



BAHAMAS TELECOMMUNICATIONS COMPANY LIMITED

**APPLICATION FOR PERMANENT PRICE CHANGE FOR CALLS TO
LOCAL DIRECTORY ENQUIRY (ASSISTANCE) SERVICES**

Statement of Results and Final Decision

ECS 03/2012

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Contents

1	Introduction	1
1.1	Structure of the Remainder of this Document	2
2	Responses to Consultation	3
2.1	BTC’s Response	3
2.2	Responses from the Public.....	4
3	URCA’s Responses to Comments Received	6
4	URCA’s Final Decision	11
5	Next Steps.....	12

1 Introduction

The Utilities Regulation and Competition Authority (URCA) is issuing this Statement of Results and Final Decision on the retail charging application by the Bahamas Telecommunications Company Ltd. (BTC) in respect of calls to local directory (assistance) services (“DQ”). This service enables customers to obtain the specific telephone number and/or address of a residence, business, or government department. In The Bahamas, directory assistance may be contacted by dialling 916. Customers with internet access can also avail themselves of BTC’s online directories¹ free of charge. BTC also provides copies of its printed telephone directories free of charge to customers. BTC’s printed directories are published annually and made available at various outlets for collection by customers.

BTC has requested URCA’s approval to levy a retail charge of 35 Bahamian cents per call to local directory assistance. Inquiries made to directory assistance are price regulated by URCA. The service is currently bundled with BTC’s fixed monthly access rates for residential and business lines and incurs no usage charge. As such, the application is designed to establish a separate usage charge for the service. On 21 September 2011, URCA initiated a public consultative proceeding (see ECS 18/2011) on BTC’s charging request. The deadline for submission of responses was 24 October 2011. However, publication of a Statement of Results and Final Decision in respect of the consultation was delayed to facilitate further engagement with BTC on the feasibility and reasonableness of proposed DQ measures put forward by members of the public in responding to the consultation.

Paragraph 11 of ECS 15/2010 – “*Regulation of Retail Prices for SMP Operators*” (“the Rules”)² sets out URCA’s duties and responsibilities with respect to BTC’s retail charging application. The consultation paper was issued under the terms of paragraph 11.2 (third bullet) of the *ex ante* pricing Rules, and described URCA’s preliminary views and intent with respect to the application. Pursuant to 11.2, URCA invited licensees and members of the public to submit written feedback on the consultation on or before the 24 October 2011 deadline date.

In the consultation paper, URCA stated that it was minded to approve BTC’s request subject to the requirements that BTC provides:

- Fixed line customers (residential and business) with three (3) free calls to DQ per month. This would ensure that in any particular month fixed line customers would

¹ Available at <http://www2.btcbahamas.com/directories/index.php>.

² Issued on 22 April 2010 and available at www.urcabahamas.bs.

only start paying a non-zero retail charge (35 cents per call) for the service after the third call.

- Inquiries to directory services from public payphones should be free of any retail charge.

At the close of the response period, BTC was the only licensee to respond to the consultation. Five (5) members of the general public also submitted written feedback on the consultation.

URCA wishes to express its appreciation for the written submissions received from both BTC and the public. Their participation was most helpful in informing this Statement of Results and Final Decision on BTC's application. The text of each response can be found at www.urcabahamas.bs in the Publication Section.

This document concludes URCA's public consultative proceeding on BTC's retail charging proposition in relation to inquiries made to DQ from customers connected to BTC's fixed (inclusive of public payphones) and mobile networks. Within the document, URCA summarises the comments raised by respondents and sets out URCA's final decision relative to the structure and level of charging applicable to BTC's DQ service offer.

In reaching a final decision in this proceeding, URCA was guided by the key principles and objectives underpinning regulation and competition in the ECS³ marketplace and responses to the consultation.

1.1 Structure of the Remainder of this Document

The remainder of this Statement of Results and Final Decision document is structured as follows:

Section 2: Responses to Consultation—Summaries of Responses.

Section 3: URCA's Responses to Comments Received.

Section 4: URCA's Final Decision on BTC's application.

Section 5: Next Steps.

³ Electronic Communications Sector

2 Responses to Consultation

In this Section, URCA summarises and responds to the comments raised by all respondents. URCA's lack of response to a particular comment should not be taken to mean that URCA agrees with the comment, has not considered the comment or that it considers the comment unimportant or without merit.

