



## URCA UPDATE

### Publication of Final Determination and Order

#### re: Bartlett-McWeeney Communications Limited (i.e., GEMS FM Radio 109.5)

URCA today published a Final Determination and Order that it issued under sections 99 and 95 respectively of the Communications Act 2009 to Bartlett-McWeeney Communications Limited (“the Licensee”) on 26<sup>th</sup> May 2011 arising from:

- (i) the failure of the Licensee to comply with and/or contravening the requirements of Clauses 11(3) and (4) of the *“Content Regulation: Interim Code of Practice for Broadcasting Content ECS 10/2010”* (the *“Interim Content Code”*) in respect of permitting URCA to inspect on 17 March 2011 at 2:00 p.m. or at any other time the original recording of the entirety of programmes hosted by Mr. Steve McKinney and broadcast by the Licensee on its broadcast station (i.e., GEMS FM Radio 105.9) on 24 February, 9 March and 10 March 2011; and
- (ii) the failure of the Licensee to provide URCA with the original recording of the entirety of programmes hosted by Mr. Steve McKinney and broadcast by the Licensee on its broadcast station on 24 February and 10 March 2011 as required by URCA; and
- (iii) the failure of the Licensee to retain recordings of the broadcasts on 24 February and 10 March 2011,

and in each instance committed repeated breaches of sections 53(1) and 58 of the Communications Act 2009 and Condition 3.2 of its Individual Spectrum Licence, which breaches continue to date.

On 26<sup>th</sup> May 2011, URCA also ordered the Licensee:

- (1) to permit URCA by or before 17 June 2011 to inspect the original recording of the entirety of programmes hosted by Mr. Steve McKinney and broadcast by the Licensee on its broadcast station on 24 February, 9 March and 10 March 2011; and

- (2) to provide URCA by or before 17 June 2011 with the original recording of the entirety of programmes hosted by Mr. Steve McKinney and broadcast by the Licensee on its broadcast station on 24 February and 10 March 2011 as required by URCA in accordance with the Clause 11(3) and (4) of the *“Content Regulation: Interim Code of Practice for Broadcasting Content (ECS 10/2010)”*; and
- (3) in default of compliance with paragraphs (1) and/or (2) above, URCA will impose the following penalty upon the Licensee pursuant to section 95(2)(b) and section 109(1) and (5) of the Communications Act:
  - (a) The Licensee shall pay to URCA by or before 24 June 2011 a fine of five thousand dollars (\$5,000.00); and
  - (b) For every day after 24 June 2011 that the Licensee is in default in complying with paragraph (3)(a) above, the Licensee shall pay to URCA an additional daily default fine of one hundredth of one percent (0.01%) of its relevant turnover as defined in section 2 of the Communications Act until the contraventions are remedied or the fine is paid.

By letter received on 19<sup>th</sup> July 2011, the Licensee applied to URCA for an extension of the time period within which to comply with the Order. On 3<sup>rd</sup> August 2011, URCA granted the Licensee a ninety (90) day extension, effective from 24<sup>th</sup> June 2011. Failure by the Licensee to comply with paragraphs 1 and/or 2 of the Order or, in the alternative, paragraph 3 of the Order, by 23<sup>rd</sup> September 2011 may result in the suspension or revocation of the licence pursuant to section 109(2)(c) of the Communications Act.

Under sections 101 and 97 respectively of the Communications Act, URCA is required to publish its final determinations and orders on its website unless any affected party raises legitimate reasons of commercial confidentiality.

The Final Determination and Order can be downloaded online from the website **[www.urbahamas.bs](http://www.urbahamas.bs)** under the tab Publications “Orders Issued”.