and, where possible, verbal announcements, at</p> |

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| | the beginning and at other appropriate times during the broadcast. |
| | <i>Contests and Promotions</i> |
| 4.16 | <p>Rules of Play</p> <p>(1) All contests and promotions broadcast shall be conceived and conducted fairly and legitimately and particular care shall be taken to ensure that they are not misleading, potentially dangerous or likely to give rise to a public disturbance and that any prizes offered or promises made are what they are represented to be. Competition prizes must be described accurately.</p> <p>(2) Licensees must draw up rules for a broadcast competition or vote which are clear and appropriately made known to the audience during the programme using clearly readable and/or audible information and should also direct the audience to websites where they can view and print such rules. In particular, significant conditions that may affect a viewer's or listener's decision to participate must be stated at the time of an invitation to participate.</p> <p>(3) Prizes aimed at children must be appropriate to the age range of both the target audience and the participants in the contest or promotion.</p> <p>(4) There must be no collusion of any kind between Licensees and contestants, whether such collusion affects the outcome of the competition, or misleads the viewers or listeners in any way or not.</p> |
| 4.17 | <p>Costs of Telephone Calls or Text Messages</p> <p>If during a programme or programme promotion, a Licensee invites the audience to use a premium charge telephone service or a text message service to obtain information, register a view or vote on a matter or participate in a competition, the Licensee must provide clearly readable or audible information about the cost of the call or the cost of the text message.</p> |

PART 5: PROTECTION OF YOUNG PERSONS

This Part of the Code is intended to ensure that Licensees adopt responsible policies through scheduling, advisories and programme classifications so as to limit the exposure of children in various age ranges to potentially harmful or unsuitable broadcast material that is intended for, and acceptable to, adult audiences.

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| 5.1 | <p>Scheduling of Programmes and Advertisements</p> <p>(1) Licensees shall use appropriate scheduling to protect children from unsuitable material.</p> <p>(2) “Appropriate scheduling” should be judged according to:</p> <ul style="list-style-type: none">(a) the nature of the content;(b) the likely number and age range of children in the audience, taking into account the time of transmission, weekends and school holidays;(c) the start time and finish time of the programme;(d) the nature of the channel or station and the particular content; and(e) the likely expectations of the audience for a particular channel or station at a particular time and on a particular day. <p>(3) Licensees must comply with the watershed, in that content that is of an adult nature, and which is therefore not suitable for children, should not be shown outside the watershed.</p> |
| 5.2 | <p><u>Offensive Language</u></p> <p>(1) Licensees shall not broadcast offensive language that has obscene or vulgar connotations outside the watershed unless it is limited and justified by the context of the programme. In any event, Licensees must avoid frequent broadcasts of offensive language outside the watershed.</p> <p>(2) Licensees shall not allow the use of offensive language during children’s programmes or advertising directed at children.</p> |
| 5.3 | <p>Violence</p> <p>(1) Programmes for younger children shall not contain realistic scenes of violence which minimize or gloss over the effects of violent acts. Any realistic depictions of violence shall portray in human terms the consequences of that violence to its victims and perpetrators.</p> <p>(2) Violence shall only be portrayed in non-animated programmes for younger children when it is essential to the development of character and plot.</p> <p>(3) Programmes for younger children shall deal carefully, not gratuitously, with</p> |

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| | <p>themes that could threaten their sense of security.</p> <p>(4) Children’s programmes on television shall deal carefully with <u>so far as possible avoid</u> themes that could invite children to imitate dangerous or harmful acts which they see on-screen. <u>Where it is not possible to avoid such themes, Licensees shall ensure that such the material is treated with care so as to minimise the risk of harm.</u></p> <p>(5) Description or demonstrations of criminal techniques which contain details that:</p> <p>(a) Glamorise anti-social or illegal behaviour; or</p> <p>(b) Show methods of inflicting pain or torture;</p> <p>shall not be broadcast outside the watershed.</p> |
| 5.4 | <p>Sexual themes</p> <p>(1) Programmes which portray children in a sexual fashion, including the sexualisation of children through dress and behaviour, are not acceptable, except where justified in the context of a dramatic or factual programme dealing with the specific issue of sexuality, in which case the portrayal must be as limited as possible within the context of the particular programme and must in any event be sexually non-explicit.</p> <p>(2) Licensees shall ensure that programmes that take incest or child abuse as their topic or theme shall provide suitable warnings prior to airing and shall be appropriately scheduled. Licensees shall also provide information on relevant telephone help-lines provided by governmental or other specialist agencies. Licensees should treat material of this nature with the utmost care and sensitivity, bearing in mind the psychological effects it might have on child-victims.</p> <p>(3) Representations of sexual intercourse must not be broadcast outside the watershed unless there is a justifiable educational purpose. Any discussion or portrayal of sexual behaviour broadcast outside the watershed must be appropriately limited to the subject matter of the discussion or portrayal and sexually inexplicit.</p> <p>(5) Children should not be portrayed as sexually appealing or provocative and they should not be included in any portrayal that involves any form of sexual innuendo.</p> |
| 5.5 | <p>Nudity and pornography</p> <p>(1) A Licensee may not broadcast material outside the watershed which contains:</p> <p>(a) Full frontal nudity of any person;</p> <p>(b) The bare breasts of female persons; or</p> |

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| | <p>(c) The public area of any person.</p> <p>(2) Pornography must not be broadcast at any time.</p> |
| 5.6 | <p>Drugs, Alcohol, Solvents and Smoking</p> <p>The use of illegal drugs, the misuse of alcohol, solvent abuse and smoking must not be condoned, encouraged or glamorised in programmes broadcast outside the watershed.</p> |
| 5.7 | <p>Participation of children in programmes and advertisements</p> <p>(1) If a contributor to a programme or a participant in an advertisement is under eighteen (18) years of age, the Licensee shall <u>obtain consent or shall ensure that the producer of the programme or advertisement, or someone acting on behalf of the Licensee or the producer has, as the case may be, first obtained</u> consent to the contributor's or participant's participation in the programme or advertisement from a parent or guardian or other person of eighteen (18) or over in loco parentis to the contributor. In particular, Licensees <u>or producers</u> should not ask persons under eighteen (18) years for his or her views on matters likely to be beyond their capacity to answer properly without such consent.</p> <p>(2) Children must not be caused unnecessary distress or anxiety by their involvement in programmes or advertisements.</p> |
| 5.8 | <p>Children and crime</p> <p>(1) Where children are accused or convicted of crimes, Licensees shall avoid broadcasting the children's names and/or images.</p> <p>(2) In reporting certain kinds of crime, such as sexual assaults or incidents involving children, Licensees must take into account the time period of the broadcast and <u>ensure that</u> the degree of explicit detail <u>is appropriately matched to the probable presence of children listening or viewing, having regard to the time period of the broadcast.</u></p> <p>(3) In reporting certain crimes, such as sexual assaults or incidents involving children, Licensees must take into account the need for protection of the children involved. Steps should be taken to minimize psychological trauma to children.</p> |
| 5.9 | <p>Application to content delivered via Carriage Service</p> <p>The provisions of Clauses 5.1 to 5.6 of this Code shall not apply to content delivered via a carriage service, provided that the Licensee providing such</p> |

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| | <p>services shall take all reasonable steps to:</p> <ul style="list-style-type: none"> (a) inform the adult subscriber through classifications and/or advisories as are required by this Code of the nature of the programming and the fact that such programming may not comply with all provisions of this Code; and (b) ensure that an adequate parental control mechanism has been implemented in conjunction with the advisory and classification system set out in Clause 5.10 and 5.11 of this Code, which would enable adult subscribers to prevent access to unsuitable content by children should they choose to do so; <u>and</u> (c) <u>provide appropriate training, instructional materials, and assistance to subscribers regarding the use and operation of parental control mechanisms, and guidelines as to maintenance of security from accidental or unsanctioned use by minors.</u> |
| 5.10 | <p>Audience Advisories and Programme Classifications</p> <ul style="list-style-type: none"> (1) Warnings and advisories should be given when any radio or television programming includes broadcasts of mature subject matter or scenes with nudity, sexually explicit material, violence, coarse or offensive language, or other material which may cause offence. The rules in this Clause apply to all content but do not prejudice the limitations set out in other parts of this Code on the broadcast of any type of content. (2) Licensees shall warn or advise television viewers on screen in advance and at frequent intervals throughout the programme when broadcasting any content which: <ul style="list-style-type: none"> (a) contains scenes of extraordinary violence; or (b) includes graphic reporting on sensitive subject matters; or (c) includes the personal views of presenters or reporters, that such personal views are actually commentaries or opinions by such presenters or reporters. (3) Where necessary, Licensees shall also include an advisory or a warning that a programme contains material, which may seriously distress or seriously offend the audience <u>and/or that is unsuitable to children</u>, and that advisory or warning must comply with every requirement in this Code for the time period in which it is broadcast. (4) Licensees shall appropriately classify programmes in accordance with Clauses 5.10 and 5.11 of this Code so that the programmes: <ul style="list-style-type: none"> (a) do not deceive or disadvantage the audience; or (b) are not presented in such a way as to cause panic, unwarranted alarm or undue distress to the audience. |

- (5) Licensees shall, in addition to the advisories, required in sub-Clauses 5.10(1) and 5.10(2) of this Code, display the appropriate classification on-screen for the television programme being broadcast, in accordance with the classification system set out in Clause 5.11 of this Code.
- (6) A classification symbol of at least 32 television lines in height, in a readily legible typeface, must be displayed at the bottom right of the television screen for at least 3 seconds at the following times:
- (a) as close as practicable to the programme's start;
 - (b) as soon as practicable after each break;
 - (c) in any promotion for the programme (except for radio or outdoor advertising).
- (7) Licensees shall maintain the following broadcasting standards in the preparation and presentation of content that subscribers pay a fee to receive:
- (a) Viewers shall be informed by regular and consistent advisories about programming broadcast (including classifications and warnings) and filtering technology.⁴
 - (b) Classifications shall be available for all programming except for advertisements.
 - (c) If available, classifications should be shown on-screen at the beginning of programmes and following any breaks for advertisements, be included in any electronic programme guides, in any relevant promotional material and in any accompanying printed guides where Licensees make such classifications available to the publishers of these printed guides.
 - (d) Visual warning and advisories should also be available. When used, verbal warnings should screen at the start of the programme, with accompanying text and also following any breaks for advertisements.
 - (e) Filtering technology ~~may~~ shall be made available on the basis that subscribers elect to use it, provided that a subscriber is easily able to initiate use at any time through the television remote control or similar device.
- (8) A Licensee shall ensure, so far as it is able to, that programming broadcast or carried by it is classified for viewing or listening in accordance with this Code or under a comparable Code or regime in the country where the programming or broadcast originated.

⁴ "Filtering technology" means electronic technology that gives subscribers the ability to set a classification threshold beyond which content can only be accessed by using a Personal Identification Number (PIN) or other key which the subscriber can keep confidential. It enables a subscriber to prevent other members of their household, particularly children, from accessing content that the subscriber does not wish them to view.

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| 5.11 | Television Programme Classification System | |
| | Rating | Description |
| | <p>TV-Y (All Children -- This programme is designed to be appropriate for all children.)</p> | <p>Whether animated or live-action, the themes and elements in this classification of programmes are specifically designed for a very young audience, including children from age two to six (2-6). This programme classification is not expected to frighten younger children.</p> |
| | <p>TV-Y7 (This programme is designed for children age 7 and above.)</p> | <p>This programme classification may be more appropriate for children who have acquired the developmental skills needed to distinguish between make-believe and reality. Themes and elements in this programme classification may include mild fantasy or comedic violence, or may frighten children under the age of seven (7). Therefore, parents may wish to consider the suitability of this programme classification for their very young children.</p> |
| | <p>TV-G (General Audience -- Most parents would find this programme suitable for all ages.)</p> | <p>Although this rating does not signify a programme designed specifically for children, most parents may let younger children watch programmes in this classification unattended. It contains little or no violence, no strong language and little or no sexual dialogue or situations.</p> |
| | <p>TV-PG (Parental Guidance Suggested -- This programme contains material that parents may find unsuitable for younger children.)</p> | <p>Many parents may want to watch programme in this classification with their younger children. The theme itself may call for parental guidance and/or the programme contains one or more of the following: moderate violence (V), some sexual situations (S), infrequent coarse language (L), or some suggestive dialogue (D).</p> |

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| | <p>TV-14 (Parents Strongly Cautioned -- This programme contains some material that many parents would find unsuitable for children less than 14 years of age.)</p> | Parents are strongly urged to exercise greater care in monitoring programme in this classification and are cautioned against letting children under the age of fourteen (14) watch unattended. This programme classification contains one or more of the following: intense violence (V), intense sexual situations (S), strong coarse language (L), or intensely suggestive dialogue (D). |
| | <p>TV-MA (Mature Audience Only -- This programme is specifically designed to be viewed by adults and therefore may be unsuitable for children under 18.)</p> | This programme classification contains one or more of the following: graphic violence (V), explicit sexual activity (S), or crude indecent language (L). |

PART 6: POLITICAL BROADCASTS AND POLITICAL ADVERTISEMENTS

This Part of the Code sets out the standards applicable to the broadcasting of political advertisements and election programmes arranged and paid for by potential candidates, actual candidates, political parties and other persons or entities outside of election periods and during the period preceding a parliamentary general election or bye-election, a referendum or a local government election. Licensees are required to disclose to the public the name and political affiliation of any paid political broadcast, and cannot broadcast any political material on polling day. Licensees broadcasting election opinion surveys must disclose whether the survey is based on recognised statistical data and must clearly distinguish factual information from opinion or advocacy. Licensees must strive to provide balanced coverage of parties, candidates and issues relevant to an election.

