

The Bahamas Telecommunications Company Ltd.

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February 10, 2012

Mrs. Kathleen Riviere-Smith
Director of Policy and Regulation
Utilities Regulation and Competition Authority (URCA)
UBS Annex Building
East Bay Street
Nassau, The Bahamas

Dear Mrs. Riviere-Smith,

Re: BTC's Response to URCA's Public Consultation Document on Guidelines for Developing Licensee Complaints Handling Procedures (ECS 23/2011)

The Bahamas Telecommunications Company Limited (BTC) herein submits its response to the Consultation document at caption.

BTC looks forward in due course to URCA's determination.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Felicity L. Johnson', with a long horizontal line extending to the right.

Felicity L. Johnson
Senior Vice President of Legal, Regulatory & Carrier Services
& Company Secretary

Enclosure: (1)



The Bahamas Telecommunications Company Limited:

Response To

Guidelines for developing Licensee Complaints Handling
Procedures

Consultation Document
ECS 23/2011

10th February 2012

Executive Summary

The principal duty as stated in section 45 (1) of the Communications Act 2009 (“Comms Act”) provides that URCA shall “monitor and enforce consumer protection conditions in Licences” and to this end URCA may, pursuant to section 45(2) “issue regulations for the handling of consumer complaints.”¹ BTC wholeheartedly supports the aim of this Public Consultation to “provide practical guidance...for Licensees” as ultimately this will be of benefit to licensees and consumers. The Bahamas Telecommunications Company Limited (“BTC”) welcomes the opportunity to respond constructively to this Public Consultation on the Guidelines for developing Licensee Complaints Handling Procedures.

As an entity regulated by the Utilities Regulation and Competition Authority (“URCA” of the “Regulator”) , governed by the Comms Act, and its Individual Operating Licence (“the Licence”), BTC is committed to compliance with all provisions of both the Act and its Licence. BTC recognizes and acknowledges that it is also governed by and has responsibilities to its customers pursuant to the Consumer Protection Act Chapter 337C of the Statute Laws of the Commonwealth of the Bahamas.

URCA’s policy aims and principles as outlined in this Public Consultation are consistent with the principles of the regulatory framework in the European Union². BTC supports URCA’s efforts to comply with its regulatory obligations to ensure that the public’s interest is served by access to simple and inexpensive complaint handling processes so that the customer may derive the maximum benefit.

BTC supports the aims of a complaints policy which seeks “to empower consumers to take direct action regarding poor service provision, quality or other issues”³ To this end, on May 6th 2011, BTC submitted to URCA its documented processes for handling complaints from residential and small business customers, as a part of its Licence obligations. Complaints from Other Licensed Operators (“OLOs”) were excluded from these procedures as they are referred to the Carrier Services Division of BTC to be handled pursuant to the provisions of the Reference Access Interconnection Offer (“RAIO”).

BTC is constantly reviewing its customer service processes and enthusiastically embraces the objectives of this Consultation to speedily and fairly resolve customer queries without the need to involve the Regulator, the Consumer Commission, attorneys, or the Courts. BTC recognizes that the reporting of customer complaints is a good measure of the quality of its services and creates an environment in which competition can flourish. BTC supports the notion that “consumers who are accurately and openly informed of the nature, content and cost of participation in an interactive service experience...should enjoy the most effective form of consumer protection.”⁴ Notwithstanding, BTC is concerned that these Guidelines are not overly prescriptive in keeping with the principle of light touch regulation so as to allow operators the “freedom to establish creative solutions for the handling of consumer complaints.”⁵ It is clearly in the

¹ Communications Act 2009. #10/2009

² Directive 2001/21/EC

³ Ofcom, A Review of Consumer Complaints Procedures; <http://stakeholders.ofcom.org.uk/consultations>

⁴ Association for Interactive Media and Entertainment www.aimelink.org

⁵ Ibid

interest of the operator to have satisfied customers and an efficient complaints process that can ensure important objectives.

Response to Questions in Public Consultation Document

Question 1: Do you agree that a definition for the term “complaint” is necessary? If so, do you believe that the proposed working definition is adequate? Should you disagree with the adequacy of the propose definition, kindly explain and suggest an alternative.

