

The Bahamas Telecommunications Company Limited

**Response to URCA's Consultation Document ECS 22/2010 on
BTC's draft Reference Access and Interconnection Offer**

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1. BTC's general comments

1.1 Introduction

BTC welcomes the opportunity to comment on URCA's Consultation Document (ECS 22/2010) on the draft Reference Access and Interconnection Offer (RAIO). BTC believes that the development of the RAIO is an important step in the liberalisation of the electronic communications market in The Bahamas, and public consultation is desirable in developing a transparent and well informed regulatory regime.

As liberalisation is a new development, all players – operators, URCA and the public – are still learning the most appropriate way forward for The Bahamas. It is through the exchange of views and experience that we can make effective progress, and it is in this spirit that BTC makes its comments on the questions in the consultation document, and in particular some general observations on the document, as set out below.

1.2 Ownership of the RAIO

BTC has concluded that if URCA continues on the course it has chartered in the Consultation Document, the interconnection regime in The Bahamas will slow down the development of competition, become over-bureaucratic, and ultimately prove to be unworkable. URCA will then have to bear full responsibility for this undesirable development. The fundamental problem is that URCA has not acknowledged the ownership of the RAIO. It provides the standard terms and conditions on which BTC will provide interconnection services – a draft legal contract which will bind BTC and its employees. As a result BTC must be committed to the processes, rights and obligations set out in the RAIO, and be prepared to support them with its financial and management resources. URCA's role is to ensure that the document complies with the relevant Acts and Regulations. But it is **not** URCA's document, and URCA is **not** responsible for its detailed implementation. The role of URCA and its advisors is not to write the RAIO themselves.

BTC considers that in many of its comments in the Consultation Document, URCA has exceeded its remit, and unless it moderates some of its preliminary views, the resulting document will be damaging both to BTC and to its interconnecting operators. It therefore urges URCA to have an open mind and to be prepared to change several of its preliminary views, and in particular, to withdraw from some of the more detailed interference proposed in the Consultation Document. BTC remains willing to discuss its views and rationale on any point set out in this response, and hopes that because the RAIO is and must be, ultimately, BTC's document, URCA will take up this offer.

1.3 Public consultation process

BTC also hopes that URCA can reflect on the lessons to be learnt from the experience of public consultation on the RAIO, which BTC regards as flawed for the reasons set out below (see Sections 1.4 – 1.6). In particular, the publication in early September of the misleading and unqualified data on efficiency (paragraph 4.2.7 of the Consultation Document), which was disseminated through press coverage, was unacceptable from

a public body, and caused damage to the telecommunications industry. URCA cannot allow this to happen again.

URCA also changed its advisors on the RAIO part way through the process. While this may be the cause of some of the inconsistencies set out below in Section 1.7, this does not absolve URCA from responsibility for the public Consultation Document, and indeed URCA should have ensured that its new advisors were fully briefed and that URCA's supervising staff looked out for any inconsistencies in material between the first set and the second set of consultants. BTC considers that it has been castigated in several places in the Consultation Document for following URCA's own Access and Interconnection Guidelines and Guidelines on Accounting Separation and Cost Accounting because URCA has – knowingly or unknowingly – changed its position. This damages the credibility of URCA and its processes, and should be avoided in the future.

BTC considers that it is critical to place the relationships between URCA and the operators on a good footing for the future. This requires mutual respect for the competencies of each player, while recognising their different positions. The process of public consultation on the RAIO has not been, to date, what BTC considers to be a smooth one.

1.4 Reciprocity

BTC recognises that the issue of reciprocity has become a major difference in approach between BTC and URCA, and hopes that a reasonable solution can be found.

BTC accepts that there are some obligations placed on BTC as a result of its market power which are not placed on other operators, and in particular the obligations of cost orientation of prices and non-discrimination. Hence BTC cannot insist that an interconnection agreement places these obligations on the other operator (assuming that it does not have similar obligations). Of course, the operator may agree to have such obligations voluntarily.

BTC invites URCA to monitor progress on negotiations between BTC and other operators on call termination services on their respective networks. BTC's negotiating position in these discussions is restricted by its SMP obligations and OLOs are therefore in a position to exploit the dominance they hold in the termination of calls on their networks (a market where they hold 100% market share) should they choose to do so. BTC urges URCA to ensure such abuse does not take place.