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| 6.1 | <p>General</p> <p>(1) Unless otherwise stated in this Part of this Code or any other written law, words and expressions used in this Part of this Code shall have the same respective meanings as in the Parliamentary Elections Act (Ch. 7), the Local Government Act (Ch. 37) or the Constitutional Referendum Act (Ch. 1).</p> <p>(2) The provisions of this Part of this Code shall apply to all political advertisements or political broadcasts produced by or on behalf of a candidate, an intending candidate, a political party or any other person or entity and/or broadcast by a Licensee.</p> <p>(3) Robust debate, advocacy and the expression of political opinions are a desirable and essential part of a democratic Bahamian society, and the broadcasting standards under this Code will be applied by URCA in a manner which respects this context.</p> |
| 6.2 | <p>Broadcasts outside of election periods</p> <p>Up to midnight at the start of the first day of the election period, Licensees may make available broadcasting time each day for purchase by intending candidates, political parties and any other person or entity for political advertisements and political broadcasts.</p> |
| 6.3 | <p>Broadcasts during election periods</p> <p>Up to midnight at the end of the day before polling day, Licensees may make available broadcasting time each day for purchase by candidates, political parties and any other person or entity for political advertisements and political broadcasts.</p> |

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| 6.4 | <p>Discrimination against candidates, political parties <u>and others</u> during election periods</p> <p>(1) In making broadcasting time available to individual candidates, and political parties, <u>or any other person or entity</u> for political advertisements and political broadcasts, Licensees shall not discriminate against any candidate, or political party, <u>person or entity</u>, or make or give any preference to any candidate, or political party, <u>person or entity</u>, or subject any candidate, or political party, <u>person or entity</u> to any prejudice or bias.</p> <p>(2) Public Service Broadcasters shall not be permitted to endorse a candidate or political party.</p> |
| 6.5 | <p>Definition of qualifying parties and candidates during election periods</p> <p>(1) Up to midnight on the day before polling day, Licensees may only allocate broadcasting time during parliamentary general elections and bye-elections for political advertisements or political broadcasts to candidates, and political parties registered for that parliamentary general election or bye-election by the Parliamentary Commissioner as defined in the Parliamentary Elections Act <u>and any other person or entity</u>.</p> <p>(2) Up to midnight on the day before polling day, Licensees may only allocate broadcasting time during local government elections for political advertisements or political broadcasts to candidates registered for local government elections in each electoral district by the Parliamentary Commissioner as defined in the Parliamentary Elections Act <u>and any other person or entity</u>.</p> |
| 6.6 | <p>Identification of political advertisements and political broadcasts</p> <p>Licensees shall clearly identify all political advertisements (where possible at the beginning and automatically at the end) and political broadcasts (at the beginning, periodically throughout and automatically at the end) as a political advertisement or political broadcast on behalf of a specified candidate, political party or other person or entity and clearly indicate that a specified candidate, political party or other person or entity has authorised and paid for the political advertisement or political broadcast.</p> |
| 6.7 | <p>Prohibitions on polling day</p> <p>Licensees shall not be permitted to broadcast within any programmes the following to the public on any polling day until after the close of the poll:</p> <ul style="list-style-type: none"> (a) discussion and analysis of election and referendum issues; (b) the result or purported result of the voting in a constituency or electoral district before the close of all of the polling stations in that constituency or electoral district; (c) the results of any opinion poll; |

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| | (d) any political advertisements, political broadcasts or any other election programming produced by or on behalf of a candidate, political party or other person or entity. |
| 6.8 | <p>Subject matter of political advertisements and political broadcasts</p> <p>(1) While a political advertisement or political broadcast may oppose a political party or candidate, it may not include material which defames or slanders a political party or candidate.</p> <p>(2) A political advertisement or political broadcast may not imitate an existing programme, format or identifiable personality in a manner which is likely to mislead the public, but exceptions to this rule may be justifiable for comedy, satire, parody or fiction purposes or where the representation is non-explicit. Further, Licensees must ensure that such advertisements or programmes meet the same standards of scheduling and content that apply to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.</p> <p>(3) A political advertisement or political broadcast may not contain any material which may reasonably be anticipated to expose the Licensee to legal liability.</p> <p>(4) Licensees shall not use or permit race, gender, ethnicity, religious beliefs, nationality, religion, age, gender, sexual preference, or physical or mental disability in political advertisements or political broadcasts as a basis for denigrating a person's political affiliation.</p> <p>(5) Notwithstanding that the content of a political advertisement or political broadcast is normally the responsibility of the relevant candidate or political party, Licensees are required to fully comply with the relevant provisions of this Code, as with any other programme or advertisement. Licensees should apply these rules in accordance with the relevant provisions of this Code.</p> <p>(6) Licensees broadcasting political advertisements and political broadcasts are encouraged to seek legal indemnities from candidates and political parties against defamation, copyright and similar legal risks.</p> <p>(7) Any use of Parliamentary video or audio recordings by a candidate or political party in a political advertisement, political broadcast or party political broadcast should abide by Parliament's rules on such use.</p> <p>(8) A Licensee accepting a political advertisement or political broadcast from a candidate, political party or other person or entity for broadcast shall satisfy itself that such advertisement or programme does not:</p> |

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| | <p>(a) contravene the provisions of this Code, the Constitution or any law then in effect in The Bahamas; or</p> <p>(b) contain any material that is calculated, or that in the ordinary course of things is likely, to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.</p> |
| 6.9 | <p>Factual Information and Opinion including Election Opinion Surveys</p> <p>(1) A political advertisement or political broadcast may include debate, advocacy and opinion, but factual information should be clearly distinguishable from opinion or advocacy.</p> <p>(2) Licensees who, during an election period, broadcast during any programme to the public the results of an election opinion survey based on recognised statistical methods must, during the broadcast, provide the following information, or an accurate summary of key methodological details comprising such information, aurally (for radio) and/or in audio-video format (for television), together with the results of the survey <u>If, during an election period, a Licensee broadcasts the results of an election opinion survey taken in The Bahamas which survey is based on recognised statistical methods, the Licensee must aurally (for radio) and/or in audio-video format (for television) during the broadcast provide, at a minimum, an accurate summary of key methodological details of the following information together with the results of the survey. Alternatively, the Licensee may broadcast all of the following information or the salient details of the following information together with the results of the survey:</u></p> <ul style="list-style-type: none"> (a) the name and address of the sponsor of the survey; (b) the name and address of the person or organisation that conducted the survey; (c) the date on which or the period during which the survey was conducted; (d) information about the method used to collect the data from which the survey results are derived, including: <ul style="list-style-type: none"> (i) the sampling method, (ii) the population from which the sample was drawn, (iii) the size of the initial sample, (iv) the number of individuals who were asked to participate in the survey and the numbers and respective percentages of them who participated in the survey, refused to participate in the survey, and were ineligible to participate in the survey, (v) the dates and time of day of the interviews, (vi) the method used to recalculate data to take into account in the survey the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the survey questions, and |

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| | <p>(vii) any weighting factors or normalization procedures used in deriving the results of the survey;</p> <p>(e) the wording of the survey questions and, if applicable, the margins of error in respect of the data obtained; and</p> <p>(f) the means by which a copy of the survey report may be obtained.</p> <p>(3) Licensees broadcasting the results of an election opinion survey pursuant to Clause 56.9(2) must make the complete results of the survey report available to the public <u>either in print or online</u>, or notify the public where online they can obtain the complete survey report <u>either in print or online</u>, and the price (if any) for such printed copies.</p> <p>(4) A Licensee may charge a reasonable fee for a copy of an election opinion survey report to persons requesting a copy of such report.</p> <p>(5) A Licensee who broadcasts to the public the results of an election survey that is not based on recognised statistical methods during an election period must indicate to the public that the survey was not based on recognised statistical methods.</p> |
| 6.10 | <p>Requirements for Balanced Reporting</p> <p>(1) If, during an election period:</p> <p>(a) the news or current affairs programming of any Licensee extends to reporting on the topics of elections, candidates, political parties and issues relevant thereto, the Licensee concerned must afford reasonable opportunities for the discussion of competing views and must treat all political parties equitably;</p> <p>(b) any criticism is levelled against a candidate or political party in a particular programme of any Licensee, the Licensee concerned must afford such candidate or party a reasonable opportunity to respond to the criticism either immediately in the same programme or soon after at a corresponding time (e.g. in a subsequent edition of the same programme or series, or in a different programme that caters to a similar audience and is scheduled in the same time period as the original broadcast);</p> <p>(c) a candidate takes part in a news or current affairs programme about his or her particular constituency or local government district, or takes part in reports or discussions about his or her constituency or local government district, then the Licensee also must offer each of the candidate's opponents a reasonable opportunity to also take part in such programme. However, if the candidate's opponents refuse or are unable to participate, the Licensee may nevertheless go ahead with the news or current affairs programme, or constituency or local government district reports and discussions.</p> |

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| | <p>(2) Clause 6.10(1) of this Code does not apply to the contents of any election programme or political advertisement.</p> <p>(3) During the election period:</p> <ul style="list-style-type: none"> (a) Licensees broadcasting news or current affairs programmes shall ensure, in accordance with this Clause 6.10, that in the course of their reporting of the political campaigning and elections process the Licensee provides a reasonable and balanced opportunity for all political parties and persons contesting local government, general or bye-elections to express their views, positions and opinions; (b) when hosting political discussions or debates involving partisan speakers, Licensees shall make clear to their audience throughout the programme the political nature of the programme and the specific partisan affiliations of the invited speakers; and (c) Licensees must strictly maintain their impartiality in any report or discussion on a parliamentary constituency and in any report or discussion on a local government district. <p>(4) During the election period of a referendum, Licensees must give due weight to the coverage of participants in the referendum process with significant views and perspectives.</p> <p>(5) In the course of their reporting of the political campaigning and elections process made after the close of nominations for parliamentary or local government district elections, Licensees may broadcast a list of all candidates nominated for election, giving first names, surnames and the name of the political party they represent or, if they are nominated independently, the fact that they are an independent candidate. Licensees may also direct their audience to an appropriate website or other information source listing all candidates and providing the information set out above.</p> <p>(6) Where, during an election period, a candidate is taking part in any programme which is not a political broadcast, the Licensee must not allow such candidate the opportunity to make comments about the constituency or local government district in which she or he is standing for election when no other candidates for the same constituency or local government district will be given a similar opportunity.</p> |
| 6.11 | <p>Appearances by Political Candidates</p> <p>(1) During the election period, Licensees shall not permit any person nominated as a candidate for election to be news presenters, interviewers, hosts or presenters of any type of programme broadcast by the Licensee.</p> |

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| | <p>(2) In exception to Clause 6.10(1)(a) of this Code, Licensees may broadcast appearances by candidates in news or current affairs programmes where such appearances were planned or scheduled before the election period.</p> |
| 6.12 | <p>Retention of Records</p> <p>Clause 6.6 of this Code shall apply to all political broadcasts and political advertisements. Licensees shall also retain a record of the name, address, and other identifying information of the person or entity purchasing the broadcast time and must give to URCA any copies of the recordings and any other particulars of the person or entity purchasing the broadcast time that URCA, by written notice, requires.</p> |
| 6.13 | <p>Technical Quality</p> <p>(1) Any candidate, political party or other person or entity purchasing broadcast time for a political broadcast or political advertisement shall, if required by a Licensee, submit that political broadcast or political advertisement to the Licensee concerned, pre-recorded and:</p> <ul style="list-style-type: none"> (a) in a form and manner that complies with technical standards acceptable to that Licensee; (b) in completed form, ready for broadcast; and (c) up to ninety-six (96) hours before the time when that election broadcast or political advertisement is to be transmitted. <p>(2) Licensees shall not in any way edit or alter the content of any political broadcast or political advertisement, whether before or after it has been broadcast.</p> |
| 6.14 | <p><u>Complaints arising from rejection of a Political Broadcast or Advertisement</u></p> <p>(1) Every Licensee receiving a political broadcast or political advertisement for broadcast shall be entitled to reject and refuse to broadcast that material if it does not comply with URCA's or the Licensee's technical standards, this Code or any written law in The Bahamas. However, the parties may agree in writing that the Licensee may make specific edits to the material in order that the material complies with such technical standards.</p> <p>(2) Any Licensee who rejects any political broadcast or political advertisement submitted to it for broadcast (whether for technical or any other reason) shall, within twenty-four (24) hours of rejecting such submission:</p> <ul style="list-style-type: none"> (a) furnish the person, party or entity submitting the material concerned with written reasons for such rejection, and that person, party or entity shall be entitled to alter or edit the material and again submit it to the Licensee at least twenty-four (24) hours before the time when it is to be transmitted; |

(b) in the event of the Licensee rejecting an altered or edited political broadcast or political advertisement submitted to the Licensee in accordance with Clause 6.14(2)(a), notify URCA at the same time as the Licensee issues its written reasons of such rejection by furnishing URCA with a copy of the written reasons given for that rejection.

(3) Any person, party or entity whose election programme or political advertisement has been rejected by a Licensee under Clause 6.14(1) may refer the matter to URCA as an urgent complaint under section 96 of the Communications Act and Clause ~~9.2(1)~~10.9(21) of this Code.

PART 7: ADVERTISING AND SPONSORSHIPS

This Part of the Code is intended to ensure that advertisements and sponsorships are legal, decent, honest and truthful and that they are presented with a sense of obligation to the consumer, whether they are directed at adults or at children, and to society.