Response 1:

BTC agrees that a definition of the term “complaint” is necessary in order to remove any uncertainty in the complaints handling process. BTC recognizes that the complaints process must “sit alongside a broader customer services support function” therefore BTC recommends that there is a clear delineation between requests or queries for information and a complaint.⁶ In that regard, the following addition to the definition is proposed which we suggest would be beneficial to both customers and operators alike:

*“an expression of dissatisfaction, **which does not include a request for information**, made by a customer to the Licensee related to the Licensee’s provision of electronic communications services to that consumer, or to the complaint-handling process itself, where a response or resolution is expected.”*

Question 2: Do you agree that the principles of fairness and reasonableness should guide the development of the Complaints Procedures? Please provide an explanation for you answer.

Response 2:

BTC agrees that the principles of fairness and reasonableness should guide the development of the Complaints Procedures as these principles are amongst those outlined in the *Guidelines for Regulation and Government measures* in Section 5 paragraph (c) of Part II of the Comms Act 2009, which states that “regulatory and other measures shall be efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and nondiscriminatory”. Further, all policy measures, decisions and laws to take effect in the Electronic Communications Sector “shall demonstrate compliance with the guidelines”⁷ as outlined in Section 5 (c). Clearly, these principles are also consistent with the principles outlined in Condition 24.5⁸ of BTC’s Individual Operating Licence.

⁶ Telecom New Zealand <http://www.telecom.co.nz/help/other/contact>

⁷ Communications Act # 10/2009

⁸ *“The Licensee shall provide services to Residential Customers and Small Business Customers on terms that are fair, reasonable and non-discriminatory.”*

Question 3: Do you agree that the Complaints Procedures should be made available to consumers without cost? If not, please provide reasoning for your disagreement and suggest a possible cost effective means in the alternative.

Response 3:

BTC has no objection to the provision of the Complaints Procedures to customers free of charge.

Question 4: What media do you believe should be used to notify customers of the existence of the Complaints Procedures? Please give reasoning for your answer.

Response 4:

BTC supports the view that customers should be able to locate an operator's complaint handling procedures with relative ease.⁹ In that regard BTC is of the view that URCA need only require that complaints handling procedures are "sufficiently accessible" and should not, as a part of its light touch regulation, impose a list of prescribed methods for public notification of the existence of the procedures as BTC's methods of public notification are fairly broad. BTC's methods include advertisements via BTC's website, retail stores and bill statements, and, via newspapers, television and radio advertisements.

Question 5: What media do you believe should be used to make the Complaints Procedures available to consumers? Please give reasoning for your answer.

Response 5:

BTC agrees with URCA and is of the view that, consistent with Condition 24.6 of its Licence, customers should at a minimum be provided with adequate access to a web link on the operator's website as has been instituted by operators such as Telecom New Zealand¹⁰ and British Telecom in the United Kingdom. In addition, a standalone document can be made available upon request by hard copy in any of BTC's retail stores. BTC supports Ofcom's view¹¹ that the means by which Operators accept complaints should not unduly deter customers from making a complaint.

BTC is concerned that URCA is not overly prescriptive in its initiative to list the media to be used to make the complaints' procedures available to customers. While BTC recognizes that some customers may have disabilities which require additional processes to adhere to their needs, it is BTC's view that operators should be given the opportunity to determine which processes it may require to enhance a customer's ability to complain. BTC notes the efforts of Telecom New Zealand which provides services for the hearing impaired and for those customers whose first language may not be English. It is BTC's view that an operator should be given the opportunity to "creatively engineer"¹² its response to the needs of its

⁹ Ofcom: A Review of Consumer Complaints Procedures published 22/07/10, http://stakeholders.ofcom.org.uk/consultations/complaints_procedures/statement.

¹⁰ <http://www.telecom.co.nz/help/other/contact>

¹¹ Ofcom: A Review of Consumer Complaints Procedures published 22/07/10, http://stakeholders.ofcom.org.uk/consultations/complaints_procedures/statement

¹² Association for Interactive Media and Entertainment www.aimelink.org

customers.

Question 6: Do you agree that, as a matter of transparency, consumers should be notified and informed by the Licensee of any significant changes to the Complaints Procedures? Please explain.

Response 6:

BTC is in agreement with and has no objection to the proposal in question 6 of the Consultation. BTC takes into account that the legal, commercial and regulatory environment will change and therefore it will be necessary for operators to amend the complaints handling procedures from time to time. BTC supports the view that transparency and disclosure are vital principles of a customer service experience and of corporate governance. BTC fully agrees that once amendments are made to the complaints handling procedures they should be re-issued inclusive of the notice of the date of issue of the revised version.