However there are no good regulatory reasons why reciprocal terms covering certain other matters cannot be achieved. The case for other reciprocal terms should then be considered on its merits. URCA however, does not appear to be willing to consider that any reciprocal term has any value, instead requiring a "full justification" for each and every reciprocal term (Consultation Question 3). BTC is very concerned that in its comments, URCA has become inflexible and unwilling to consider other views on this matter.

A reference offer is the starting point for interconnection negotiations, and reciprocal terms make sense in several circumstances because:

- they represent an equitable approach as both parties have the same rights and obligations
- they act as a brake on the proposing party because the same obligations apply to it as to the other side
- they make the management of interconnection easier because both parties follow the same procedures and standards.
- in interconnection, an operator has the role of both the provider of facilities and the seeker of facilities, and reciprocal terms capture this duality more effectively than non-reciprocal terms, resulting in clearer legal agreements.

URCA's position in the Consultation Document is too extreme on reciprocity. For example, in its comments on Schedule 3 to Annex C, Clause C-3.3.1, URCA suggests that the process for test calls on a joining circuit should not be reciprocal. As our comments (paragraph 114 of Section 2) point out, there are good engineering reasons why operators should use the same testing methods on Joining Circuits. Similarly, in its comments on Clause D.16.4, URCA objects to a proposal that the fees for Data Management Amendments should be based on wage rates of the staff involved on the grounds that it "has overtones of reciprocity". To BTC, this proposal seems equitable, and URCA's comment appears to be too dogmatic and driven by an unconsidered application of its position on reciprocity.

Furthermore, URCA's position on reciprocity is inconsistent in several places in the Consultation Document. In Section 2.1.1 of the Consultation Document, URCA wants most clauses with reciprocal terms to be removed, and any remaining clauses to be fully justified. However it also uses reciprocal terms such as "Access Seeker" and "Access Provider" in many of its comments in Section 5. This will confuse respondents to the Consultation Document – if they agree with URCA's changes proposed in Section 5, do they accept the use of reciprocal terms?

BTC has to conclude that URCA itself may need to clarify the issue further.

BTC considers that there are two fundamental choices to resolve the issue of reciprocity:

- the RAIO contains reciprocal terms except where BTC has obligations of non-discrimination or cost orientation (hence most terms will be phrased as "the Access Seeker will ... the Access Provider will...", or using other appropriate terms); or
- the RAIO contains no reciprocal terms (ie they all are phrased in terms of "BTC will ...").

In the first case BTC will negotiate terms with another operator, which can raise objections if the reciprocal terms are not to its liking. In the second case, the new entrant will have to propose each and every term to cover its rights and obligations (and some of these may end up being reciprocal terms). BTC contends that the latter course will lead to lengthy negotiations, delays in market entry and inconsistencies in the treatment of interconnecting operators, which are not in the best interests of consumers or the economy in The Bahamas. Furthermore, the second option may result in BTC not agreeing with the proposals from the new entrants, leading to disputes and references to URCA.

URCA should reconsider its positions on reciprocity, and BTC hopes that a reasonable resolution can be found.

1.5 Tariffs

Following URCA's instructions (paragraph 5.11 of the Access and Interconnection Guidelines, ECS 14/2010), BTC has derived tariffs for RAIO services from its 2009 separated accounts where possible. The separated accounts provide insight into costs incurred in the provision of telecommunication services in the Bahamas. BTC believes that the unique operational circumstances in the Bahamas, with service provided across a range of islands, often to multiple small population centres, makes benchmarking a particularly hazardous exercise. This is illustrated by the diversity of benchmarking results presented by URCA, which are a function of variations in size, operational circumstances, differences in input costs and differences in the mix of service outputs between the benchmarking countries. URCA must not put too much reliance on such benchmarks, particularly in the absence of a detailed understanding of the impact of the above differences between the benchmarking countries, and therefore on their relevance for tariffs in The Bahamas. Service provision in a country like The Bahamas – i.e. in a relatively small country, with population scattered across a large number of islands, requiring an expensive submarine cable network for the provision of services - results in relatively high service costs. This is not an indication of inefficiency and it is incorrect to present it as such.