2.1 BTC's Response

BTC welcomed the opportunity to submit comments on the consultation paper and provided background to its application to implement a non-zero usage charge for calls to directory assistance. BTC stressed that its pricing proposition was in furtherance of a specific regulatory measure issued by URCA in connection with URCA's public consultation and engagement on BTC's draft Reference Access and Interconnection Offer ("RAIO") and related charging for wholesale services. BTC explained that its charging application is driven by four key principles/objectives:

- ensuring downstream competitors are able to replicate BTC's DQ offer;
- achieving compliance with URCA's mandate to facilitate competition in calls to directory services;
- achieving compliance with the *ex ante* pricing Rules applicable to SMP⁴ operators; and
- imposition of a charge for relevant wholesale inputs for DQ enquiry within BTC's URCA-approved RAIO necessitated the imposition of a non-zero retail charge for the service.

BTC agreed with URCA's preliminary views in respect of charging for calls from fixed lines (inclusive of public payphones) to local directory services as stated in Section 4.4 of the consultation and replicated elsewhere in this document for easy reference.

In its response, BTC submitted that it will provide customers with additional benefits when the service is implemented. This includes providing three (3) free calls per month from mobile subscribers to directory services. As such, mobile customers would only start paying the proposed non-zero charge for the service after the third call. BTC also promised to provide an added feature whereby customers (inclusive of public payphones, and mobile) calling directory assistance can choose to have their calls completed after requesting the number. BTC will provide this added feature to customers at no extra charge.

⁴Significant Market Power

BTC submitted that it will take preparatory steps to keep its database current and to enhance the overall customer experience when utilizing the service.

In commenting further, BTC stressed that it was ***forced to impose a retail charge for calls to DQ services [emphasis added]***.

In the consultation paper, URCA commented that BTC's proposed charge (35 Bahamian cents per call) is above the average price (32.64 US cents per call) for comparable DQ services in five (5) Caribbean jurisdictions. BTC, in responding to that comment, presented additional charging information from other markets and noted that its proposed charge is below the new sample average of 58.50 US cents per call.

2.2 Responses from the Public

Most respondents in this category disagreed with BTC's price increase request.

One respondent expressed support for the preliminary position adopted by URCA in the consultation, namely:

- (i) the first three calls per month from fixed lines to directory assistance service should be free of charge (i.e., only after the third inquiry is the non-zero retail charge applicable); and
- (ii) inquiries made from payphones to directory assistance should be free of any retail charge.

The same respondent contends that the price change, if approved, could adversely impact local businesses whose employees will continue to utilize the service willy-nilly. The respondent acknowledged that the proposed price change could incentivise new start-ups to bring a competing product to the ECS marketplace, but noted that while the proposed price may seem insignificant for residential customers it may increase the cost of doing business.

Another respondent commented that the prevailing economic environment stretches the limit of the average Bahamian's finances, thus any increase in the price of the service, although it may seem small, will further exacerbate the present financial challenges facing Bahamian households.

Another respondent argued that the price increase should not disadvantage the elderly and persons with disabilities and stressed that, within the context of BTC's application, special consideration ought to be given to persons within both groups. The respondent then commented that BTC's printed telephone directories are not easily readable by the elderly nor will the elderly always have the physical ability to access these documents, and must therefore

make inquiries to local directory assistance. Concerning the foregoing, the respondent believed that calls to directory assistance should be provided to the elderly and persons with disabilities (in particular the Visually Impaired) free of charge. To mitigate any potential abuse or misuse associated with this proposal, the respondent then suggested that a doctor's letter or some other proof could be required for these citizens to qualify for unlimited free calls to local directory services.

This respondent also expressed concerns with misprints and new additions to the published directories after printing. The respondent stated that the printed directories would not include new telephone numbers issued after printing. In the respondent's view, misprints in the published directories and new listings increase customers' reliance on directory assistance for information.

Another respondent raised concerns on the need to ensure that the elderly and persons with disabilities are not disadvantaged by the proposed price increase. The respondent also listed four reasons why the printed directories would not always meet the information needs of customers:

- installation of new telephone lines and/or number changes after the date on which the directories are printed;
- misprints in the published directories;
- inability of some members of society to make appropriate use of the printed directory due to poor literacy skills; and
- the printed directory (fine print) is not always readable by the Visually Impaired.

The respondent noted that for the foregoing reasons, customers are left with no other option but to make inquiries to local directory assistance.