Question 7: Do you agree that the periodic review, analysis and revision of the Complaints Procedures by the Licensee should allow for it to be more effective in its application? Kindly explain.

Response 7:

BTC has no objection to Part 5.3 of the Consultation in which it is proposed that the Complaints Procedures should have a mechanism for periodic review. In order to ensure that the Complaints Procedures are effective, BTC supports the implementation of internal processes for the treatment of complaints from initial contact by the customer to notification that the matter has been resolved. BTC welcomes URCA's position, which is similar to that of Ofcom, that URCA will not insist that internal changes should be made but will leave the internal processes of review, analysis and revision of the complaints code to the operator allowing each operator to have the "freedom to meet its customers expectations"¹³ within its given markets. BTC is of the view that with competition, market forces can effectively monitor and incentivize operators to effectively review their Complaints Procedures in order to avoid customer churn.

Question 8: Do you believe that fifteen (15) business days (and in exceptional circumstances up to thirty (30) business days) is a reasonable period within which a complaint should be resolved? Please provide an explanation for your answer.

Response 8:

BTC has no objection to Parts 6, 7.1, 7.2 and 7.3 of the Consultation and accepts the proposed timescales as reasonable. Certainly more complex investigations may require cross departmental analyses and high level internal escalation where the first contact with the operator does not yield a resolution or the customer remains dissatisfied. BTC notes that regulators in other jurisdictions such as Tanzania and the UK have also established a period of thirty (30) days as the maximum period in which a complaint should be resolved from the initial contact with the customer or receipt of the complaint.

Question 9: Do you agree with URCA's proposal that complaints should be categorized in order to

¹³ Ofcom: A Review of Consumer Complaints Procedures published 22/07/10,
http://stakeholders.ofcom.org.uk/consultations/complaints_procedures/statement

establish reasonable timelines for resolution? If not, kindly suggest an alternative approach.

Response 9:

BTC has no objection to this proposal. However, in light of the fact that the operator has all the relevant information concerning its services and therefore is better able to address the claims, BTC recommends that operators be given the opportunity to make an internal assessment as to the timelines for resolution based on the carriage services it provides, the type of customer i.e., residential or business customer, and the method of complaint i.e., face to face, by telephone, online or by letter, within the stated time periods for resolution.

Question 10: Do you believe that an internal escalation procedure is appropriate for inclusion in the Complaints Procedures? Kindly explain.

Response 10:

It is becoming widely recognized¹⁴ that openness is a key factor in business success making decisions to ensure better, closer business relationships. BTC supports this view and therefore has no objection to the inclusion of a general outline of its internal escalation procedures in its Complaints Procedures to be disseminated to its customers. In this regard, BTC proposes that it will acknowledge receipt of a complaint within two (2) business days of receipt of the complaint. Thereafter BTC's investigation will commence and should continue for a period of seven (7) days. During this period BTC will, upon request, inform the customer of the progress of the complaint and will subsequently advise the customer of the results of its investigation within the stated timeframes.

Question 11: Should the escalation procedure be subject to timeframes within which the complaint should be resolved, depending on the nature of the complaint? If so, please suggest timeframes and provide reasoning for your suggestions.

Response 11:

BTC has no objection to the imposition of targeted response times however, BTC reiterates its concern that URCA should not be involved in prescribing what those timeframes should be, in keeping with its mandate of light touch regulation and the market forces guideline in Section 5(a).¹⁵ BTC recommends that operators should be given the opportunity to determine their response times based, inter alia, on the categorization of complaints and customers' expectations within the general timelines for resolution of between fifteen (15) to thirty (30) business days.

Question 12: What are your views on URCA conducting a public consultation on its approach and internal processes to resolving outstanding consumer complaints (and other disputes)?

¹⁴ <http://www.bpm.com/>

¹⁵ Communications Act 2009: 10/2009

Response 12:

BTC has no objection to this proposal and would welcome the opportunity to participate in a public Consultation on the approach that URCA should take to outstanding customer complaints. BTC recognizes that pursuant to Part D of its Licence it is required to offer contracts with minimum terms. BTC is concerned, however, that once it has fulfilled its Licence conditions under Part D, that URCA would limit its involvement in disputes between the operator and individual customers.

