



FOR IMMEDIATE RELEASE

Preliminary Determination on the Assessment of Significant Market Power in the Electronic Communications Sector in The Bahamas

The Utilities Regulation and Competition Authority (URCA) has today published its Preliminary Determination [URCA Document Reference ECS 10/2014] on the *“Assessment of Significant Market Power in the Electronic Communications Sector in The Bahamas under Section 39(1) of the Communications Act, 2009”*.

The Preliminary Determination presents URCA’s preliminary views on the competitive conditions in key retail markets in The Bahamas: fixed voice services, broadband services, business connectivity services (i.e., national and international data circuits), and Pay TV services. Given that the Bahamas Telecommunications Company Limited (BTC) retained a statutory exclusivity on mobile services in The Bahamas which did not expire until 7 April 2014, URCA considered that a review of competition in mobile voice and mobile data services was not warranted at this time.

Section 39(1) of the Communications Act (“Comms Act”) states that *“URCA may at any time determine that a licensee is an SMP (significant market power) licensee if the licensee, individually or with others, enjoys a position of economic strength which enables it to hinder the maintenance of effective competition on the relevant market by allowing it to behave to an appreciable extent independently of its competitors, consumers and subscribers.”*

URCA, in line with best international practice, determines which operators presently hold significant market power through the process of a market review. URCA has a statutory duty to conduct market reviews periodically to ensure that regulatory measures remain appropriate and current in the event of market changes. Prior to this current market review, the last SMP assessment was completed in April 2010 which resulted in URCA imposing various ex-ante obligations on the two operators deemed to have SMP under section 116(1) of the Comms Act, namely BTC and Cable Bahamas Limited (CBL). It is important to note that the SMP presumptions that resulted from the 2010 assessment were meant to be temporary until a more comprehensive market review was conducted.

Based on this market review process, URCA has preliminarily determined that:

- BTC has SMP in the market for retail fixed voice services (covering access, local call, national and international call services from a fixed location).
- CBL has SMP in the market for broadband services in New Providence, Abaco, Grand Bahama and Eleuthera.

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- BTC has SMP in the market for broadband services in all areas where CBL does not currently offer retail broadband services.
- BTC has SMP in the market for national and international business connectivity (leased lines) services in all areas where CBL does not currently offer these services. No provider has SMP in the market for national and international business connectivity (leased lines) in those areas where CBL currently offers these services.
- CBL has SMP in the market for pay TV services in The Bahamas.

Having reviewed the main potential competitive concerns and resulting consumer harm in each SMP market, URCA has considered a range of preventative regulatory measures to remedy these concerns. As a result, going forward URCA proposes to impose a new method of retail price regulation known as price cap regulation as follows:

- BTC's retail fixed voice services;
- CBL's retail broadband services; and
- CBL's access and content pay TV packages (i.e., currently those packages labelled as PRIME, PRIME Select, Prime Plus and PRIME Extra).

In addition to price cap regulation:

- BTC's retail prices for on-net and off-net fixed call services may only differ in case of justifiable cost differences in delivering these call services;
- Neither CBL nor BTC shall introduce any new retail product bundled offering which contains a retail service in which it has been found to have SMP, unless that bundle can be replicated by other providers;
- CBL is required to offer stand-alone (unbundled) retail broadband offers; and
- BTC is required to offer geographic uniform prices for retail broadband services.

URCA does not propose to impose any additional *ex-ante* obligations on SMP licensees in the business connectivity services markets.

URCA will consult separately on the detailed approach and implementation of the price cap regime, after the Final Determination for this market review process has been published.

Given the importance of this consultation, the timetable for this consultation is extended beyond the normal one month period for responses. In particular:

- Initial responses on this Preliminary Determination should be submitted to URCA by 5 p.m. on 11 July 2014.
- Interested parties will then have the opportunity to further comment on responses made by other respondents by 8 August 2014.

URCA encourages all interested parties, including the named licensees to make written submissions on the consultation. URCA will review all responses and comments received to the consultation and issue a Statement of Results and Final Determination as appropriate.

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