It was also stated that publishing an online directory does not allow Bahamians without access to the internet to use the service and in this case some customers would still have no recourse but to make inquiries to local directory assistance for the information they are seeking.

3 URCA's Responses to Comments Received

URCA appreciates the comments received from both the public and BTC. In particular, URCA is grateful for those members of the public who have taken the time to submit their written views on the issue. URCA encourages the public to continue to make its views known on all issues being deliberated by URCA, as it exercises its mandate to safeguard the public interest and promote long-term sustainable competition in the ECS marketplace in The Bahamas.

URCA is cognisant that the ability of customers in The Bahamas to access directory information in a timely manner is critical. URCA also notes the concerns expressed on ensuring that the elderly and persons with disabilities are not disadvantaged by the price change, if approved. URCA is conscious of its mandate to further the interest of customers in The Bahamas in relation to the ECS; and to encourage, promote and enforce sustainable competition between licensees. As such, in the context of this rate review, URCA has sought to safeguard the public interest whilst ensuring that a level playing field exists for competition to flourish.

As a general comment, URCA wishes it to be stated that, with the advent of telecommunications deregulation in most, if not all, the European Union, Canada and the USA, directory assistance via mobile and fixed lines has become a chargeable value-added service. URCA understand that the practice exists in competitive markets having similar characteristics to The Bahamas. As such, URCA is satisfied that BTC's application is reflective of regulatory practices in competitive markets around the world.

Specific to the responses received, URCA notes BTC's acknowledgement that BTC's application is an outcome of URCA's assessment and the extensive public engagement on the draft RAIO published by BTC in May/June 2010. URCA acknowledges that the principles and objectives underpinning the application, as stated by BTC, generally reflect competition policy in the ECS marketplace in The Bahamas.

At the same time, URCA takes issue with the comment by BTC that it was ***forced to impose a retail charge for calls to DQ services*** [emphasis added]. URCA considers that the wording of the comment by BTC may give rise to misinterpretation among the general public. Hence and for the removal of any doubt, URCA stresses that the requirement for BTC to submit a retail charging proposal for calls to DQ

"... was designed to ensure that an efficient competitor could offer similar services in direct competition with BTC, particularly in cases where that competitor used inputs from BTC under the terms and conditions set out in the RAIO. This position was first

stated in URCA's consultation paper on BTC's draft RAIO.⁵ In that document, URCA emphasised that the proposed non-zero RAIO charges for calls to directory ... services in combination with the existing zero-rated tariffs ... could result in competitors not being able to profitably replicate BTC's service offerings."

URCA's objective in respect of this regulatory measure is to ensure compliance with s.4 of the Communications Act requiring URCA to promote sustainable competition and ensure a level playing field exists for competition to flourish between licensees to the benefit of the national economy and Bahamian society.

URCA notes that BTC is in agreement with the changes to BTC's charging application as proposed by URCA in the consultation (Section 4.4) and replicated below for easy reference -

BTC provides:

- *fixed line customers (residential and business) with three (3) free calls to DQ per month. That is, fixed line customers would only start paying a non-zero retail charge (35 cents per call for the service after the third call in any particular month.*
- *calls from public payphones to directory services would be free of any retail charge.*

URCA is appreciative of BTC's response to URCA's proposals.

URCA recognizes that BTC, on its own volition, will provide mobile subscribers with three (3) free calls per month to directory services. In addition, customers making inquiries to directory assistance will have the option of having their calls connected automatically to the number requested at no extra retail charge. URCA believes this latter initiative would be particularly beneficial to the Visually Impaired and the elderly.

URCA also took note of BTC's stated intention to take preparatory steps to keep its database current and to enhance the overall customer experience when utilizing the service.

URCA is encouraged by BTC's recognition of the need to provide additional benefits to customers and the initiatives proposed in this regard. URCA strongly believes that implementation of these initiatives will further the public interest and generally enhance customer experience when using the service. In this regard, URCA sees no reason why it should not accept the additional benefits proposed by BTC.

Additionally, URCA sees no reasonable or justifiable grounds on which to reject BTC's proposed price outright or to adjust downward the proposed charge. As stated in the consultation paper,

⁵ECS 22/2010 issued 7 September 2010

the retail charge proposed by BTC is based on a 'wholesale plus' mark-up approach. The wholesale element of the charge was previously approved by URCA within URCA's *"Response to Public Consultation and Final Decision"* on BTC's draft RAI0 (ECS 01/2011, issued 11 January 2011). However, URCA has no information on the level of downstream costs incurred by BTC in operating local DQ service at the retail level. For this reason, URCA has considered relevant information from other markets to verify the reasonableness of BTC's proposed price.