On the development of RAIO service tariffs, URCA has changed the goal posts significantly in its approach to the development of the separated accounts. BTC has developed the separated accounts in line with BTC's Final Accounting Separation Guidelines as published by URCA on April 22nd 2010 (ECS 14/2010). In these guidelines no mention is made of the volume conversion approach now favoured by URCA in paragraph 4.1.2 of the Consultation Document. While not uncommon in bottom-up costing models, this approach is not appropriate in top-down costing models such as the separated accounts. On the treatment of POI-specific costs, BTC notes that, in the interest of cost causality, these costs should be allocated to the services that cause the cost to be incurred. It is clear that only interconnection services cause these costs to be incurred and POI-specific costs should therefore be allocated to these services only. URCA should not change its approach to the pricing of interconnection services part way through the process. This undermines its reputation for consistency, and imposes unnecessary costs on BTC.

URCA should also decide what its policy target is in relation to setting RAIO tariffs at cost, as required by the Access and Interconnection Guidelines (in accordance with s. 40(1)(b) of the Communications Act and Condition 40 of BTC's Individual Operating Licence). It is BTC's position that tariffs for interconnection services should be set at cost and that such an approach would result in the right signals being set in the market for efficient competitive entry, for the stimulation of investments and for the general protection of the interests of consumers in the Bahamas. BTC is concerned that URCA appears to include in its approach to RAIO tariffs a notion as to whether costs have 'already been recovered' by corresponding retail services. While there is obviously a link between retail and wholesale services, such a discussion can only take place in the context of a comprehensive review of BTC's current retail pricing practices, including an analysis of the deficit incurred by BTC on its access business.

Without such a review, URCA is at risk of selectively objecting to ‘over-recovery’ on certain services, while losing sight of the bigger picture across the BTC retail business. This will result in RAIO services being set below cost, which would result in wrong signals on efficient market entry, investments and consumer protection.

URCA should revisit some of its earlier SMP designations on BTC. BTC believes that that there are services in this RAIO that do not meet the definition of services that require ex ante regulation. For example, one of the more unnecessary obligations on BTC is the requirement to provide a time-of-day recorded service in the RAIO. It is clear that the content required for such a service does not constitute a bottleneck and it is also straightforward for alternative operators to acquire a platform for the provisioning of such a service. With barriers to entry this low, there really should not be a need for BTC to provide this and other services currently in the RAIO.

1.6 Light touch regulation

In the Sector Policy, the Government requires URCA to exercise “light touch” regulation¹. BTC understands that this term means that a national regulatory authority should not involve itself where it is not necessary for the achievement of its specific objectives, which for URCA are set out in the Communications Act 2009. This enables the commercial market to function with only regulation that is necessary, thus saving time and cost for both operators and regulators, and permitting market mechanisms to work unless there are or are likely to be market failures. The importance of this principle is underlined in the Communications Act 2009, which states that market forces “... should be relied on as much as possible ...” for the achievement of policy objectives (Article 5 (a)).

BTC is concerned that in a number of its comments, URCA does not comply with the Government’s policy requirements for it to exercise light touch regulation. In particular URCA is insisting on the inclusion of some detailed arrangements which should be left to negotiations and agreements between the operators. Examples include:

- a process for updating contact details (see our comments in paragraph 32 of Section 2)
- duration of confidentiality clauses (paragraph 35)
- financial security arrangements (paragraph 36)
- temporary unpacking facilities (paragraph 74)

Of course, if the operators cannot negotiate mutually acceptable arrangements, either operator has recourse to the dispute procedure, including a reference to URCA if the problem cannot be resolved between the operators.

URCA has made detailed proposals for a planning and forecasting system (see Section 2.5 of the consultation document). As URCA is aware, BTC has decided that a forecasting system is not necessary, and URCA is requiring BTC to introduce such a system against its wishes. BTC considers that a national regulatory authority adhering to the principles of light touch regulation would accept that an operator should make

¹ Government of The Commonwealth of The Bahamas. Electronic Communications Sector Policy. Section 24.

its own decisions on such operational matters. If the lack of such a system has an anti-competitive effect on the market, the national regulatory authority would deal with the issue as and when a new entrant raised the issue, rather than enforced it as a matter of ex-ante regulation. BTC has set out what it regards as the most suitable planning and forecasting system for it and its interconnecting operators in its response to Consultation Question 15, and urges URCA to accept it.