7.1

General Principles relating to Advertising

- (1) Notwithstanding that the content of an advertisement is normally the responsibility of the relevant advertiser or its advertising agency, Licensees are required to fully comply with the relevant provisions of this Code. Advertisers and advertising agencies should, having regard to Clause 2.3 of this Code, ensure that their advertisements comply with the rules in this Part of this Code and with all other relevant provisions of this Code.
- (2) All advertisements broadcast in The Bahamas must comply with the laws of The Bahamas and with this Code, and shall not promote any content, product, service, organisation or point of view which is contrary to any law in The Bahamas or this Code.
- (3) All advertisements should be prepared with a due sense of responsibility to consumers and society.
- (4) No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer.
- (5) Licensees should ensure that there is no influence of any kind by advertisers or sponsors, or the perception of such influence, on the reporting of news or current affairs that would undermine the editorial independence of Licensees.
- (6) Advertisements should avoid abusing the trust of the consumer, or exploiting the consumer's lack of knowledge.
- (7) Advertisements should not be presented in a format or style that conceals their commercial intent and surreptitious advertising is not allowed in any programme.
- (8) Advertisements should respect and reflect the principles of free and fair competition generally accepted in business.
- (9) Advertisements must comply with the rules contained in this Code in the same way that this Code applies to other programming material. Such rules include compliance with the watershed, and any limitations

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| | <p>on the matters which may be broadcast.</p> <p>(10) Advertisements should be clearly distinguishable by the public as such, whatever their form and whatever the medium used.</p> <p>(11) Animals should not be harmed in the making of advertisements.</p> |
| 7.2 | <p>Advertising Minutes by designated Public Service Broadcasters</p> <p>(1) The time allocated by a Public Service Broadcaster to advertising on any television channel or radio station, inclusive of sponsorship credits between or during programmes, shall not exceed sixteen (16) minutes per hour.</p> <p>(2) The limitations in Clause 7.2(1) shall not include emergency broadcasts pursuant to Clause 8.24 or public service advertisements pursuant to Clause 8.26 of this Code.</p> |
| 7.32 | <p>Advertisements Directed at Children</p> <p>(1) Licensees shall exercise special care and judgment when broadcasting advertisements which are directed at or are likely to influence children during programmes made primarily for children. Licensees shall exercise the same degree of care and judgment in advertisements broadcast during <u>outside the watershed</u> (in the case of television), or when children are likely to be listening (in the case of radio).</p> <p>(2) Advertisements addressed to or likely to influence children should not contain any statement or visual presentation which might result in exposing them to mental, moral, physical or emotional harm.</p> <p>(3) Advertisements should not exploit the natural credulity of children or their lack of experience and should not strain their sense of loyalty to family, friends, animals, ethnicity, nationality, religion, race, gender, sexual preference, and others.</p> <p>(4) Advertisements must not condone, encourage or unreasonably feature behaviour that could be dangerous for children to emulate. Advertisements, whether addressed to or likely to influence children or adults, must not implicitly or explicitly discredit safety guidelines established by governmental, health, safety, education and other agencies responsible for such matters.</p> <p>(5) Advertisements must not condone or encourage practices that are detrimental to children's health.</p> <p>(6) Advertisements must not condone or encourage bullying.</p> |

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| | <p>(7) Licensees should also note the provisions of Part 5 of this Code in relation to advertisements directed at children, or in which children participate.</p> |
| 7.43 | <p>Sponsorship</p> <p>(1) Licensees should clearly identify sponsorship credits in programmes that are sponsored.</p> <p>(2) Licensees may make references to sponsors in promotions or advertisements for sponsored programmes but such references should be brief and secondary to the principal subject matter of the sponsored programme.</p> |
| 7.5 | <p>Distance Selling</p> <p>Distance selling advertisements (which consist of advertisements on television or radio selling goods or services to consumers by placing orders through the internet, mail order, telephone or fax) should contain the name, address and telephone contact of the advertiser. Licensees should also keep the advertiser's name, address and telephone contact on record for complaints-handling purposes.</p> |
| 7.64 | <p>Prices and Offers in Advertisements <u>including Distance Selling</u></p> <p>(1) Phrases such as “direct supply” or “wholesale prices” may only be used in advertisements where the advertiser is able to substantiate that the advertised prices are below retail prices.</p> <p>(2) Advertisements should be clear and unambiguous in the presentation of prices and offers, and should:</p> <ol style="list-style-type: none"> include all necessary incidental costs; contain clear definitions of the full price against which offers are made; contain clear details of the time period for which any offers are valid. <p>(3) <u>Distance selling advertisements (which consist of advertisements on television or radio selling goods or services to consumers by placing orders through the internet, mail order, telephone or fax) should contain the name, address and telephone contact of the advertiser. Licensees should also keep the advertiser's name, address and telephone contact on record for complaints-handling purposes.</u></p> |
| 7.75 | <p>Alcohol</p> <p>(1) <u>Licensees shall not broadcast advertisements and sponsorships for alcohol during programmes directed towards children or outside the watershed period.</u></p> |

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| | <p>(2) Licensees shall not broadcast advertisements and sponsorships that encourage the consumption of alcohol by persons under the legal age to purchase alcohol, especially by advertisements for alcohol:</p> <ul style="list-style-type: none"> (a) reflecting or being associated with youth culture; or (b) showing adolescent or juvenile behaviour; or (c) including a person or character whose example is likely to be followed by those aged under eighteen (18) years, or who has a strong appeal to those aged under eighteen (18). <p>(3) Advertisements must not feature, imply, condone or encourage irresponsible or immoderate drinking of alcohol. This applies to both the amount of drink consumed and the way drinking of alcohol is portrayed.</p> <p>(4) Advertisements for alcohol should not:</p> <ul style="list-style-type: none"> (a) detract from the need for responsibility and moderation in consumption; (b) imply that alcohol can contribute to an individual's: <ul style="list-style-type: none"> (i) popularity or confidence, (ii) daring, toughness and aggression, (iii) social success or acceptance, (iv) sexual activity, sexual success or seduction; or (c) imply that the success of a social occasion depends on the presence or consumption of alcohol; or (d) imply that alcohol enhances personal qualities or attractiveness; or (e) imply that refusal of alcohol is a sign of weakness. |
| 7.86 | <p>Tobacco</p> <p>Advertisements or sponsorships promoting the consumption or use of tobacco or tobacco products shall not be broadcast.</p> |
| 7.97 | <p>Prescription Drugs</p> <p>Advertisements and sponsorships for prescription drugs and medicines advertisements must comply with applicable laws and regulations in The Bahamas regarding health related products and services.</p> |
| 7.108 | <p>Films and Video Games</p> <p>Advertisements or promotions for films and video games must be advertised <u>during such time period</u> as is appropriate under this Code <u>and</u> in accordance with the rating given to the film or video game.</p> |
| 7.119 | <p>Gambling</p> |

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| | <p>Advertisements or sponsorships pertaining to unlawful gambling, gaming, betting, bookmaking, lotteries or any similar activity or service shall not be broadcast.</p> |
| 7.12 <u>10</u> | <p>Sexual Services and Pornography</p> <p>(1) Advertisements and sponsorships promoting prostitution or any sexual services shall not be broadcast.</p> <p>(2) Advertisements for pornography shall only be broadcast in accordance with the rules pertaining to pornographic content.</p> |
| 7.13 <u>11</u> | <p>Financial Products</p> <p>Advertisements promoting financial products and services, or organisations offering financial products or services, must comply with any regulations in The Bahamas applicable to the sale and offering of financial products and services.</p> |
| 7.14 <u>12</u> | <p>Food</p> <p>(3) Nutrient, nutritional and health claims made in advertisements should be factual, and able to be substantiated by the advertiser.</p> <p>(4) Food and dietary products should not be presented in advertisements in a manner which would or is likely to encourage excessive or unhealthy consumption of such products.</p> |

PART 8: NEWS AND FACTUAL PROGRAMMES

This Part of the Code is intended to ensure that news, current affairs and factual programmes are presented accurately and impartially; are presented fairly, having regard to the likely composition of the audience and, in particular, the presence of children; and that they take account of personal privacy. Coverage of controversial issues, including subjects that some people may find offensive, is encouraged provided the coverage is presented carefully, taking into account cultural differences in communities or localities throughout The Bahamas where relevant.

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| 8.1 | <p>Accuracy, objectivity and impartiality</p> <p>(1) Licensees are required to ensure that the content of news, current affairs and other factual programmes, including matters which are of local, national or international public importance, matters relating to political or industrial controversy or matters relating to current public policy, are accurate, truthful, unbiased, and presented objectively and with due impartiality.</p> <p>(2) Views, facts and content dealing with controversial issues of public importance should be balanced, and must not be misrepresented or aim to mislead the audience. Where possible, adequate evidence should be included in the programmes to support the views that are being presented.</p> <p>(3) Licensees shall ensure that they have adequate evidence or information to support the accuracy of news, current affairs and factual programming produced by them.</p> <p>(4) When reporting statistics in news, current affairs and factual programmes, Licensees shall present such statistics in a manner which accurately reflects the results, and the source of the statistics must be stated.</p> |
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| 8.2 | <p>Misrepresentation and False information</p> <p>(1) Licensees shall not intentionally, through negligence, or otherwise depart from the facts, distort, exaggerate, misrepresent or make material omissions in the content of news, current affairs and other factual programmes or broadcast information that they know to be false or inaccurate.</p> <p>(2) Licensees shall be required to ensure that the editing of interviews or footage does not distort or misrepresent subjects or their views. Interviews may be edited provided that the meaning of the interview is not changed or misrepresented.</p> |
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| 8.3 | <p>Corrections</p> <p>Licensees shall acknowledge and publicly correct errors of fact at the earliest opportunity. Such corrections shall be appropriately scheduled in the same or a similar time period so as to reach an audience similar to the audience that originally received the misinformation.</p> |
| 8.4 | <p>Comment</p> <p>(1) Licensees shall be required to clearly distinguish the reporting and analysis of news, current affairs and factual information from commentary and opinion, including programmes that present authored views. Such authored views may include the opinions of a journalist, commentator or academic with professional expertise or a specialty in an area.</p> <p>(2) Licensees may present commentary and opinion, including personal views or authored programmes as part of their news, current affairs and factual programming, but the commentaries and opinions must carry such aural and/or written advisories as are required by this Code and must be kept distinct and apart from the Licensee’s news, current affairs and factual programmes.</p> <p>(3) Except in the case of political or special-interest opinion, the background details to the Licensee’s analysis, and opinion referred to in Clause 8.4(2) must be based, as appropriate, on the most reliable scientific data, available evidence, sound social concepts, or expert opinion.</p> |
| 8.5 | <p>Disclosures</p> <p>(1) Licensees shall make clear to the audience, through aural and/or written advisories as required by Clause 5.10 of this Code, that the personal views of presenters or reporters, which may call into question the impartiality of a programme, are actually commentaries by such presenters or reporters.</p> <p>(2) Subject to Clause 8.5(1) of this Code, presenters (including the presenters of "personal views" or "authored" programmes or items), reporters, and the hosts of discussion programmes may express their own views in news, current affairs and factual programmes on matters which are of local, national or international public importance, including matters relating to political or industrial controversy or matters relating to current public policy. However, subject to Clauses 8.1, 8.11, <u>8.18</u> and 8.20 of this Code, the Licensee should provide an opportunity for alternative viewpoints to be adequately represented in the programme.</p> |
| 8.6 | <p>Controversial events and issues</p> <p>(1) Licensees are encouraged to cover controversial issues or events that carry</p> |

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| | <p>elements of public interest, in recognition that healthy controversy is essential to the maintenance of democratic institutions. Subject to Clauses 8.1, 8.11 and 8.20 of this Code, Licensees should ensure, so far as they are able, that for subjects of a controversial nature, all viewpoints represented in the programme are treated fairly and in a balanced manner and given appropriate airtime.</p> <p>(2) Licensees are responsible for ensuring that the coverage of controversial events and issues meet the same standards of scheduling that applies to all programming broadcast under this Code. Where necessary, the Licensee is responsible for handling such programmes in a sensitive manner and for ensuring that it carries such classifications and/or advisories as are required by Clause 5.10 of this Code.</p> <p>(3) In exercising their discretion to cover controversial events and issues, Licensees should take into consideration that because certain subject matter or issues may be offensive to some persons within the community, this is not a justification for excluding the subject matter or issues from coverage in a programme.</p> |
| 8.7 | <p>Payments</p> <p>(1) Licensees, any of their employees and independent producers of news broadcasts are prohibited from direct or indirect payment, promise of payment or payment in kind to:</p> <ul style="list-style-type: none"> (a) subjects or sources, including convicted or confessed criminals or any other person relating to his or her crime(s); or (b) witnesses or any other person reasonably expected to testify as a witness in an active or likely and foreseeable criminal proceeding and whether dependent on the outcome of the trial or not; or (c) convicted or confessed criminals and persons with a vested interest in the subject matter of a news report. <p>(2) Neither a Licensee, nor its agents or employees, shall accept financial compensation from anyone who seeks to influence news coverage. The Licensee should take all reasonable steps to ensure compliance with this rule.</p> |
| 8.8 | <p>Sources</p> <p>(1) Licensees shall make every effort to ensure that news is attributed on the record.</p> <p>(2) Confidential sources should be used only if:</p> <ul style="list-style-type: none"> (a) it is clearly in the public interest to gather important information; or (b) it conveys important information; or |

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| | <p>(c) a person providing information might be harmed.</p> <p>(3) Licensees should take special care to ensure the veracity of the information provided by such confidential sources.</p> |
| 8.9 | <p>Promotions, Previews and Trailers</p> <p>(4) Promotions for news, current affairs, factual and any other of the Licensee's programming must comply with the requirements for the watershed and the other rules in this Code during the time period in which such promotion is broadcast, regardless of the brevity of the promotion.</p> <p>(5) If, in the promotion for a programme, a Licensee includes an advisory that the programme contains material which may seriously distress or seriously offend the audience, then that advisory must comply with the requirements of Clause 5.10 of this Code for the period in which it is broadcast.</p> <p>(6) Where a Licensee broadcasts any preview or trailer, the Licensee must ensure that such previews or trailers meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such previews or trailers carry such classifications and/or advisories as are required by this Code.</p> |
| 8.10 | <p>Exceptions</p> <p>Exceptions to the rules in Clauses 8.1 to 8.6 of this Code shall be permitted for humour, satire, parody or fictional purposes, provided that it is clear that the programme is of a humorous, fictional or satirical nature, and is therefore not genuine news.</p> |
| 8.11 | <p>Fairness</p> <p>(1) Licensees must avoid unjust or unfair treatment of individuals or organisations in programmes.</p> <p>(2) People and organisations taking part or referred to in programmes should be dealt with fairly. The participants should, except as required in the public interest, be informed of the nature of their participation. Licensees should respect the right of individuals to express their own opinions.</p> |
| 8.12 | <p>Privacy</p> <p>(1) Licensees and the broadcast journalists that they employ shall respect the dignity, privacy and well-being of everyone with whom they deal, and will make every effort to ensure that news gathering and reporting do not unreasonably infringe privacy except when it is justified in the public</p> |

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| | <p>interest.</p> <p>(2) Insofar as both news and comment are concerned, Licensees shall exercise exceptional care and consideration in matters involving the dignity or private lives and private concerns of individuals, bearing in mind that the rights to dignity and privacy may be overridden by a legitimate public interest.</p> |
| 8.13 <u>12</u> | <p>Personal details</p> <p>Licensees shall be required to avoid disclosing individuals' private details, such as the location of their home or family details, except where justified in the public interest.</p> |
| 8.14 <u>13</u> | <p>Consent</p> <p>(1) Exceptions to the rules in Clauses 8.12 shall only be permitted when it is justified in the public interest and only when made with the relevant individual's or organisation's consent.</p> <p>(2) Licensees may record telephone calls between employees of the Licensee and another party only if the Licensee has, from the outset of the call, identified themselves and their broadcasting station, explained the purpose of the call and that the call is being recorded for possible broadcast (if that is the case). If at a later stage it becomes clear that a call that has been recorded will be broadcast (but this was not explained to the other party at the time of the call) then the Licensee must obtain consent from the other party before broadcast, unless in the circumstances of the call the Licensee reasonably believes it is not necessary to do so.</p> |
| 8.15 <u>14</u> | <p>Decency</p> <p>(1) Licensees and the broadcast journalists that they employ shall treat people who are the subjects of news, current affairs or other factual programmes, or who are the sources of information for such programmes, with decency.</p> <p>(2) Disturbing or alarming material should only be broadcast when it is justified in the public interest.</p> |
| 8.16 <u>15</u> | <p>Sensitivity</p> <p>(1) Licensees shall ensure that the content of news, current affairs and factual programmes are presented with sensitivity in the case of material likely to cause some distress to a substantial number of the audience, such as televised images of dead or seriously wounded people <u>or animals</u>, images or interviews with victims of traumatic incidents, or reporting on criminal</p> |