In this regard, URCA notes the revised benchmarking sample provided by BTC within Table 1 of its submission on the consultation and a comment by BTC that its proposed charging of 35 Bahamian cents (US\$1=B\$1) per call is below the new sample average of 58.50 US cents per call.

URCA is equally mindful of DQ charging practices in other markets with similar characteristics to The Bahamas. In Bermuda, for example, calls to local directory inquiries are assessed at US\$1 per call and customers must pay an additional 50 US cents to have calls completed to the requested numbers.⁶ In the Kingdom of Bahrain, BTC's equivalent (Bahrain Telecommunications Company) charges 40 US cents per call to directory assistance.

In the context of URCA's review, URCA also considered whether the price proposed by BTC could have anti-competitive effects by reducing the ability of downstream competitors to profitably match BTC's offer. However, given the absence of relevant and specific costing information from BTC, URCA could not reasonably determine whether the price proposed could result in a margin squeeze. Further, URCA has no information on the cost that would be incurred by an efficient operator wishing to replicate BTC's offer. URCA notes that the proposed mark-up of 17.65% could be in line with common retail margins for other communications services, thus URCA believes it would be reasonable for URCA to accept BTC's proposed level of retail charging for the service. While URCA will accept the charge proposed by BTC, URCA will require BTC to include information on the downstream costs of providing the service as part of BTC's annual Accounting Separation (AS) submission to URCA, starting with BTC's 2011 AS results.

URCA has the power to conduct a competition investigation if new evidence and information should demonstrate subsequent to this Final Decision that the approved price is potentially anti-competitive.

URCA has reviewed the comments from the public, noting the recurring theme on the need to safeguard the interests of the elderly and the disabled community in the context of the price increase proposed. URCA has equally noted comments made in relation to the potential impact of a price increase on businesses. URCA believes that these are valid concerns and addresses these issues throughout the remainder of this Section.

⁶<http://www.btc.bm/Residential/CallingFeatures/Default.aspx>.

Mindful of the need to secure the interest of customers in The Bahamas in relation to the ECS, URCA invited BTC to comment on the feasibility and reasonableness of the following DQ measures proposed by members of the public who responded to the consultation:

- i) increasing the font size of BTC's printed directories;
- ii) BTC to not charge a fee for enquiries to DQ which relate to numbers incorrectly stated in the printed or online telephone directories;
- iii) BTC to make inquiries to DQ for new numbers and number changes added to the database after printing the telephone directories free of charge to all subscribers; and
- iv) BTC to provide free access (fixed and mobile) to DQ at all times to the Visually Impaired.

In its 18 January 2012 response letter, BTC advised that the measures proposed are generally *"impractical from a commercial perspective and is concerned that the cost of such measures far outweighs any gains for customers."* Regarding items i), ii), and iii) of the proposed DQ measures, BTC noted that the company found no evidence of practices in other jurisdictions in respect of the proposals. Whilst stressing that it is sympathetic to the needs of the Visually Impaired, it noted that the proposed measure at iv) *"is most susceptible to fraudulent behaviour with real potential for no meaningful benefits to the targeted group."* After careful consideration of the proposed measures and having regard to BTC's overall response to the consultation, URCA will not require BTC to implement any of the measures listed above at this time. This is because URCA is unaware of any alternative measures or processes that exist or could be devised to eliminate BTC's concerns regarding commercial impracticalities and the potential for fraudulent abuse. However, URCA will monitor developments in the market so that fit for purpose solutions can be identified and implemented on a going forward basis.

Concerns raised in relation to the ability of certain members of society to make proper use of the printed directory (i.e., the elderly, the visually impaired, and persons with poor literacy skills); and the financial challenges facing many Bahamian households at this time are deserving of URCA's consideration. In order to guide URCA's deliberation on those concerns, URCA obtained data from BTC on the number of calls to local DQ for the period 1 January 2011 to 31 October 2011.⁷ The information obtained from BTC represents the combined calls originating from fixed and mobile lines (i.e., BTC was unable to separate calls originating on fixed from calls originating from mobile to DQ).