BTC considers that in some of its detailed comments URCA has departed from the standard of light touch regulation. For example BTC has developed the draft RAIIO based on the guidelines provided by URCA, which provided a degree of flexibility to BTC on the development of the document. In the current consultation document, URCA has departed from this approach and provided extensive and detailed instructions to BTC, many of them simply relating to individual preferences in style and presentation. This new approach is illustrated by the trivial correction of grammar, which BTC does not consider appropriate for a consultation document of this importance. BTC suggests that if there are grammatical matters which concern URCA, it should pass on such corrections in separate correspondence.

Linked to the principle of light touch regulation is the principle of the primacy of commercial negotiations. This gives priority to commercial negotiations between operators over regulated interventions, partly because operators will be more committed to arrangements that they make between themselves (rather than being imposed on them by a third party), and partly because the operators have a better knowledge of their business than a national regulatory authority (and hence will generally make better arrangements).

The role of the national regulatory authority is important – to correct for imbalances in market power and to ensure consistency with national laws and regulations. Under the principle of primacy of commercial negotiations, the national regulatory authority should intervene only after negotiations between the operators have taken place and failed.

In order to satisfy the Government's requirement for light touch regulation, BTC considers that URCA should, when it requires changes to the terms of the RAIIO, demonstrate how the clause, as drafted by BTC, adversely affects the development of competition in the electronic communications sector in The Bahamas, or specify which law or regulation is contravened by the clause. In many of its comments on the RAIIO, URCA has not done this, and it should do this explicitly in its final decision document.

1.7 Consistency

A key characteristic of a good national regulatory authority is consistency. Inconsistent regulatory actions undermine confidence in the predictability of the regulatory regime and ultimately the respect with which operators view it. Investors have to increase the risk premium required to justify investment in the electronic communications sector to accommodate possible unpredictable changes in the regulatory regime, thus deterring investment in the sector. Rapid changes in the regulatory regime also impose costs on operators (and hence on consumers) when the operators have to modify their processes and operations to reflect the new regulations.

BTC notes that in its consultation document, URCA takes a different position than set out in its previous policy statements, in particular:

- inclusion of international incoming calls and international outbound calls as RAIO services, whereas they were specifically excluded from the Access and Interconnection Guidelines
- the introduction of a RAIO service for calls to premium rate numbers, which was not included in the Access and Interconnection Guidelines or in the Final Decision on SMP
- the application of different accounting standards to those set out in the Accounting Separation and Cost Accounting Guidelines, in particular on network capacity considerations (see our comments in paragraph 1.3 above)
- the introduction of efficiency considerations, which were not mentioned in the sections on charges in the Access and Interconnection Guidelines, into the setting of wholesale prices in the consultation document
- introduction of Joining Paths and Interconnection Traffic Routes in the consultation document, whereas the Access and Interconnection Guidelines consider only Joining Circuits
- the processes proposed by URCA for dispute resolution in its detailed comments on Annex F – Dispute Resolution differ materially from the processes and timescales set out by URCA in the Access and Interconnection Guidelines.

While BTC accepts that occasional changes in URCA's position may be necessary in the light of new information, it considers that in total these inconsistencies are not acceptable. They may be due to the changes in URCA's advisors during the course of the RAIO project, but BTC suggests that URCA must ensure that its advisors are fully aware of its previous statements and positions, and that any changes in its position are fully explained and justified. Otherwise it is BTC's fear that the regulatory regime in The Bahamas will develop a reputation for inconsistency, and this would not be in the interests of operators, investors or consumers.

1.8 Responsibility as a public body

URCA has an important role to play in the economic life of The Bahamas, and it is important that it gains the respect of the business community. URCA will achieve this respect only if it consistently produces well considered decisions, based on sound analysis and demonstrable understanding of the issues. BTC is concerned that some of the analysis in the consultation document was not sufficiently well considered.

We explain in our response to Consultation Question 23 why we were disappointed in the analysis of efficiency and price benchmarking in Section 4.2 of the consultation document. We suggest that any analysis produced by a regulator should give a balanced interpretation of the results, and explain fully any drawbacks of the methodology used or data limitations so that the public can gain a full appreciation of the value (or otherwise) of the analysis and can draw proper conclusions from it. The unfortunate headlines in the press following the publication of URCA's consultation document illustrate the consequences of a failure to include such explanations in the consultation document. The press reports were damaging to both to the telecommunications industry and to its regulation. We look forward in the future to a

more balanced approach which will lead to a better informed debate and then to the best decisions on the future of the industry in the public interest.