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| | <p>activities of a traumatic nature. Such material should only be used when deemed editorially essential, and if so, sparingly, and have appropriate regard to the feelings of viewers and family members.</p> <p>(2) Licensees must use judgment and discretion in deciding the degree of graphic detail to be included in news, current affairs and factual programmes when children are likely to be watching. Warnings within such programmes should be used when appropriate.</p> <p>(3) Licensees must use special sensitivity when dealing with children and shall be sensitive to the depiction or involvement of children or vulnerable people. Particular sensitivity shall be shown to bereaved relatives, survivors and witnesses of traumatic incidents.</p> <p>(4) When dealing with the issue of violence, Licensees should exercise particular care and discretion.</p> <p>(5) When reports on executions and assassinations are broadcast, the coverage should not be explicit, prolonged, or repeated gratuitously.</p> <p>(6) Warnings before the broadcast of material of a potentially sensitive or traumatic nature must be spoken, and should also appear on-screen for television when a news, current affairs, or other factual programme includes material which in the Licensee’s reasonable opinion has the potential to distress or offend a substantial part of the audience. The warning must precede the relevant report in a news or current affairs programme and precede the programme in other cases, particularly outside the watershed. Warnings must provide an adequate indication of the nature of the material, while avoiding details which may seriously distress or seriously offend viewers or listeners.</p> <p>(7) Licensees shall employ discretion in the use of explicit or graphic language related to stories of destruction, accidents or sexual violence which could disturb children and sensitive audiences.</p> <p>(8) Licensees should ensure that journalists and other employees of Licensees strive to conduct themselves in a courteous and considerate manner when dealing with members of the public, keeping broadcast equipment as unobtrusive as possible, and also to prevent their presence from distorting the character or importance of events.</p> |
| <p><u>8.1716</u></p> | <p>Deception</p> <p>Licensees are prohibited from obtaining information, audio or pictures through misrepresentation or deception (including surreptitious filming or recording) except when there is a public interest ground for doing so.</p> |

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| 8.1817 | <p>Right to reply</p> <p>(1) Licensees shall offer individuals whose views are criticised in a news, current affairs or factual programme, or who are accused of wrongdoing or incompetence, a right to reply in the same programme.</p> <p>(2) If an individual makes no comment or refuses to appear in a broadcast and gives reasons for doing so, the Licensee shall make clear the individual's stated reasons for doing so together with the fact of the refusal.</p> |
| 8.1918 | <p>Covering violent situations</p> <p>Licensees reporting on violent situations or criminal activities must do so in a way that does not knowingly endanger lives, offer comfort and support or provide vital information to the perpetrator(s). Licensees must not contact either the victims or the perpetrators of a criminal activity or violent event during the course of the event for the purpose of conducting an interview in a manner which would interfere with police investigations or a peaceful resolution of the situation.</p> |
| 8.2019 | <p>Identification of individuals</p> <p>Licensees shall avoid unfairly singling out for identification individual persons or businesses when commenting on or criticising the behaviour of groups of persons or businesses, but it is not unfair for a Licensee to correctly identify an individual person or business as part of that group if:</p> <ul style="list-style-type: none"> (a) the Licensee is reasonably satisfied that the individual person or business engages in the behaviour commented on or criticised; or (b) the Licensee discloses to its audience that the individual person or business does not engage in the behaviour commented on or criticised. |
| 8.2120 | <p>Identification of victims</p> <p>Licensees shall take all reasonable steps to ensure that murder or accident victims are not identified before their families have been notified by the police or other authorities.</p> |
| 8.2221 | <p>Fair trial</p> <p>Licensees shall ensure that the reporting of matters that are or may be before the courts do not interfere with the rights of individuals to a fair trial.</p> |
| 8.2322 | <p>Suicide</p> <p>Licensees shall exercise care and discretion when reporting on suicides or attempted suicides and shall avoid detailed descriptions of methods used when doing so.</p> |

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| <p>8.2423</p> | <p>Broadcast of emergency messages</p> <p>(1) Public Service Broadcasters Licensees shall broadcast emergency messages relating to hurricane warnings, floods, fires, national and local emergencies or disasters and other similar safety messages emanating from national or local government and national or local emergency service organisations free of charge. Other Licensees are encouraged to broadcast such emergency messages free of charge.</p> <p>(2) Licensees designated as Public Service Broadcasters are required to broadcast emergency messages in a timely and accurate manner. Other Licensees are encouraged to broadcast such messages in a timely and accurate manner. Licensees broadcasting such messages shall have clear internal procedures in place to ensure coordination with emergency or essential service organisations.</p> <p>(2) As a general guide, emergency or essential service organisations include Police, Fire, Ambulance, National Emergency Management Authority (NEMA), Water, Electricity, Port or Health authorities and the Department of Meteorology. Licensees and appropriate emergency or essential service organisations should jointly identify, develop and maintain effective lines of communication.</p> <p>(3) Licensees should:</p> <p>(a) consult with appropriate emergency and essential service organisations and implement internal procedures to ensure timely and accurate broadcast warnings and information supplied by such organisations relative to an existing or threatened emergency; and</p> <p>(3) ensure a designated person is identified by the Licensee as the contact officer during business and non-business hours for all matters relative to this Clause.</p> <p>(4) It is recognised that compliance by Licensees with the provisions of this Clause is dependent upon the co-operation of the emergency or essential services organisations. A Licensee will not be regarded as being in breach of this Code if any emergency or essential service organisation declines or fails to respond to a Licensee’s request to consult or be provided with relevant information, and a Licensee will not be responsible for inaccurate information provided by any emergency or essential service organisation.</p> |
| <p>8.2524</p> | <p>Intellectual property</p> <p>(1) In the context of this Code, intellectual property means persons or undertakings who have been granted certain exclusive legal ownership rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and</p> |

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| | <p>designs; and includes copyrights, trademarks, patents, industrial design rights and trade secrets.</p> <p>(2) Under this Code, plagiarism is unacceptable. Licensees and the broadcast journalists employed by them shall be expected to honour the intellectual property of others, including video and audio materials.</p> |
| <p>8.2625</p> | <p>Public service advertisements</p> <p>(1) Public Service Broadcasters <u>Licensees</u> are required <u>encouraged</u> to broadcast free of charge public service advertisements (also known as community service announcements) that are advertisements providing publicity for governmental agencies and registered charitable or community service organisations that primarily inform and educate the public by changing public opinion and raising awareness for a problem (such as safe driving, obesity, smoking, fitness, education, gambling addiction, alcoholism, drug addiction or safe sex) rather than sell a product or service. Other Licensees are encouraged to broadcast such public service advertisements free of charge.</p> <p>(2) Public service advertisements shall, at the discretion of the Licensee, not exceed more than two (2) in any hour and their duration shall not exceed more than two (2) minutes at a time, such advertisements to be broadcast at times mutually agreed between the Licensee and the organisation concerned.</p> <p>(3) Licensees shall satisfy themselves that organisations applying for public service advertisements are genuine public sector organisation, or registered charities or community service organisations, and that such organisations can demonstrate to the Licensee's satisfaction that they have the ability to cope with the response by the public to such advertisements</p> <p>(4) Services described in public service advertisements should be free or for a nominal charge only. Public service advertisements publicising commercial services are not acceptable.</p> <p>(5) Public service advertisements may be accepted from religious bodies for a nominal charge provided the services publicised are solely for needy, destitute or underprivileged members of the public. Proselytising is not permitted.</p> <p>(6) Licensees shall treat public service advertisements the same as any other advertisement and such advertisements are therefore subject to all relevant provisions of this Code.</p> |

PART 9: ACCESS SERVICES

This Part of the Code sets out the broadcasting standards for the provision of access services for people with hearing or visual impairments.

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| 9.1 | <p>Access Services in News and Current Affairs</p> <p>(1) Public Service Broadcasters are required, at a minimum, to provide closed captioning for all daily news and current affairs television programmes broadcast between 6:00 PM/18:00 hours and 12:00 midnight/24:00 hours, and encouraged as far as possible to provide closed captioning for other news and current affairs television programmes. As an alternative, Public Service Broadcasters may use signing where it is not practicable to provide closed captioning.</p> <p>(2) Licensees not designated as Public Service Broadcasters are encouraged to provide access services <u>in their programming, including but not limited to</u> for news and current affairs television programmes.</p> |
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| 9.2 | <p>Access Services in Emergency, Disaster and Safety Announcements</p> <p>(1) Licensees broadcasting emergency, disaster or safety announcements are required to provide the essential information visually on television (in open captioning, leaving sufficient time to write the details down) and spoken on television and radio. This should include relevant contact numbers for further information.</p> <p>(2) Licensees should, as far as possible, use sign language as one of their preferred forms of communication when broadcasting emergency broadcasts, news and matters of national and international public importance on television.</p> |
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| 9.3 | <p>Access Services in other programming</p> <p>It is intended that services provided by Public Service Broadcasters should be accessible to the widest possible cross section of the public in The Bahamas, and to that end, URCA intends to progressively increase the percentage of content delivered by Public Service Broadcasters which is available to persons with hearing or visual impairments. Accordingly, Public Service Broadcasters will be required to provide closed captioning for programmes other than those provided for in Clauses 9.1 and 9.2 of this Code, subject to targets which shall be determined by URCA in consultation with the Public Service Broadcaster and the public.</p> |
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| 9.43 | Closed Captioning |
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- (1) Closed captioning (also known as subtitling) is English-language text on a television screen representing speech and sound effects that may not be audible to persons with hearing impairments, synchronised as closely as possible to the television soundtrack.
- ~~(2) The provisions of this Clause regarding closed captioning shall apply to television programming provided by Licensees designated as Public Service Broadcasters, in accordance with Clauses 9.1 to 9.3 above. Other Licensees are encouraged, but not required, to provide closed captioning of their television programming.~~
- (2) Licensees should exercise due care in the presentation, lay-out, and non-speech information when broadcasting closed captioning, and must ensure that they have adequate procedures in place for monitoring the accuracy, speed and synchronisation of their closed captioned broadcasts.
- (3) Closed captioning best practice guidelines which all Licensees providing closed captioning are encouraged to adopt are as follows:
- (a) **Presentation:** closed captioning should use the CEA-708 designated screen fonts for all closed captions. Closed captions on standard and high definition television services should use either the EIA-608 standard ('Line 21') standard developed by the Electronic Industries Alliance (EIA) or the CEA-708 standard developed by the Consumer Electronics Association (CEA) for closed captioning for National Television System Committee (NTSC) and Advanced Television Systems Committee Inc. (ATSC) analogue and digital television broadcasts in the United States and Canada. ~~Although URCA does not regulate equipment used to render closed captioning in content services, and audiovisual media services,~~ URCA also recommends that such service providers of audiovisual media services, carriage services, content services and on-demand audiovisual media services adhere to the same equipment standards used to render closed captioning. Licensees and service providers are encouraged to use anti-aliasing techniques to help make the appearance of closed captions clearer. Closed captions should be placed within the 'safe caption area' of a 14:9 display and should normally occupy the bottom of the screen, except where they would obscure the speaker's mouth or other vital information or activity. It is particularly important to avoid obscuring the face, as this convey emotions and tone of voice, as well as being necessary for lip-reading;
- (b) **Pre-recorded and live closed captions/subtitles:** pre-prepared block closed captions is the best approach to providing accurate, easily legible and well-synchronised closed captioning and should be used for pre-recorded programmes. Recommended colours are white, yellow, cyan and green against a solid black background as these provide the best contrast. When scrolling closed captions need to be used, any

scripted material should be used for advance preparation. In addition to achieving the highest possible levels of accuracy and synchronisation, live closed captioning should flow continuously and smoothly;

- (c) **Lay-out:** closed captions should normally comprise a single sentence occupying no more than two lines, unless three lines will not obscure the picture. If necessary, sentences should be broken or reformed into more than one sentence at natural linguistic breaks so that each caption forms an understandable segment. Where breaks occur, the split should be made in a way that makes clear that there is more to come. This can be achieved by ending the first caption with a conjunction, a colon or semi-colon as appropriate, or even a short run of dots. Line breaks within a word must be avoided;
- (d) **Non-speech information:** in addition to speech, closed captioning should clearly describe relevant non-speech information, such as the mood of any music playing and the words of songs if possible (using the # sign to precede and conclude music), louder speech (using capital letters), inaudible mutterings or incoherent shouts, etc. (which should be explained as such). Captions should be displayed horizontally in the direction of any sound effects, and where the source of speech is not immediately apparent the first caption should have a caption to label the source. Italics or punctuation marks may be used to indicate emphasis. Where long speechless pauses in programmes occur, an explanatory caption should be inserted. Different colours should be used to denote different speakers. Captions should be used to identify the source of off-screen/off-camera speech where this is not obvious from the visible context;
- (e) **Synchronisation of speech and closed captioning:** the aim should be to synchronise speech and closed captioning as closely as possible. Caption appearance should coincide with speech onset and disappearance should coincide roughly with the end of the corresponding speech segment. If necessary, closed captioning may be edited conservatively if this is necessary to avoid long delays between speech and closed captioning;
- (f) **Speed of closed captioning:** the speed should not normally exceed 160 to 180 words per minutes (wpm); closed captioning faster than 200 wpm would be difficult for many viewers to follow. Consideration may be given to displaying three lines of captioning rather than two, to allow a longer period for the subtitles to be read, provided that this does not obscure important parts of the picture. Slower speed and more heavily edited closed captioning are appropriate for young children, though care should be taken to ensure that these are accurate and grammatical, as children and parents use closed captioning in developing literacy skills;
- (g) **Accuracy:** closed captioning users need to be able both to watch what is going on, and to read the captioning, therefore it is important that