As is evident from a review of the ICT Regulation Toolkit¹⁶, in a number of jurisdictions different approaches have been taken to the adjudication of unresolved complaints between operators and customers. Some regulators utilize administrative bodies which operate outside of the telecommunications regulator. The Canadian government has established a telecommunications consumer agency to handle unresolved disputes, while in countries like Peru an independent administrative tribunal has been established for users of telecommunications services. In the UK a free, voluntary dispute resolution service, the Office of Telecommunications Ombudsman (OTELO), consisting of operators was created in 2003 to adjudicate disputes between customers and its members. In Jamaica¹⁷ the telecommunications regulator, the OUR, has established an investigative arm to provide an appeals process for unresolved complaints.

Question 13: What measures do you believe that service providers should implement to ensure that consumers would be able to track the progress of their complaint?

Response 13:

BTC agrees that consumers should have the opportunity to track the progress of their complaints. BTC reiterates its concern that URCA ought not be too prescriptive in this regard, and should allow operators to design their complaints handling procedures and processes to meet customers expectations and needs. BTC is of the view that the use of a reference number, a special identification code along with security questions may be utilized to track the progress of a complaint either face to face, in BTC's retail stores, by telephone, online or by letter, within the stated time periods for resolution.

Question 14: Do you agree that provisions should be made for the retention of records of complaints and how long do you think these records should be kept?

Response 14:

BTC agrees that provisions should be made for the retention of records consistent with Condition 25.3 and 25.5 of its Licence. Records of complaints should be retained for a minimum of one (1) year after the matter is resolved or one (1) year after the last correspondence from the customer to the operator, or whichever is first.

Question 15: Do you agree that the proposed ninety (90) day timeframe is a reasonable period within which a complaint should be lodged. Please explain.

¹⁶ <http://www.ictregulationtoolkit.org>

¹⁷ www.our.org.jm

Response 15:

BTC has no objection to the proposed ninety (90) day timeframe within which the initial complaint may be lodged by a customer as this should provide the customer with an adequate period within which to identify and to formulate his or her concerns, should they arise.

Question 16: Do you believe that URCA should firstly approve proposed changes to the Complaints Procedures by the Licensee? Please explain your answer.

Response 16:

BTC is of the view that an Operator should notify URCA that it proposes to amend its Complaints Procedures and submit the amended document for approval where there has been a new or amended regulatory or legislative initiative. BTC suggests that URCA's review is limited to the shortest possible timeframe which should be communicated to all operators. BTC recommends thirty (30) business days as adequate period for review and response to an operator. However, should the change relate to amendments to an operator's internal processes as a result of an operator's commercial decision making process, BTC is of the view that the Operator need only notify URCA and its customers simultaneously of the proposed change to the Complaints Procedures.

Question 17: What do you consider would be an appropriate time frame within which modifications or amendments to existing Licensees' Complaints Procedures consequential to this Consultation should be made?

Response 17:

BTC notes that Ofcom's rules came into force approximately six (6) months after the publication of changes made to its initial Consultation document. BTC is therefore of the view that operators in The Bahamas should be given at least a minimum of six (6) months to implement changes to their current complaint handling procedures consequential to the publication of URCA's final determination.

Conclusion

BTC takes this opportunity to once again underscore its support for URCA's aim to protect the interests of customers who utilize telecommunications services in the Commonwealth of The Bahamas. BTC supports the view that these complaint procedures ought to exclude broadcasting content and are limited in their scope to complaints pursuant to the terms and conditions of the contract between the operator and its individual customer. BTC acknowledges and supports the view that the establishment of internal complaints handling systems and processes enhances open-ness and communication between all parties allowing customers to have the confidence that should they become dissatisfied with an operator, their concerns will be dealt with in a consistent fair, transparent, and timely manner.

Finally, BTC also takes the opportunity to reiterate that operators be given the opportunity to create their internal processes and procedures in keeping with their broader customer services objectives and functions and would urge URCA to remain cognizant of and adhere to one of the guiding policy objectives of electronic communications, that of light touch regulation.

Reservation of Rights

BTC has addressed the issues but reserves the right to comment at any time on all issues and states categorically that the decision not to respond to any issue raised in this Consultation in whole or in part does not necessarily represent agreement in whole or in part with URCA's position, nor does any position taken by BTC in this Consultation mean a waiver of any of BTC's rights in any way. BTC expressly reserves all of its rights.

Prepared by:
Legal, Regulatory and Carrier Services Division
The Bahamas Telecommunications Company Limited (BTC)
February 10th, 2012