2. BTC responses to Consultation Questions

Consultation Question 1

Do you agree that BTC should be required to provide a clearer separation between its draft interconnection contract and the draft reference access and interconnection offer? Please detail your response in full.

BTC does not agree with URCA that a clearer separation is required between its draft interconnection contract and the draft RAIO.

BTC is required to produce the RAIO so that BTC does not use its market power to impose unfair terms and conditions on other operators, to prevent discrimination between similar operators, and to ensure transparency of its terms and conditions. This remedy should speed up the entry of new operators, and ensure that the negotiating power of the incumbent operator is restrained. BTC supports these objectives because of the benefits they should bring to citizens and the economy of The Bahamas.

As explained in the document, BTC has drawn up its RAIO as a two page “wrapper” for the draft Interconnection Agreement, which makes up the rest of the document. BTC therefore considers that there is already a clear separation between the two documents. URCA does not explain what it means by a “clearer separation”, and as such, it is difficult for BTC or any other respondent to make a sensible response to this question.

The draft Interconnection Agreement makes extensive use of reciprocal terms such as “Access Seeker/Access Provider”, “Billing Party/Billed Party”, etc. It is possible to replace these with “BTC”, thus making the draft Interconnection Agreement a statement of BTC’s rights and obligations. However BTC considers that URCA has not thought through the consequences of this approach. Each operator would then have to produce its own proposals for its rights and obligations and negotiate them with BTC. As there are more than 500 separate clauses in the draft Interconnection Agreement, this process would take some time, thus delaying the entry of the new operator. Negotiation of prices would take additional time, and as BTC is under no obligation to accept the terms offered by the new entrant, some of these detailed negotiations may have to be resolved through a dispute process between the operators and possibly ending with a reference to URCA. Such a process is likely to result in different terms being negotiated by each operator, making the practical management of interconnection more complicated than it need be. Furthermore, the RAIO and the interconnection agreements will become very different documents, calling into question the value of the RAIO. BTC considers that this approach is short-sighted and not in the best interests of operators or consumers in The Bahamas.

BTC has designed the RAIO and draft Interconnection Agreement so that BTC and the other operators can quickly negotiate an Interconnection Agreement. In any contractual negotiation, one side has to propose terms which can then be discussed and amended during the negotiations. The draft Interconnection Agreement fulfils this requirement. This approach makes particular sense with interconnection because both

operators exchange traffic, thus alternately playing the role of “Access Seeker/Access Provider”, “Billing Party/Billed Party”, etc. Such an approach ensures that:

- the terms are equitable because they apply to both sides
- the terms are reasonable because they apply to both sides
- the agreement is efficient in that unnecessary duplication (and hence scope for confusion and misinterpretation) is avoided.

BTC believes that its approach follows best practice elsewhere, and quotes the reference offers of Jamaica, Barbados and Trinidad as examples in the region. BTC challenges URCA to produce examples of reference offers elsewhere to support its claims that BTC’s approach does not follow “established practice”.

Consultation Question 2

Do you agree that the BTC should remove any obligations on other operators which are inappropriate and unnecessary to manage the interconnection regime in The Bahamas? Please detail your response in full.

BTC has drafted the RAIO and draft Interconnection Agreement so that it is readable, workable and as short as possible. It does not believe that any of its terms are inappropriate or unnecessary, and does not consider that URCA has produced any real examples of such terms. URCA makes comments on two examples – charging and the introduction of new services, but its comments concern reciprocity. Any interconnection agreement should contain terms covering these issues, so they are not example of unnecessary and inappropriate terms. Hence BTC considers that URCA’s question is badly worded and pejorative, and that as a result any answers in the public consultation to it may be misleading.

BTC accepts that Clause 6.1 should be removed. However, URCA needs to consider the consequences of this step. New entrants will be free to propose prices for interconnection services that they provide to BTC (principally call termination). BTC may accept the proposals (and there may be consequences for off net retail prices if the termination rates are in excess of BTC’s termination rates) or may refuse them. In the latter case, the termination rates would be referred to URCA as a dispute, delaying the introduction of competition. URCA has not set any principles for setting the termination rates for new entrants, and BTC considers that as each operator has a monopoly on its own call termination market, they should be cost based. We expand on this point in our response to Question 16.