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| | <p>these are as accurate as possible so that viewers do not need to guess what is meant by an inaccurate caption; and</p> <p>(h) Publicity: the word 'Subtitles' should be displayed legibly on the screen at the start of the programme.</p> <p>(4) Licensees providing closed captioning must ensure that the availability of closed-captioning for individual television programmes is clearly indicated in station and on-screen programme guides, programme promotions and at the start of any programme, and the Licensee must provide information on closed captioning for inclusion in press advertising, where relevant.</p> <p>(5) Licensees must provide adequate advance warning to hearing-impaired viewers if scheduled closed captioning programmes cannot be broadcast. If technical problems prevent this warning being provided in closed captioned form, it must be given in open captioned form as soon as reasonably practicable before the programme begins.</p> |
| <p>9.54</p> | <p>Signing</p> <p>(1) Public Service Broadcasters shall provide signing for news and current affairs television programmes where they are presently unable, for technical or economic reasons, to provide closed captioning, and otherwise as set out in Clauses 9.1 and 9.2 above.</p> <p>(2) Signing best practice guidelines which all Licensees providing signing are encouraged to adopt are as follows:</p> <p>(a) Language: English should be the default language for signed programmes. However, Licensees may also use other forms of sign language where consultation with disability groups has indicated that this would be acceptable. So far as possible, interpretation and voice-overs of signed programmed should be synchronised with the original speech/sign language;</p> <p>(b) Presentation: signed programmes may be presented or interpreted into sign language. Signed programmes, whether presented or interpreted in sign language, should be close captioned, to make it easier for people using both signing and closed captioning to understand and enjoy them;</p> <p>(c) Signers: sign language presenters, reporters and interpreters should be appropriately qualified, both to use sign language of native competency, and to communicate effectively through television. Some latitude is allowed for guests and interviewees, though broadcasters should ensure that they are understandable. The signer should use a style of interpretation and wear clothing that is appropriate to the style of the programme. It is important that signers' clothing allows them to be seen distinctly against the picture;</p> <p>(d) Size of image: the image of the signer superimposed upon the original</p> |

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| | <p>programme should generally appear on the left side of the screen and occupy a space no smaller than one sixth of the picture size;</p> <p>(e) Techniques: the signer should use appropriate techniques to indicate whose speech he or she is interpreting, and to draw attention to significant sound effects (if any);</p> <p>(f) Delivery: different methods of delivery are permissible, provided that the provision of sign language complies with these rules, and it is available in a form that is accessible to all viewers who want it, without the need to purchase special equipment or services. For example, Licensees may choose to use interactive services to provide a signed version of a programme simultaneously with an unsigned version, provided the interactive option is publicised at the beginning of the programme, is full-screen and complies with the standards set out in these rules. Licensees may also use ‘closed’ signing should this become feasible. However, the requirement for accessibility would preclude the use of Internet Protocol Television to provide signed programmes, unless viewers had the necessary equipment or were provided with it free-of-charge. In any case, Licensees who wish to use new forms of delivery should first consult URCA and groups representing persons with hearing or visual impairments.</p> |
| 9.65 | <p>Audio Description:</p> <p>(1) Licensees are encouraged wherever possible, but not required, to provide audio description of their television programming.</p> <p>(2) Licensees providing audio description are required to:</p> <ul style="list-style-type: none"> (a) display a standard audio description video logo and broadcast an audio announcement indicating the presence of audio described video before the broadcast of each audio described programme; (b) repeat the announcement and logo following each commercial break; and (c) make information available regarding the audio described programmes that they will broadcast; and <p>(3) Audio description best practice guidelines which all Licensees providing audio description are encouraged to adopt are as follows:</p> <ul style="list-style-type: none"> (a) What to describe: to the extent relevant to the storyline, audio description should describe characters, locations, time and circumstance, any sounds that are not readily identifiable, on-screen action, and on-screen information; (b) What not to describe: the description should only provide information about what can be seen on the screen. Information unavailable to the sighted viewer should not be added though discretion is always necessary. ‘A concrete bridge over some ships in a waterway’ would fall short if the sighted audience sees Nassau’s Paradise Island Bridge at |

Potter's Cay, even without an identifying caption. Generally, descriptions such as camera angles should not be used;

- (c) **When to describe:** audio description should not encroach on dialogue, important or complementary sound effects, or critical sound effects unless really necessary. Even then, audio description should only be used to impart relevant information when the dialogue or other sound is negligible, or to read closed captioning or on-screen captions. To differentiate between closed captioning and audio description, the describer should do this by either the use of their voice (for example, stating the obvious, 'He says in Haitian...' or 'A caption reads...') or a second voice. During opening titles and end credits, care should be taken to avoid clumsy overlaps with song lyrics. During songs, audio description should ideally pause where there is a reprise of the lyrics and where the lyrics are not relevant to the storyline;
- (d) **Language:** audio description provides a real-time commentary, so it should generally be in the present tense ('he sits'), the continuous present ('he is sitting') or the present participle ('Standing at the window, he lets out a deep sigh'), as appropriate. Variety is important, particularly with verbs. 'She scoots into the room' rather than the simple fact 'She enters the room' creates a clearer image for the viewer (a Thesaurus is always useful). Adverbs are useful shorthand to describing emotions and actions, but should not be subjective. Vocabulary should be matched to the genre of the programme, and should be accurate, easily understood, and succinct;
- (e) **Delivery:** delivery should be steady, unobtrusive and impersonal in style (but not monotonous), so that the personality and views of the describer do not colour the programme. Avoid terms such as 'we see'. However, it can be important to add emotion, excitement, lightness of touch at different points in different programmes to suit the mood and the plot development – the style should be matched to the genre of the programme. Diction should be clear and not hurried – every word should be clear, audible and timed carefully so that it does not overrun subsequent dialogue. The aim should be to enhance the enjoyment of a programme, not to distract from it;
- (f) **Balance:** judgement is needed in striking an appropriate balance between the amount of detail that is conveyed and the risk of overburdening the audience with detail and detracting from the enjoyment of the programme. Too much description, even where there is a lot of space for description, can make it difficult for viewers to absorb information. The programme should be allowed to 'breathe'. On the other hand, long gaps in the dialogue may need to be explained if the viewer is not to be left confused (for example, 'the cowboy rides across the prairie into the distance'). If a time slot available for audio description is short, it is better to focus on key moments and dynamics rather than to rush the description or fill every available moment. For example, it may be distracting in dance or fight scenes to describe

every piece of action. A consistent approach is important: if a description starts out as detailed, it should not suddenly become limited;

- (g) **Describers:** describers should be chosen to fit the genre, the nature of the programme and the intended audience. Ideally, the same people should be used to describe a series of programmes, both to ensure a consistent style (for example, in terms of level of detail) and because the description forms a part of the programme for users;
- (h) **Children's programmes:** language and pace of delivery for children's television programmes need particular care, having regard to the age and background of the target audience, as well as feedback from children and their parents. A more intimate style may be appropriate than would be the case for programmes aimed at adults;
- (i) **Publicity:** periodic announcements should be made about programmes with audio description;
- (j) **Characters:** identifying and describing characters is vital to effective audio description. Key features should be identified as soon as practicable, to help identify the person in the listener's mind's eye and avoid the need for long-winded and confusing descriptions (for example, 'the tall man' or 'district attorney Lopez'). But the describer should not give the name away if the plot requires the character's identity to be revealed at a later date. When describing characters, aspects such as dress, physical characteristics, facial expression, body language, ethnicity and age may be significant. Describers should not shy away from using colours or describing a character as pretty, or handsome, where relevant to the story. Generally names (rather than 'he' or 'she') are used more often than in normal speech, so as to avoid confusing the audience, particularly when there are several people taking part in a dialogue;
- (k) **On-screen action:** wherever possible, the describer should try to describe at the same time as the action occurs. This is particularly important with regard to comic situations, where the audience, sighted and visually impaired, should be able to laugh at the same time. Where relevant, key back-references can be included. It may be necessary to set up the next scene during the current description;
- (l) **Settings:** when describing locations, the describer should try to cover scene changes where possible; the locations (including scene changes wherever possible); the time of day/season/date setting where appropriate; any sounds that are not readily identifiable; and on-screen information (for example, signs, hieroglyphics, open subtitles for foreign languages, captions, and opening and closing credits). The description should not censor what is on screen. However, it should not be necessary to use offensive language, unless (for example) when referring to content that is integral to understanding the programme, such as graffiti scrawled on a wall.

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| 9.76 | <p>Duty to consult</p> <p>Licenseses are required to consult periodically with groups representing persons with hearing or visual impairments on issues such as the quality of access services, and the selection and scheduling of programs. To facilitate feedback from access service users, Licenseses should also provide contact details on their websites, including e-mail addresses, telephone and text phone numbers. Licenseses should monitor and respond to this feedback.</p> |
| 9.87 | <p>Annual Reports to URCA on the volume of Access Services Programming</p> <p>Public Service Broadcasters must report to URCA, by 31st January in each calendar year, or upon request, on the volume of programmes for which they have provided each kind of access service during the preceding calendar year, grouped by genre such as news, factual programmes, current affairs programmes, dramas, comedies and so forth. Other Licenseses are encouraged to annually provide URCA, by 31st January in each calendar year, or upon request, with this data on the volume of programmes for which they have provided each kind of access service during the preceding calendar year, grouped by genre such as news, factual programmes, current affairs programmes, dramas, comedies and so forth.</p> |

PART 10: COMPLAINTS HANDLING PROCESS

This Part of the Code covers the complaints-handling processes that Licensees are required to have in place. Licensees are required to establish complaints-handling procedures and to regularly promote these procedures to viewers and listeners. Members of the public may make an oral complaint in limited circumstances but must otherwise make complaints in writing to the relevant broadcaster up to 30 days after transmission of a programme. The Code sets time limits within which the broadcaster must respond to and resolve complaints, and provides a referral process to URCA where the complaint is not satisfactorily resolved. Licensees are required to provide URCA with quarterly status reports on complaints, and to maintain recordings of programmes on an on-going basis to allow complaints to be investigated.

10.1 Purpose of Complaints Handling Process

- (1) This Part of the Code applies to any matter covered by the preceding rules in the Code that is the subject of a complaint to a Licensee. Licensees must ensure that their relevant staff members are aware of the provisions of the Code, the importance of handling customer complaints professionally and the relevant procedures to follow when doing so.
- (2) The purpose of this Part of the Code is to ensure that Licensees:
 - (a) publicise the existence of the Code;
 - (b) develop adequate procedures for processing and resolving complaints from members of the public regarding breaches of the Code;
 - (c) publicise the procedures for handling complaints made by members of the public to Licensees regarding compliance with this Code;
 - (d) maintain adequate procedures for receiving oral complaints;
 - (e) advise complainants of their right to make a written complaint about material broadcast by a Licensee that allegedly breaches the Code;
 - (f) respond promptly to written complaints ~~received by a Licensee within thirty (30) calendar days of the relevant broadcast~~ and make every reasonable effort to resolve such complaints; and
 - (g) report to URCA on complaints made according to the procedures in Clause 10.11 of this Code.
- (3) Licensees must make appropriate internal arrangements to ensure that complaints are received and recorded by a responsible person within the Licensee's organisation during normal business hours who will also function as a liaison with URCA and the public on complaints-handling matters. Licensees shall within two (2) business days of designating or appointing such person or their replacement notify URCA in writing of the name, position and contact information (i.e., telephone number, fax number, e-mail address, other means of contact, etc.) of such person.

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| 10.2 | <p><u>Scope of Complaints Handling Process</u></p> <p>(1) Any complaint against any programme, advertisement or other form of content covered by this Code must satisfy the following criteria:</p> <ul style="list-style-type: none"> (a) the complaint must first be submitted to a Licensee not more than thirty (30) calendar days after the date of the relevant broadcast; (b) it must be in the form specified in Clause 10.2(4); and (c) it must identify in sufficient detail: <ul style="list-style-type: none"> (i) the subject matter of the content (including, if possible, the date and time of the broadcast, or, in the case of broadcast content distributed via the Internet pursuant to this Code, the website address of such content); (ii) the nature of the complaint; (iii) <u>the broadcasting station's radio frequency, channel number, call letters, call-sign or station identification of the Licensee who is the subject of the complaint and</u> (iv) the identity of the complainant. <p>(2) The requirements of Clause 10.2(1) do not apply to a complaint that:</p> <ul style="list-style-type: none"> (a) is submitted more than thirty (30) calendar days after the date of the relevant broadcast; or (b) does not otherwise satisfy the requirements of Clause 10.2(1). <p>(3) For greater clarity, a complaint need not refer to the Code nor specify any particular provision of the Code to which the complaint relates to satisfy Clause 10.2(1), but it must adequately identify the subject matter of the content and the nature of the complaint.</p> <p>(4) A Code Complaint is a complaint that satisfies Clause 10.2(1) and that is:</p> <ul style="list-style-type: none"> (a) made in writing by letter or fax by a person who signs the letter or fax and provides his or her name , e-mail or postal address and telephone contacts (if applicable) and sent by mail or delivered to the Licensee, or sent by fax to the Licensee's main fax number; or (b) (where the Licensee has technological capacity) made by an online electronic complaint form or other relevant digital service or application offered by the Licensee; or (c) submitted by electronic mail ("e-mail"). <p>(5) Where, by reason of disability or distance, a complainant cannot lodge a complaint that satisfies the requirements of Clause 10.2(4), a telephoned complaint or a complaint on an audio cassette or on a computer disk in a common format will be a Code Complaint, provided that in each case it otherwise satisfies Clause 10.2(1).</p> |
| 10.3 | <p><u>Publicising of the Code</u></p> <p><u>(1)</u> Licensees must regularly broadcast on-air information alerting members of</p> |

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| | <p>the public to this Code and its complaints procedures, as follows:</p> <p>(a) Licensees must broadcast three hundred and sixty (360) such on-air announcements <u>at least once each day of each calendar year between the hours of 7.00 AM/07.00 hours and 9.00 PM/21.00 hours</u>. In the case of television broadcasting stations, where possible this information must also be broadcast using closed captioning or sign language and (where available) audio description.</p> <p>(b) A reasonable proportion of such on-air announcements will also explain how the audience may obtain a copy of the Code.</p> <p><u>(2) Licensees shall by 30th January of each year submit to URCA a certificate signed by an authorised officer of the Licensee confirming that the Licensee has during the preceding calendar year complied with Clauses 10.3(1) and (2) of this Code.</u></p> <p><u>(3) Licensees shall, if required to do so by notice in writing, provide URCA with copies of their station logs or video and/or audio recordings of the on-air announcements made in compliance with Clause 10.3(1) of this Code for any period specified by URCA up to thirty (30) calendar days prior to the date of the notice.</u></p> <p><u>(4) URCA will, if requested to do so by a Licensee, provide the Licensee with a template of the information that should be contained in the on-air announcements made under Clause 10.3(1) of this Code.</u></p> |
| 10.4 | <p>Comments from Viewers or Listeners</p> <p>(1) Licensees should welcome comments from viewers or listeners, whether submitted by telephone, letter, fax, e-mail, an online electronic complaint form or other relevant digital service or application offered by the Licensee. Licensees should regard comments from viewers or listeners as valuable feedback on reactions to the Licensee’s service.</p> <p>(2) Licensees must ensure that the substance of comments from viewers or listeners is properly recorded, and that such comments are promptly brought to the attention of management. Licensees are encouraged to share such comments with relevant members of staff, such as programme commissioners and programme-makers.</p> |
| 10.5 | <p>Oral Complaints and Advising Callers of the Code Complaint Procedure</p> <p>(1) Licensees should, where feasible, seek to resolve a telephone complaint during the course of the telephone call. If the complaint cannot be resolved immediately, Licensees must respond to the complaint in accordance with</p> |