Having analysed the BTC information, URCA estimates that on average:

⁷ Letter from BTC to URCA dated 11 November 2011

- every household in The Bahamas makes approximately 1.2 calls to directory inquiry each month;
- each fixed line customers makes approximately one (1) call to directory inquiry each month; and
- one in every three mobile subscriber makes a call to directory inquiry services each month.

Based on the foregoing estimates, URCA is reasonably satisfied that allowing fixed and mobile customers to each make the first three (3) calls per month to directory inquiry free of charge will minimize the financial impact of the price increase on customers.

Regarding the specific comment on the potential financial impact of the proposed new price on businesses, URCA notes that businesses will also be able to make the first three (3) calls per month to directory inquiry services free of charge. BTC confirmed in its letter of 18 January, 2012 that the three (3) free calls per month, by business, to DQ services are applicable to each respective telephone number assigned to any business. Therefore, in the instance of a multi-line business, free calls apply to a specific telephone number irrespective of the number of lines associated with that telephone number.

It is also URCA's considered view that businesses have the option of recovering the cost of the service through other mechanisms such as general sales revenue. This is standard practice by businesses around the world. URCA also considers that business customers are more likely to have regular access to the internet and can avail themselves of updated information available via BTC's online directory. On the issue of possible abuse and misuse of the service by employees, URCA believes that this is a management responsibility for any business, large or small.

BTC's plan to frequently update its online directory is a most welcome development. Such improvements will increase the attractiveness of the service and enables persons (including businesses) with internet access to obtain information free of charge in a timely manner and reduce their reliance on directory assistance. URCA recognizes that there could be a significant number of persons in The Bahamas who might not have access to the internet and URCA therefore accepts the argument that publishing an online directory would not be accessible to those persons without internet access. This concern is equally applicable to persons unfamiliar with the use of technology (e.g., elderly). URCA reiterates that based on current consumption the proposed number of free calls (three) per month appears sufficient for most customers.

URCA wishes it to be stated that URCA is committed to keeping the welfare of the elderly and disabled continually under review so that fit for purpose solutions can be identified and implemented on an ongoing basis.

4 URCA's Final Decision

In reaching a decision in this proceeding, URCA is guided by key principles and objectives underpinning competition and regulation in the ECS and comments received from BTC and the public in response to the consultation.

Having considered all of the above, URCA now makes the following decisions with respect to the application:

- i) BTC's proposed retail charge of 35 Bahamian cents per call to local directory inquiry (assistance) services is approved.
- ii) BTC must include information on downstream costs of providing the local directory (assistance) service as part of BTC's annual Accounting Separation and Cost Accounting (AS/CA) submission to URCA, starting with BTC's 2011 AS/CA and results.
- iii) The first three (3) calls per month from fixed lines (residential and business) and mobile numbers to local directory inquiry services will not attract the URCA-approved charge at (i) above. Calls thereafter must be assessed at 35 Bahamian cents per call.
- iv) Inquiries from payphones to local directory assistance shall be free of any retail charge.
- v) Fixed line (inclusive of public payphones) and mobile customers calling directory enquiry services may choose to have calls completed after requesting the telephone number. This added service shall not attract any additional charge to customers.
- vi) BTC shall publish and keep current an online telephone directory to enable customers with internet access to obtain (free of charge to persons accessing the service) directory assistance information.
- vii) URCA is committed to keeping the welfare of the elderly and disabled continually under review so that fit for purpose solutions can be identified and implemented on an ongoing basis.

5 Next Steps

URCA is reminding BTC and the general public of the requirements under the *ex ante* Rules on implementing the new price. In particular, URCA draws BTC's attention to paragraph 12 requiring BTC within thirty (30) calendar days of this Statement of Results and Final Decision, to place a notice in at least one newspaper of national circulation of BTC's decision to implement the price increase, giving at least fourteen (14) calendar days notice of the price change. If this notice is not placed within the specified period, URCA's approval will be deemed to have lapsed and the SMP operator must submit a new application if it wishes to proceed with the price change.

URCA wishes to reiterate its appreciation for the comments received from both the public and BTC. In particular, URCA is grateful to those members of the public who have taken the time to submit their written views on the issue. URCA encourages the public to continue to make its views known on all issues being deliberated by URCA, as it exercises its mandate to safeguard the public interest and promote long-term sustainable competition in the ECS marketplace in The Bahamas.