In URCA’s second example, of Clause B.8.4, BTC considers that a new interconnection service is likely to be needed by both operators so that retail customers can communicate with each other. It then makes sense for similar conditions to apply to both operators. The agreement allows for a new interconnection service without reciprocal conditions by agreement between the parties.

URCA states that “many of the obligations imposed on an access seeker are not appropriate for a reference offer”, and gives two examples in the text accompanying this question. Even in its clause by clause comments URCA objects to only a few reciprocal clauses, but itself makes extensive use of reciprocal terms such as “Access

Seeker/Access Provider”. BTC therefore concludes that URCA is overstating the number of clauses that give rise to practical problems.

Indeed, as we set out in our comments in Section 1.2, we consider that URCA is in danger of taking an extreme position on the reciprocity issue, and not fully considered the wider benefits of such an approach, which are set out in our comments on Question 1 above.

BTC also wishes to comment on the list of requirements to which URCA considers that a SMP operator should be committed:

- BTC accepts that it should supply the RAIO services to its own retail arm and to other OLOs on a non-discriminatory basis. However it is not under a direct obligation to supply new interconnection services to reflect any new retail services. URCA must first demonstrate that BTC has SMP in the relevant market, and then designate the interconnection service as a RAIO service. If BTC does not have SMP, then logically the OLO can negotiate commercial terms with BTC or provide the service itself.
- non-discriminatory quality of service is already covered by Clause 8.1.
- BTC commits to provide equivalence of output for its directory number inclusion service in Clause A.6.3
- BTC is committed under Clause 9.1.3 to providing the effective and speedy provision of interconnection services, and sees no need to make the provision of co-location a special case
- BTC rejects the requirement to provide international outbound calls as a RAIO service for the reasons given in our answer to Question 6. It is, of course, pleased to provide the service as a commercial wholesale service.

Consultation Question 3

Do you agree that the BTC should fully justify any reciprocal clauses that remain in the RAIO? Please detail your response in full.

BTC does not agree with URCA.

BTC believes that reciprocal clauses should be used in the RAIO and draft Interconnection Agreement unless there are good reasons for using unilateral clauses. It has given its reasons for this position in Section 1.2 and in its response to Questions 1 and 2, and in summary these reasons are:

- reciprocal clauses represent an equitable approach as both operators have the same rights and obligations
- they act as a brake on the proposing party because the same obligations apply to it as to the other side
- they make the management of interconnection easier because both parties follow the same procedures and standards.
- in interconnection, an operator has the role of both the provider of facilities and the seeker of facilities, and reciprocal terms capture this duality more effectively than non-reciprocal terms, resulting in clearer legal agreements.

BTC further believes that URCA is inconsistent in its approach to reciprocity. In this question URCA positions reciprocal clauses as being the exceptions, but, as noted in our response to Question 2, URCA in fact objects to very few specific reciprocal clauses in its detailed comments on each clause, and makes extensive use of reciprocal terms itself. Perhaps URCA itself finds the use of reciprocal terms has some advantages!

BTC considers that the requirement to “fully justify” each reciprocal clause is excessive and onerous. As BTC explains above, there are good reasons why reciprocity should be the rule rather than the exception, and most of the 500 plus clauses in the RAIO are reciprocal. BTC believes that to require it to produce a full justification of each and every one of these clauses places a heavy burden on it that is not consistent with the requirement placed on URCA for light touch regulation (see Section 1.4). To use the terms of the Communications Act, the requirement on BTC to justify each reciprocal clause is neither efficient nor proportionate (Article 5 (c) of the Communications Act 2009), and URCA should withdraw it.

Consultation Question 4

Do you agree that BTC should remove from its RAIO any reciprocal charging obligations on other operators? Please detail your response in full.

BTC is prepared to remove reciprocal charging obligations from its RAIO. However URCA should understand the consequences of this step, which we have already outlined in our response to Question 2, namely:

- other operators will be free to propose whatever termination rates they wish
- BTC may accept their proposals, and if they are above BTC’s termination rates, BTC may wish to reflect the additional cost in higher retail prices for off net calls. This may not be in the best interests of consumers as it will add to the complexity of retail charging tariffs, and may deter customers calling numbers on the network of the other operator
- BTC may reject their proposals, and the other operators may moderate their demands, or refer the matter to URCA as a dispute. This will be time consuming and expensive for all parties, including URCA.