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| | <p>the procedures in Clause 10.5(2) of this Code.</p> <p>(2) In some instances, persons who telephone a Licensee wishing to make a complaint relating to an alleged breach of the Code may be asked by the Licensee to put their complaint in writing; for example, if it concerns a matter that is deemed by the Licensee to be too complex to be dealt with in a telephone conversation. In such cases, the Licensee should ask the complainant to submit a written complaint in accordance with the provisions of Clause 10.2(4) of this Code and also advise the complainant that:</p> <ul style="list-style-type: none"> (a) a written complaint may be made within thirty (30) calendar days of the particular broadcast; and (b) that the Licensee is obliged to respond in writing to that complaint. <p>(3) If a complaint is made to a Licensee by means of a telephone typewriter (or similar devices used to assist people who are deaf or hard of hearing), the Licensee must treat it as an oral complaint under Clause 10.5(1) of this Code but, in these types of cases, the Licensee must write to the complainant within ten (10) calendar days and advise the complainant of how to make a formal Code Complaint in accordance with the procedures set out in Clause 10.2(4) of this Code.</p> |
| <p>10.6</p> | <p>Time Limits on Responses to Code Complaints</p> <p>(1) <u>Licensees shall within five (5) business days notify the complainant in writing of the receipt of a complaint made under this Code, which acknowledgement shall also notify the complainant of the case or complaint number assigned to the complaint and the time frames and processes that the Licensee envisages are required to investigate and respond to the complaint.</u></p> <p>(2) Subject to Clause 10.7(1) of this Code, Licensees must provide a substantive written response to the complainant regarding any Code Complaint that satisfies the requirements of Clause 10.2(1) of this Code.</p> <p>(3) Licensees must respond to Code Complaints as soon as practicable but in any event no later than thirty (30) calendar days after receiving the complaint.</p> <p>(4) If the content that is the subject of the Code Complaint was provided on broadcast relay by another Licensee, or was otherwise the responsibility of another Licensee, the Licensee receiving the Code Complaint must refer the Code Complaint to the relevant Licensee within ten (10) calendar days of receiving the Code Complaint for written response direct to the complainant, and send a copy of such referral to the complainant. The second Licensee will have thirty (30) calendar days from receiving the referred Code Complaint to provide a substantive response to the original Code Complainant.</p> |

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| | <p>(5) In all cases where a Code Complaint complies with the requirements of Clause 10.2(1) of this Code (and does not fall within Clause 10.2(2)), the Licensee’s substantive reply must also advise the complainant that the complainant may refer the matter to URCA if the complainant is not satisfied with the Licensee’s response.</p> <p>(6) The Licensee is under no obligation to respond to or record Code Complaints provided anonymously to the Licensee or not made in accordance with this Part of the Code. <u>However, Licensees are prohibited from disclosing on-air to the public the name of any complainant or the particulars of any complaint received by the Licensee except when directed to do so by URCA or consequential to making an on-air apology to the complainant.</u></p> |
| 10.7 | <p>Resolution of Code Complaints</p> <p>(1) Except where a Code Complaint is, in the reasonable opinion of the Licensee, clearly frivolous, vexatious or an abuse of the Code process, Licensees must conscientiously consider written Code Complaints and must promptly provide a substantive response in writing to Code Complaints within thirty (30) calendar days of the receipt of the complaint. If the Licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within thirty (30) <u>calendar</u> days, the Licensee must, <u>without delay</u>, notify the complainant of the reason for the delay and, in any event, provide a final reply within forty <u>calendar</u> (40) days of receiving the Code Complaint.</p> <p>(2) Where the subject matter of a Code Complaint is, or has become, the subject of legal proceedings brought against a Licensee by the complainant or an associated person, the Licensee is not required to provide a substantive written response to the complainant.</p> <p>(3) If a Licensee does not provide a substantive written response to a complainant regarding a matter raised by the complainant, the Licensee must:</p> <ul style="list-style-type: none"> (a) acknowledge the Code Complaint in writing as soon as practicable, but in any event no longer than thirty (30) calendar days after receiving the complaint; and (b) at the same time, inform the complainant that he or she has the right to refer the complaint to URCA. |
| 10.8 | <p>Responding to Subsequent Code Complaints or a Campaign of Code Complaints</p> <p>(1) If a person makes multiple Code Complaints about a programme or series, the Licensee is only obliged to respond to the first complaint, unless the</p> |

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| | <p>subsequent complaints raise new and distinct issues.</p> <p>(2) If a Licensee receives a series of Code Complaints from a number of people or group of persons about the same broadcasts, the Licensee may respond with a generic response on the issues, subject always to the obligation in Clause 10.8(1) to provide a substantive written response to all issues raised in the complaint.</p> |
| 10.9 | <p>Referral of Code Complaints to URCA</p> <p>(1) This Clause outlines URCA's procedures for the handling and resolution of Code Complaints (or for the conduct of its own investigations) about Licensees' compliance with the content standards set out in this Code as required by sections 52, 53 and 55 of the Communications Act. All complaints are important to URCA as they help it to understand whether a Licensee may be failing to comply with the applicable provisions of this Code in a particular case.</p> <p>(2) If URCA considers that it is necessary to depart from these procedures in any material respect in a particular case for reasons of fairness and/or in order for URCA to properly consider any complaint(s) or carry out an investigation, it shall write to the Licensee concerned (and any other persons with sufficient interest) in advance setting out the nature and extent of its departure, its reasons for doing so and seeking the relevant parties' response.</p> <p>Process for investigations and referral of complaints</p> <p>(3) URCA may launch investigations on its own initiative as well as investigate Code Complaints. The procedures in a Code Complaint-led investigation and an URCA-initiated investigation are the same.</p> <p>(4) Any person or undertaking who considers that a Licensee has failed to comply with the standards under section 53 of the Communications Act as reflected in the provisions of this Code may make or refer a Code Complaint under this Part of this Code.</p> <p>(5) In order to effect the timely resolution of Code Complaints, complainants should first follow the complaints submission procedure in Clause 10.2 of this Code before referring or making a complaint to URCA.</p> <p>(6) Where a complainant submits a Code Complaint:</p> <p>(a) solely to URCA but not to the Licensee, URCA will not consider the complaint but will instead direct the complainant to refer the complaint to the Licensee in order to allow the Licensee an opportunity to first resolve the complaint itself under the procedures in this Part of the Code;</p> |

(b) simultaneously to the Licensee and to URCA, URCA will not consider the complaint until the Licensee has first had an opportunity to resolve the complaint itself under the procedures in this Part of the Code.

(7) Where a complainant has previously complained directly to the Licensee, the complainant should wait to see if he/she is satisfied with the Licensee's response (in accordance with the complaints procedures in Clauses 10.6 and 10.7 of this Code) before referring the complaint to URCA.

(8) If a complainant is not satisfied with the Licensee's response to the Code Complaint as required by Clause 10.7 of this Code, the complainant may refer his/her complaint to URCA (accompanied by the Licensee's response) and should do so as soon as possible, and in any event within twenty-one (21) calendar days of the Licensee's final response or determination.

(9) If the complainant has not received a response to, or a determination of, his/her Code Complaint from the Licensee within the relevant timeframes set out in Clause 10.6 of this Code, the complainant should submit the complaint to URCA within twenty-one (21) calendar days of the timeframes fixed by the procedures in Clause 10.6 of this Code for the Licensee to provide a response or determination of the Code Complaint.

(10) Ordinarily, URCA will not accept a complaint which is made after the deadlines in Clause 10.9(8) or Clause 10.9(9) of this Code. Where a complaint is submitted to URCA later than the twenty-one (21) calendar days specified in these Clauses, the complainant should explain why the complaint was not submitted earlier. URCA will then consider all relevant factors (including the complainant's explanation for the delay in submitting the complaint and the limited time periods during which broadcasters are required to keep recordings) in deciding whether or not URCA should investigate the complaint despite the delay in its submission.

(11) All Code Complaints made or referred to URCA should include sufficient detail about the content that is the subject of the complaint. Specifically, complaints should include:

- (a) the name/title of the programme or advertisement complained about;
- (b) the date and time of the programme or advertisement;
- (c) the television channel or radio station on which it was broadcast;
- (d) the nature of the complaint and (where possible) the particular parts of the programme or advertisement complained about;
- (e) the complainant's full contact details (including e-mail address where appropriate); and
- (f) the date when the complainant submitted a Code Complaint to the relevant Licensee; and
- (g) a copy of the Licensee's response (if any) and the complainant's reasons for dissatisfaction with this response.

The inclusion of these details (or as many of them as possible) is very important. A failure to provide them may mean that URCA is not able to properly investigate the complaint.

- (12) URCA will log and acknowledge every complaint that it receives within five (5) working days. URCA will itself carry out a process of initial assessment and investigation in accordance with Clauses 10.9(14) to 10.9(18) of this Code.
- (13) Unless a complainant specifically requests at the time a complaint is made referred to URCA under this Clause that his/her name and contact details should remain confidential and provides URCA with exceptional circumstances to justify the request, URCA reserves the right to disclose this information to the Licensee. If the complainant disagrees with URCA's reasons for rejecting the request, the complainant may either withdraw the complaint or agree to the disclosure.
- (14) URCA will first consider whether, on its face, a complaint raises any potentially substantive issues under this Code which warrant investigation by it for:
- (a) any breach of this Code if the Licensee has not provided an adequate response to the complainant; or
 - (b) any serious breach of this Code that may require some form of sanction, regardless of the Licensee's initial response.
- (15) If URCA considers that it should assess the matter further, it will normally at this stage ask the Licensee for a recorded copy of the relevant programme or advertisement, which must be provided to URCA within three (3) working days. It is not appropriate at this stage for the Licensee to provide written representations.
- (16) Based on an initial assessment of any complaint(s) and a review of the relevant broadcast recording, URCA will consider whether there may have been a breach of particular provisions of this Code that URCA considers requires a response from the Licensee. If URCA is not so satisfied, URCA will decide not to investigate further and will publish its decision on its website.
- (17) URCA aims to complete an initial assessment of all Code Complaints within fifteen (15) working days. However, the circumstances of individual cases can vary considerably and completion of an investigation may in some cases take longer.
- (18) If in any case where URCA considers that it is necessary to obtain further information from the complainant(s), the Licensee or persons with sufficient interest to ensure that it can fairly and properly prepare its preliminary determination, URCA may seek such information before

preparing that preliminary determination.

(19) If URCA considers that there may have been a breach of particular provisions of this Code that URCA considers requires a response from the Licensee and (in accordance with section 11 of the Communications Act) any other persons with a sufficient interest in the matter, URCA will follow the procedure for determinations set out in section 100(2) of the Communications Act. URCA will issue a preliminary determination that will contain:

- (a) a summary of the complaint(s);
- (b) a summary of the material parts of the programme/broadcast to which the complaint(s) relates;
- (c) the particular provisions of this Code that URCA considers are relevant and applicable to the complaint(s); and
- (d) URCA's preliminary assessment of whether any breaches of those provisions have occurred and the reasons for that assessment;
- (e) give notice to the Licensee and persons with a sufficient interest of URCA's preliminary determination; and
- (f) the specified period of not less than one (1) month, commencing on the day after which notice of the preliminary determination was given unless a shorter period would be appropriate for the reasons stated in section 100(3) of the Communications Act, within which the Licensee and persons with a sufficient interest have an opportunity to:
 - (i) make representations in response (and to provide any relevant material/evidence in support of their representations);
 - (ii) if applicable, comply with obligations in the preliminary determination;
 - (iii) if applicable, remedy the consequences of contraventions notified in the preliminary determination; and
- (g) a draft copy of any order under section 95 of the Communications Act that URCA would issue with a final determination, if applicable.

(20) URCA aims to complete those cases that it takes forward for investigation within sixty (60) working days after receipt or referral of a Code Complaint. However, the circumstances of individual cases can vary considerably and completion may in some cases take longer.

Urgent Complaints and Interim Orders

(21) In cases of urgency due to the risk of serious and irreparable harm, any person, party or entity whose election programme or political advertisement has been rejected by a Licensee under Clause 6.14(1) of this Code, and any other person may refer the matter to URCA as an urgent complaint under section 96 of the Communications Act and this Clause 10.9(21) of this Code.

(22) Where the circumstances of the complaint so require, URCA may, within

forty-eight (48) hours of receiving the complaint, issue an interim order for a limited period of time under section 96(1) and (2) of the Communications Act while it fully investigates the matter. The interim order will only address those actions or omissions that are likely to result in serious and irreparable damage.

(23) Upon completion of its full investigation, URCA will issue an order under section 95 of the Communications Act that either reinforces, changes or revokes the interim order.

Final decisions

(24) Once URCA has received and considered the Licensee's representations (and/or any representations from persons with sufficient interest) on its preliminary determination, it will, in accordance with section 100(4) and (5) of the Communications Act, reach its final determination and inform the Licensee. URCA may at the same time, in accordance with section 100(6) of the Communications Act, issue an order under section 95 of the Communications Act unless the obligations in the preliminary determination have been complied with and the consequences of the contraventions have been remedied.

(25) The final determination and, if any, the order will be published on URCA's website.

Disclosure and confidentiality requirements

(26) Subject to any relevant obligations under the Licence, the Communications Act, this Code or any regulatory or other measures issued by URCA, it is an essential part of the integrity of URCA's processes that all parties concerned abide by all of URCA's published rules and procedures. These require, for example, that parties to a Code Complaint should not disclose any correspondence, documents and other material concerning the Code Complaint during the course of the investigation. This requirement of non-disclosure does not limit what URCA can publish in its final decision at the end of the investigation, although URCA may withhold material it believes to be confidential, market sensitive or legally privileged or that it is under some other legal obligation to protect from disclosure. In such cases, the final decision will reflect that relevant material has been withheld and the reasons why.

(27) Parties (complainants, Licensees, URCA and any persons with sufficient interest) may, unless otherwise indicated, make public the fact that a Code Complaint has been made or that URCA is investigating a case. They may also use any information which is already in the public domain. However, all parties are subject to the requirement of non-disclosure in relation to all other material submitted and communications/correspondence entered into in relation to that complaint or case. Moreover, once a complaint has

been made or URCA has started investigating a case, no party should take any steps which could – whether intentionally or not – compromise, or risk compromising, a fair decision on the matter by URCA or otherwise constitute, in URCA's opinion, an abuse of process. Failure to follow these requirements may result in URCA ceasing to consider the party's representations.

- (28) Complainants and Licensees should keep to the time limits specified in this Part of this Code. However, URCA may consider it appropriate (in the interests of fairness and/or properly to carry out an investigation) to amend or adapt the time limits set out in this Part of this Code in a particular case. Any complainant or Licensee seeking an extension to a time limit should explain in writing to URCA why it believes it is appropriate.

Imposition of sanctions and penalties

- (29) Where URCA determines, on conclusion of a Code Complaint investigation, that there has been a breach (or breaches) of the standards in section 53 of the Communications Act (as reflected in the relevant provisions in this Code), URCA may consider that it justifies consideration of a statutory or other sanction against the Licensee. If so, URCA will make that clear in its final determination (under Clause 10.9(22) of this Code).

- (30) The imposition of a sanction against a Licensee is a serious matter. URCA may, following due process, impose a sanction if it considers that a Licensee has seriously, deliberately, repeatedly, or recklessly breached a relevant requirement. This may include, for example, cases in which, in URCA's view:
- (a) the Licensee has committed a serious breach of a relevant provision of the Code which URCA believes justifies imposition of a fine or other penalty against the Licensee under section 109 of the Communications Act;
 - (b) a Licensee has failed to comply, either in a timely manner or at all, with any relevant requirement of this Code; and/or
 - (c) there are other reasons which make the taking of a specific measure against a Licensee appropriate.

- (31) URCA will treat as a serious breach:

- (a) any breach of (a) any breach of Clause 4.1(1)(a) and (b), Clause 4.3(1), Clause 5.2, Clause 5.5(1) or Clause 5.5(2) of this Code;
- (b) any breach which URCA considers is so severe as to amount to a wanton disregard by the Licensee for the provisions of this Code by reason of the extent to which a Licensee's conduct goes beyond the type of conduct which would otherwise be acceptable under this Code;
- (c) any breach of the Code that also amounts to an offence contrary to any law of The Bahamas (other than the Communications Act) and for which a sentence of imprisonment is prescribed as the punishment; or
- (d) any breach or failure to comply with any regulatory or other measures

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| | <p><u>issued by URCA either in respect of compliance with this Code or issued under Part IX of the Communications Act.</u></p> <p>(32) The possible sanctions available to URCA include a decision to:</p> <ul style="list-style-type: none"> (a) issue a direction to the Licensee not to repeat a programme or advertisement; (b) issue a direction to the Licensee to broadcast a correction or a statement of URCA’s findings which may be required to be in such form, and to be included in programmes at such times, as URCA may determine; (c) impose a financial penalty under section 109 of the Communications Act; (d) suspend a Licence under section 109 of the Communications Act; and/or (e) revoke a Licence under section 109 of the Communications Act. <p>(33) Failure by a Licensee to comply with any orders or determinations issued by URCA pursuant to sections 95 and/or 99 of the Communications Act can lead to the imposition of statutory sanctions against the Licensee (for example, the imposition of an additional daily default financial penalty, or the suspension or revocation of a Licence). In such cases, the provisions of section 109 of the Communications Act would apply.</p> |
| 10.10 | <p>Appeals</p> <p>Any person (complainant, Licensee, or any directly affected third party) dissatisfied with a decision of URCA arising from a complaint made under this Code may appeal against such decision to the Utilities Appeal Tribunal under Part XVIII of the Communications Act.</p> |
| 10.11 | <p>Licensee to Record and Report Code Complaints to URCA</p> <p>(1) Licensees must keep a written record of all Code Complaints received by them and such record of Code Complaints must include:</p> <ul style="list-style-type: none"> (a) the date and time the complaint is received; (b) the name, e-mail or postal address and telephone contact information of the complainant; (c) the substance of the complaint; (d) the substance and date of the Licensee’s response(s), <p>and each such record of Code Complaints must be retained by the Licensee for a period of three (3) years from the date of receipt of the complaint or until the complaint is satisfactorily resolved, whichever should first occur.</p> <p>(2) Licensees must report to URCA, within ten (10) calendar days of the end of the months of March, June, September and December in each calendar year, or upon request, the number and details of all Code Complaints, including for each Code Complaint:</p> <ul style="list-style-type: none"> (a) the date received; (b) the date or dates of response; |

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| | <p>(c) details of any complaint upheld; and</p> <p>(d) details of any action taken by the Licensee.</p> <p>(e) These reports to URCA should not include the name or any other identifying information of any complainant.</p> <p>(3) URCA will publish a quarterly summary of this information on its website as part of its industry complaints data.</p> <p>(4) Upon receipt of a Code Complaint made in accordance with Clause 10.2(1) of this Code (and does not fall within Clause 10.2(2)), the relevant Licensee shall, in compliance with Clause 2.6 of this Code, secure recordings of the programme or broadcast to which the complaint relates.</p> |
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PART 11

THE INDUSTRY GROUP AND CODE ADMINISTRATION

This Part of the Code contains framework for the appointment of persons as members of the Industry Group, its mandate how it will monitor compliance with the Code by Licensees.

10.12 **Functions and Role of the Industry Group**

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- (1) The Industry Group is a co-regulatory body of URCA with delegated and advisory responsibility for the content provision operations of each of ~~those~~ sections of the ~~electronic communications~~ broadcasting industry in The Bahamas. It is established under section 55(1) of the Communications Act and section 30 of the URCA Act.
- (2) URCA will seek advice and recommendations from the Industry Group on any content-related aspects delegated to the Industry Group.
- (3) The Industry Group serves as URCA's primary advisory forum for the development of content regulation of television, and radio and other forms of content provision, broadcasting, quality and broadcasting standards. The Industry Group is charged with understanding, analysing and championing representing the voices views and interests of the ~~viewer, the listener and the public~~ content provision operations of each section of the broadcasting industry in The Bahamas.
- (4) The Industry Group will examine issues ~~where the interest of the public extends beyond the interest of consumers,~~ with focus on those all aspects of each section of the public interest which competition and market forces do not reach content provision operations of the broadcasting industry in The Bahamas and monitor the compliance of Licensees with this Code and any other codes of practice applicable to content provision operations.
- (5) Industry Group members will consider content regulation issues in accordance with the requirements of section 53 of the Communications Act.
- (6) Members will also monitor compliance with Codes of Practice issued by URCA and will advise URCA on other content-related issues including media literacy and public awareness.
- (7) URCA will, in collaboration with The the Industry Group, submit prepare a formal annual report to URCA about its the activities of the Industry Group. That report will inform the content regulation-related sections of URCA's Annual Report.
- (8) The Industry Group has up to ten (10) members, appointed by URCA for terms of three (3) years. It is chaired by a designated member of URCA.

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| | <p>(9) The majority of Industry Group members are part time and drawn from diverse backgrounds throughout The Bahamas, including both lay members and members with extensive broadcasting experience. Members are appointed to represent to URCA the interests and opinions of:</p> <ul style="list-style-type: none"> (a) <u>Licensees designated as Public Service Broadcasters;</u> (b) providers of Licensees providing content service intended for reception by subscribers of carriage services <u>and on-demand audiovisual media services, including cable television service providers and direct-broadcast satellite television services;</u> (c) <u>Licensees operating private Bahamian television and radio broadcasting stations;</u> (d) independent production companies; (e) mainstream public opinion <u>the Ministry of Education;</u> (f) ethnic minority views <u>Licensees providing dedicated internet video /television and radio/audio webcast programming services;</u> (g) people living <u>Licensees operating in the Family Islands;</u> and (h) young people <u>Licensees providing teletext services.</u> |
| <p>10.13 <u>11.2</u></p> | <p>Code Administration</p> <p>(4) URCA will meet as often as necessary but not less than once every six (6) months with <u>any</u> Industry Groups established under section 55 of the Communications Act to review the administration of the Code, the success of awareness-raising campaigns, challenges facing Licensees in terms of compliance and sharing of best practice, and other issues arising from the complaints-handling procedures.</p> <p>(5) The role of the Industry Group will be assessed as part of the review of the administration of the Code, with a view to considering whether the Industry Group should play an on-going role in the development of Codes of Practice and of the complaints-handling process, and what that on-going role should be.</p> <p>(6) URCA will publish as part of its Annual Report a report on Code administration by Licensees. This report will be available to the public and will contain the number and substance of Code Complaints received by Licensees and by URCA, details of each complaint upheld and of the action taken by Licensees and by URCA in each case.</p> |

4. CONCLUSION AND NEXT STEPS

Concurrently with this Statement of Results document, URCA will publish, in accordance with s. 53(1) and s. 55(2) of the Communications Act, a separate document containing the final version of the Code of Practice for Content Regulation (“the Code”). That document will come into effect on the date of publication and, in accordance with s. 53(1) of the Communications Act, immediately apply to Licensees providing audiovisual media services in The Bahamas but, as a matter of policy, URCA will treat any breaches of the Code with leniency (other than breaches relating to political broadcasts and political advertisement) for a period of one (1) month after the date of publishing the Code.

Stakeholders will note that URCA has deferred the application of the Code for Licensees providing carriage services, content services and on-demand audiovisual media services in The Bahamas pending the outcome of a regulatory proceeding under s. 99 and s. 100 of the Communications Act to determine whether and to what extent the Code should apply under s. 52 of the Communications Act to such services.

URCA intends to shortly consult with stakeholders under s. 99(2) of the Communications Act by issuing a Preliminary Determination with a Draft Order in accordance with s. 100(2) and s. 99(1) to solicit representations as to whether and to what extent the Code should apply under s. 52 of the Communications Act to Licensees providing carriage services, content services and on-demand audiovisual media services in The Bahamas.

URCA will, in the interim, proceed with establishing the Industry Group as a co-regulatory body in accordance with s. 55(1) of the Communications Act to consider and continue developing codes of practice for the content provision operations of each section of the broadcasting industry and to monitor compliance with the published Code. The Industry Group will be chaired by a person appointed by URCA who must also be an employee of URCA and the other members will be appointed by URCA from representatives of stakeholders who are active in each of the following sections of the broadcasting industry: Licensees designated as Public Service Broadcasters; Licensees providing content services intended for reception by subscribers of carriage services including cable television service providers and direct-broadcast satellite television service providers; Licensees operating private Bahamian television and radio broadcasting stations; independent production companies; Licensees providing dedicated internet video /television and radio/audio webcast programming services; Licensees operating in the Family Islands, and Licensees providing teletext services. The Ministry of Education will also be invited to designate a member. Actual appointments to the Industry Group will be for three (3) years and will be made by way of correspondence with entities identified above as being entitled to make nominations. URCA will appoint up to ten (10) persons from nominees by these entities before formalising their appointments. The Industry Group will meet not less than once every six (6) months but more often if necessary. The Terms of Reference of the Industry

Group are contained in Schedule 1 to this Statement of Results and URCA will circulate copies to members of the Industry Group upon their appointment.

URCA has also appended to this Statement of Results as Appendix 1 a summary of Public Service Broadcasting topics which were taken out of the Content Code and referred to the Minister in accordance with s. 60(1) of the Communications Act and Appendix 2 contains proposals made by respondents to the consultation to be referred by URCA to the Industry Group for further consideration.

SCHEDULE 1:

Terms of Reference of the Content Regulation Industry Group

The Content Regulation Industry Group (CRIG) is a joint Regulator/Content Services Providers group established by URCA to consider, develop and make recommendations to URCA on issues related to the implementation of Content Regulation and Compliance Monitoring in The Bahamas for the content provision operations of each section of the broadcasting/content provision industry, and to make recommendations to URCA thereon.

The CRIG shall, in consultation with URCA and taking into account any research conducted by URCA, undertake such investigations, research and enquiries related to the implementation of Content Regulation and Compliance Monitoring in The Bahamas in the content provision operations of each section of the broadcasting/content provision industry as might be requested by URCA or recommended to URCA by the CRIG, and may, as appropriate or required, accept input from stakeholders in order to make its recommendations to URCA.

URCA may, in its discretion and with the agreement of the CRIG, assign further matters to the CRIG in relation to the implementation of content regulation in The Bahamas.

PART A: FORMATION OF THE CRIG

(1) URCA will establish the CRIG, which will be subject to URCA's general direction and jurisdiction.

(2) The Group shall be appointed by URCA as follows:

(a) Up to ten (10) "Industry Representatives" each nominated by undertakings representing the following sections of the content provision/broadcasting industry in The Bahamas:

- (i) Licensees designated as Public Service Broadcasters;
- (ii) Licensees providing content service intended for reception by subscribers of carriage services and on-demand audiovisual media services, including cable television service providers and direct-broadcast satellite television services;
- (iii) Licensees operating private Bahamian television and radio broadcasting stations;
- (iv) independent production companies;

- (v) the Ministry of Education;
- (vi) Licensees providing dedicated internet video /television and radio/audio webcast programming services;
- (vii) Licensees operating in the Family Islands; and
- (viii) Licensees providing teletext services,

(collectively referred to as “Content Providers”) each of whom should have full power and authority to represent and vote on behalf of the undertaking and the section of the broadcasting/content provision industry that they represent in relation to the deliberations and recommendations of the CRIG.

- (b) No less than two (2) and no more than four (4) members of URCA’s staff (“URCA representatives”), one of whom shall be appointed as the Chairperson (“the Chair”)of the CRIG.
- (c) Such other persons as URCA may consider necessary or appropriate based on their qualifications and expertise relevant to the implementation of content regulation (“Technical Experts”). Technical Experts shall not be entitled to a vote.
- (d) Where two or more undertakings are affiliated, the affiliated undertakings shall be entitled to nominate an Industry Representative who must be authorised to speak on behalf of all of the affiliated undertakings and the section of the broadcasting/content provision industry that he/she represents.
- (e) Where an Industry Representative provides services in two or more sections of the content provision/broadcasting industry, the Industry Representative shall only be entitled to be nominated to represent one section of the industry but he/she may speak on issues in other sections of the industry besides that section of the industry that he/she represents.

(3) Invitations to nominate participants in the CRIG will be sent by URCA to the relevant stakeholders. Where a stakeholder chooses not to participate, or chooses not to take up its membership, URCA will endeavour to find another Industry Representative to represent that section of the broadcasting/content provision industry on the CRIG. Any section of the industry that is not represented in the

membership of the CRIG may subsequently request inclusion in the CRIG by written request to URCA and also nominate its representative.