As we explain more fully in our response to Question 16, BTC believes that URCA will, sooner or later, have to designate each operator controlling its own access network as having SMP in the call termination market on its own network, and URCA itself foreshadows this in its comments on this question. We believe that this should be an urgent task for URCA in order to avoid delays while acceptable termination rates are set for new entrants. The consequences of any such delays will clearly be the responsibility of URCA, and it may be that in the future the industry will conclude that it would have been better to use reciprocal charging from the start.

Consultation Question 5

Do you agree that BTC should include in its RAIO the ability of OLOs in The Bahamas to terminate incoming international calls on BTC’s network? Please detail your response in full.

BTC agrees with URCA's assessment that licensed operators should have the ability to terminate incoming international calls on BTC's network, and indeed BTC already provides this service to SRG. Without this ability, OLOs would be squeezed out of the market for international transit services and this would clearly have a detrimental impact on the development of competition. It is for this reason that BTC has included an international termination service in its Commercial Wholesale Offer, even when the service was specifically removed from the list of RAIO services by URCA.

BTC does see the international termination service (i.e. terminating traffic from international origin on BTC's network, where this traffic is presented at the domestic POI by OLOs) as a distinct and separate service from domestic termination. Both services are different in the way they affect the development of competition in the Bahamas and they are different in the way they impact on the interest of citizens of the Bahamas.

BTC proposes that the international call termination service should be commercially priced, but of course in such a way that the development of competition in the market for international transit would not be impeded (i.e. there should be sufficient margin between the tariffs charged at the domestic POI for international traffic versus the tariffs charged in the international POPs to international carriers, in order for OLOs to compete in the market for international transit). This commercial pricing approach would apply to all operators in the Bahamas, also when, as is to be expected in time, these operators have been designated as SMP in the markets for domestic call termination on their respective networks. BTC proposes to set a tariff for termination of international traffic presented at its domestic POIs as follows:

**Tariff charged at international POPs in Miami for termination to Bahamas
minus International Transit Rate**

This approach would apply to mobile and fixed termination traffic separately. In this way sufficient margin is available for operators active in the international transit market and the development of competition in the international transit market is therefore not affected. Under this approach, tariffs for international traffic presented at the POPs in Miami can continue to be set on commercial grounds. We note here that BTC's proposed international transit rate of 1.11 \$ cts/min would provide significantly more margin on transit traffic than is the experience for international wholesale traffic in general. As an illustration, we provide the following table taken from the website of iBasis (one of the largest voice trading houses in the world), relating to the period just prior to its acquisition by KPN Telecom.

iBasis 3rd Quarter 2009 results				
	Wholesale			
	Trading	Outsourcing	Retail	Total
Minutes (in billions)	3.9	0.7	0.4	5.0
Revenue (in \$ millions)	176.2	57.5	18.1	251.8
Gross Profit* (in \$ millions)	21.7	8	3.2	32.9
Gross Margin	12.30%	13.90%	17.80%	13.10%
Gross margin per minute (\$cts)	0.56	1.14	0.80	0.66
<i>Source: www.iBasis.com</i>				

The relevant comparison for our discussion relates to wholesale traffic – i.e. traffic where termination and origination tends to take place on networks not owned by iBasis. For this traffic, a gross margin of around 0.56 \$ cts/min applied for this period, roughly half the BTC proposed tariff for international transit. It should be noted here that if URCA believes that this margin is too low for circumstances in the Bahamas, this would not change the proposed tariff structure for the service, unless URCA believes that 1.11 \$ cts/min provides insufficient margin, in which case the tariff for international transit should be increased. We note from the consultation document that URCA proposes to lower BTC’s proposed tariff for international transit so the logical assumption is that URCA does not have such concerns.

URCA, in its draft consultation document argues that competitors compete for customers based on the entire stream of revenues generated. BTC agrees and in the above approach operators would compete for retail customers knowing that the inbound termination revenues would become available to them when the customer decides to switch to their network and this approach is therefore neutral as to the development of retail competition in the Bahamas. In addition, through this competitive dynamic, other operators in the Bahamas can compete for international termination revenues by gaining market share in the domestic retail market, thus ensuring that all operators in the market will benefit, not just BTC.