- (4) During the absence of the Chair for any reason, any URCA representative shall be designated by the CRIG or by URCA to serve as the acting Chair.
- (5) URCA may in its discretion and in agreement with the CRIG appoint subgroups to address and make recommendations either to URCA or to the CRIG on any matter of implementing content regulation in any specific section of the content provision/broadcasting industry. URCA will specify the Terms of Reference of any subgroup designated under this clause. A subgroup may be comprised of members of the CRIG as well as Technical Experts appointed under Clause 6 below.
- (6) Industry Representatives may from time to time, in writing, request URCA through the Chair to appoint additional Technical Experts to participate in the CRIG's deliberations. Such Technical Experts:
 - (a) May be employees of a member of the CRIG or external consultants but must have specific knowledge and expertise relevant to the CRIG's deliberations.
 - (b) May be appointed for a specific meeting or for deliberations on a particular aspect of implementing content regulation.
 - (c) Shall be appointed solely at URCA's discretion, which appointment shall take in to account the extent to which any other CRIG member should be given the opportunity for URCA to appoint a Technical Expert with expertise equivalent to that of the Technical Expert employed by another CRIG member.

PART B: DELIBERATIONS OF THE CRIG

- (7) The CRIG shall meet as often as required but not less than once every six (6) months to review the administration of any Codes of Practice for content regulation , the success of public awareness-raising campaigns, challenges facing content provision operations in each section of the content provision/broadcasting industry in terms of compliance and sharing of best practice, other issues arising from the complaints-handling procedures, and to make recommendations to URCA on the matters within these Terms of Reference (as may be amended by URCA from time to time) in an expeditious manner and in accordance with any timelines set by URCA until such time as the CRIG is able to make recommendations to URCA as envisaged in Clause 17 below.

- (8) The CRIG may conduct its deliberations and decision making:
- (a) At in-person meetings or via teleconference;
 - (b) By e-mail between CRIG members, subject to procedures established by the CRIG; or
 - (c) In any other unanimously agreed forum or manner.
- (9) The date and time of meetings of the CRIG shall be determined either by prior decision at a properly convened meeting, or by the giving of at least one (1) week's prior notice from the Chair, sent by e-mail to all members.
- (10) Any member may propose that any matter be addressed by way of "papers only", that is the submission of written position papers to the CRIG for its consideration. Such consideration shall be subject to timeframes as agreed, which shall not be permitted to delay the deliberations of the CRIG beyond any timeframe set by URCA for the matter.

PART C: DECISION MAKING

Procedural and General Matters

- (11) Decisions of the CRIG on procedural and general matters, including matters relating to the agenda of the Group's deliberations (which includes but is not limited to the timing of decisions on recommendations), scheduling and format of meetings, formation of subgroups, and "papers only" deliberations, shall be made by vote requiring a simple majority of all persons present and voting, with the Chairman having a casting vote to resolve deadlocks.
- (12) At least four (4) Industry Representatives shall comprise a quorum at CRIG meetings.

Recommendations to URCA

- (13) A decision of the CRIG to make a recommendation to URCA on any matter pertaining to content regulation shall be by a simple majority vote of all Industry Representatives present and voting. For the avoidance of doubt, no URCA staff member shall vote (original or casting) on the adoption by the CRIG of any recommendation to URCA.

- (14) Where a resolution to make a recommendation to URCA results in a deadlock, the Chair of the CRIG shall immediately, unless the time set by URCA for consideration of the matter has elapsed, move the CRIG to vote on whether or not to continue deliberation on the matter or to declare it deadlocked (which vote shall be procedural in nature). The decision to continue deliberation shall expressly include a specific time for further deliberation. The time for deliberation may not be extended for more than a cumulative period of fourteen (14) calendar days, or past the time provided by URCA for consideration of the matter, without the approval of URCA.
- (15) Where a vote on the making of a recommendation to URCA is declared by the Chair to be deadlocked, the Chair shall immediately notify the members present and deliberations on that matter shall be closed. Any Industry Representative may, within seven (7) days of the deadlocked vote, make written representations to URCA through the Chair on the specific issue on which the CRIG was deadlocked, and URCA shall consider those representations in making its determination on the issue.
- (16) Where the CRIG fails to make a recommendation to URCA on any matter within the time set by URCA for such recommendations, any Industry Representative may, within seven (7) days of the date on which the recommendation was due, make written representations to URCA through the Chair on the specific issue. URCA shall consider those representations in making its determination on the issue.

PART D: TERMS OF REFERENCE

- (17) Having reviewed the comments by stakeholders in response to URCA's Consultation Document on the Code of Practice for Content Regulation issued on 9 November 2011, and having researched experiences with the implementation of Content Regulation in other jurisdictions, URCA considers that the work of the CRIG following its establishment should initially focus on considering, developing and/or making recommendations to URCA on the following matters:
- (a) ensuring awareness of and the implementation of the Code of Practice for Content Regulation by Licensees, advertisers, producers and others within the broadcasting/content provision industry throughout The Bahamas including complaints-handling and monitoring Code compliance;
 - (b) consideration of proposals received in response to URCA's public consultation on the Code of Practice for Content Regulation and referred to the Industry Group for further review;

- (c) the development of content regulation of television, radio and other forms of content provision, broadcasting quality and broadcasting standards;
 - (d) reviewing the administration of the Code;
 - (e) developing Guidance Notes to accompany the Code;
 - (f) highlighting challenges facing Licensees in terms of compliance and sharing of best practice;
 - (g) raising issues arising from the complaints-handling procedures; and
 - (h) any other matters that URCA in consultation with the CRIG considers necessary in accordance with sections 52 to 55 and section 58 of the Communications Act.
- (18) The CRIG shall propose a detailed work-plan which shall be submitted to URCA with its initial recommendations within sixteen (16) weeks of its formation. URCA will seek to establish a Content Regulation Implementation Work-Plan for achievement thereof following its receipt of such recommendations, and may revise it at any time. For the avoidance of doubt, the Content Regulation Implementation Work-Plan referred to in this Schedule is indicative only, and subject to URCA's further deliberations having regard to the recommendations of the CRIG.
- (19) The CRIG shall use its reasonable endeavours to promote content regulation by Licensees, advertisers, producers and others within the broadcasting/content provision industry in The Bahamas including complaints-handling and Code compliance.
- (20) URCA may at any time request that the CRIG consider, develop and/or make recommendations to URCA on any additional matter relating to Content Regulation which shall be appended to these Terms of Reference subject to the agreement of the CRIG (excluding the URCA representatives).
- (21) Upon application by any Licensee Representative or the CRIG, URCA may at any time in its sole discretion amend the timeframe provided for the consideration of any matter or the doing of any thing by any person under these Terms of Reference.

APPENDIX 1:

Public Service Broadcasting topics which were taken out of the Content Code and referred to the Minister

The following recommendations from URCA are proposed to apply to the BCB, as the current designated Public Service Broadcaster, and would also be applicable in the future to any other organisation designated by URCA as a Public Service Broadcaster under s. 61 of the Communications Act:

- **Discrimination against candidates or political parties during election periods:** Public Service Broadcasters must not endorse any individual candidate or political party.
- **Advertising Minutes by Public Service Broadcasters:** Public Service Broadcasters must not exceed sixteen (16) minutes per hour of advertising time on television or radio in any clock hour, inclusive of sponsorship credits between or during programmes, but this limitation would not include emergency broadcasts or public service advertisements.
- **Broadcasts of emergency messages:** Public Service Broadcasters must broadcast free of charge and in a timely and accurate manner emergency messages relating to hurricane warnings, floods, fires, national and local emergencies or disasters and other similar safety messages emanating from national or local government and national or local emergency service organisations such as Police, Fire, Ambulance, National Emergency Management Authority (NEMA), Water, Electricity, Port or Health authorities and the Department of Meteorology.
- **Public service advertisements:** Public Service Broadcasters must broadcast free of charge public service advertisements (also known as community service announcements) that are advertisements providing publicity for governmental agencies and registered charitable or community service organisations that primarily inform and educate the public by changing public opinion and raising awareness for a problem (such as safe driving, obesity, smoking, fitness, education, gambling addiction, alcoholism, drug addiction or safe sex) rather than sell a product or service.
- **Access Services in News and Current Affairs:** Public Service Broadcasters must, at a minimum, provide closed captioning for all daily news and current affairs television programmes broadcast between 6:00 PM/18:00 hours and 12:00 midnight/24:00 hours, and where possible provide closed captioning for other news and current

affairs television programmes. Alternatively, Public Service Broadcasters may use signing where it is not technically or economically feasible to provide closed captioning.

- **Access Services in other programming:** Public Service Broadcasters should progressively increase the percentage of content available to persons with hearing or visual impairments by providing closed captioning for programmes other than news and current affairs television programmes, subject to annual targets determined by URCA in consultation with the Public Service Broadcaster and the public.
- **Annual Reports to URCA on the volume of Access Services Programming:** Public Service Broadcasters must provide URCA with annual reports or, upon request, on the volume of programmes for which they have provided each kind of access service during the preceding calendar year, grouped by genre such as news, factual programmes, current affairs programmes, dramas, comedies and so forth.
- **Market Research:** A recommendation to the Minister to outline how URCA will conduct market research from time to time into viewers interests, programming tastes, etc.

APPENDIX 2:

Proposals made by respondents to the consultation to be referred by URCA to the Industry Group for consideration

- URCA should develop Guidance Notes to assist Licensees, the public and other stakeholders in interpreting and explaining the Code (as is being proposed in Trinidad and Tobago in their draft content regulation rules) by providing explanatory information on issues such as the following:
 - **Clause 1.4 (2):** Interpretation of the word “reasonable” (in the context of “reasonable mistakes”, in relation to which breaches of the Code may be mitigated), for example by using some other standard or by providing specific examples of actions that satisfy the reasonableness test chosen, so that Licensees can benchmark their actions against the same.
 - **Clause 7.6:** Use a specific, current reference to substantiate “retail prices” over a specified time frame (e.g., through averaging a sample of prices offered by various retailers).
 - **Clauses 8.1(2) and 8.1(3):** Review the issue of providing examples of what would be considered “adequate evidence”.
 - **Clause 8.12:** Guidance on defining “legitimate public interest” in the area of individual privacy. As this clause allows Licensees to justify overriding an individual’s right to dignity and privacy based on “legitimate public interest”, the clause would benefit from clear guidance on methods of substantiating what is a “legitimate public interest” (e.g. survey results) and dealing with matters that are important or relevant to a minority of the public, either by requiring Licensees to obtain URCA’s approval or a legal opinion prior to taking any action under this clause that may place Licensees at risk of litigation.
 - **Clause 8.14(2):** Provision of examples of how to substantiate a Licensee’s ‘reasonable belief’ that obtaining consent is not necessary (e.g., callers explicitly agreeing to the broadcast of a telephone call) where Licensees omit to inform the other party at the time of the call that the call was being recorded for broadcast.

- **Clause 8.17:** Guidance on defining “public interest” in the area of deception. As this clause allows Licensees to obtain information through misrepresentation or deception if there is a “public interest” ground for doing so, additional guidelines relating to the clause should provide clear methods of substantiating what is a legitimate “public interest” (see Clause 8.12 above).
- Review a proposal that (1) Licensees should submit annual attestations to URCA under Clause 2.1 certifying that they had not, to the best of their knowledge, breached the Code or Law during the preceding year, and, if they had, submit an action plan or evidence of steps taken to avoid repetitions; and (2) that Licensees should either submit programme logs to URCA at specified intervals for review, or make them available for random by URCA during onsite visits, to ensure compliance with the Code even when the Licensee has not received any complaints.
- Review Clause 2.4(2)(a) during the Code administration process to determine whether Licensees should maintain recordings for at least one year (instead of 6 weeks) as almost unlimited storage space is available in the cyber world, which also allows URCA more time to initiate investigations.
- Review a proposal under Clause 5.7 that Licensees should maintain records of all consent forms received for underage contributors or participants appearing in advertisements.
- Review a proposal that Licensees submitting reports under Clause 6.14(2)(b), and other clauses with similar requirements should also be required to maintain copies of their submissions both for back-up purposes and for ease of review during onsite visits.
- Review a proposal whether under Clause 7.7 there should be stricter rules for alcohol advertisements for Licensees on the radio at certain times of the day.
- Review a proposal that Licensees should maintain files of broadcast corrections, for review during onsite visits by URCA, and submit to URCA quarterly logs or statements certifying whether any corrections had to be made in compliance with Clause 8.3.
- Review proposals (i) that under Clause 8.24(2), Licensees should either submit to URCA (for a review of its adequacy prior to an emergency occurring) or maintain for review during onsite visits the Licensee’s “clear internal procedures” for

coordinating emergency broadcasts; (ii) that under Clause 8.24(3), Licensees should submit the name of the designated contact person for broadcasting of emergency services to URCA, along with evidence that Licensees also provided this information to emergency organisations; and (iii) that under Clause 8.24(4) Licensees should specify the identity or title of the designated person at an emergency or essential organisation (e.g., the public relations officer, C.E.O., etc.) to avoid unauthorised persons providing unofficial or unverified information that is broadcasted.

- Review a proposal that under Clause 9.7, Licensees should record and maintain evidence of consultation with, and feedback from, groups representing users of access services for review during any onsite visits or requests for information by URCA.
- Review a proposal that under Clause 10.1, URCA should verify the internal complaints handling training and awareness of Licensees' staff through interviews and reviews of training records during onsite visits.
- Review a proposal that under Clause 10.3, Licensees should collectively share the costs of producing an on-air announcement that all Licensees could use alerting members of the public to the Code and its complaints procedures.
- Review a proposal that URCA should invest in an automated Complaints Management System whereby all of the details outlined in Clauses 10.9(11) and (12) would already be in a database and would require no further action to furnish details of Code Complaints referred to URCA .
- Review proposals that Licensees and URCA should invest in automated Complaints Management Systems that would eliminate the need for Licensees to keep in-house records under Clause 10.11(1) (beyond temporary or emergency records), would eliminate the need under Clause 10.11(2) for Licensees to send quarterly reports to URCA and Licensees would be able under Clause 10.11(4) to efficiently upload digitized complaints-related broadcast recordings (voice and video).
- Review a proposal that, after consultation with the Industry Group, URCA should periodically conduct industry surveys to gauge whether Licensees are satisfying the public's values, programming expectations, diverse interests and consistently attaining standards of decency, thereby providing persons who have complaints but did not submit them an opportunity to do so into standards, programming and expectations.

- Review a proposal for establishing various cross-industry public awareness programmes regarding administration of the Code through informed consumer awareness of what to look for in advertisements and sponsorships, and what consumers should consider as appropriate behaviour by advertisers.
- Review a proposal that URCA should organise an annual awards program or gala, with awards, trophies, titles, plaques, banners, etc., and bragging rights, to further encourage Licensees to behave in accordance with Codes, taking into account survey results, history of breaches, reports from onsite visits, etc., as the basis for determining awardees.