URCA is concerned that the higher termination rate for international termination might be said to be discriminatory, but it is intended to apply whatever the point of international origin, however the call is conveyed to The Bahamas and whoever is the terminating network operator in The Bahamas. The only difference, therefore, lies in the fact that the price of termination of international calls is set higher than for termination of domestic calls. We refer URCA to the approved RIO-5 of Cable & Wireless Jamaica for a regional example of such an approach.

BTC believes that the market for international transit has low barriers to entry and URCA’s approach of setting rates at cost-plus would simply result in tariffs for international termination dropping to a level close to the domestic termination tariff, as a consequence of competitive entry in the adjacent market for international transit.

We note that URCA's approach of setting international termination tariffs at cost-plus would result in:

- Operators in The Bahamas being disadvantaged, particularly on traffic to mobile subscribers, given that the proposed cost-plus mobile termination rates are much lower than termination rates charged elsewhere in the Caribbean – i.e. domestic carriers in the Bahamas would effectively 'cross-subsidise' networks in other regional jurisdictions through asymmetrical termination rates.
- Operators further up the value chain retaining a higher proportion of revenues at the expense of domestic carriers – a higher proportion of revenues relating to traffic bound for The Bahamas would simply be retained further up the supply chain and never reach operators active in The Bahamas.

We believe that the above approach is beneficial to all operators active in The Bahamas telecommunications industry, both now and in the future. The approach ensures that revenues associated with international termination are kept at current levels, whereas URCA's approach would result in an erosion of such revenues, to the detriment of domestic carriers and consumers.

We believe that this proposal satisfies the objectives of the Government's electronic communications policy (as stated in the Communications Act Article 4) to further the interests of consumers and to promote investment by bringing additional sources of revenue into The Bahamas. We therefore invite URCA to support BTC's approach to international inbound traffic.

Consultation Question 6

Do you agree that the international call transit RAIO service should be made available to OLOs and that the charge should be based on?

- *A cost-based charge for call conveyance on BTC's network (including BTC's international facilities); and*
- *The relevant international settlement rate, passed on to OLOs at cost?*

Please detail your response in full.

BTC believes that URCA's preliminary position on this issue is based on a fundamental misunderstanding of the dynamics of the international voice trading business. In relation to self-provision by OLOs on the international outbound termination service, URCA states that 'this would effectively mean that OLOs would have to negotiate bilateral call termination arrangement including rates – with operators in all countries to which they wish to offer outgoing international call services.' BTC would recommend for URCA to have a discussion with one of the main international voice trading houses, who will no doubt confirm that this is not how this market works anymore. The very existence of international voice carriers like TATA, Belgacom, iBasis etc. is based on the superior volumes they run over their international networks which fuels a scale-driven wholesale pricing model, where smaller operators (in terms of international traffic volumes generated) get a share of the reduced costs in return for their international voice business - see for example the outsourcing deal between BT and TATA. It would therefore be straightforward for a

carrier in the Bahamas to have international traffic arrangements with a small number of international carriers (say two for redundancy) in order to facilitate the termination of all international outbound traffic. Individual negotiations by carrier by country would not be needed in any scenario. There is therefore no significant barrier to entry for OLOs and requiring BTC to provide such service would be disproportionate, in conflict with URCA's legal obligations and its stated aim of light touch regulation.

It is also not clear to BTC how it could have SMP for a service that is not in fact routed on its network. The international transit service itself is a service in a market with low barriers to entry (with international sub-marine cable capacity readily available to OLOs) and this market does therefore not meet one of the three key tests for ex ante regulation. To add to this an SMP obligation in an adjacent market (for international outbound termination), which is a service that is not in fact provided over BTC's network, raises serious concerns about proportionate and targeted regulation by URCA. Indeed it raises the question how such an SMP obligation could happen at all, given that BTC does not actually control or own the bottleneck function in the supply chain, which is the termination service at the international termination end. We would again welcome URCA's explanation how this approach is consistent with its stated principles of proportionality and light touch regulation.

Consultation Question 7

Do you agree that URCA should periodically review the relevant international settlement rates charged by BTC to OLOs for the international call transit RAIO service, to ensure that such charges are passed on to OLOs at cost? Please detail your response in full.

As stated before, BTC does not believe it should be obliged to provide such service under the RAIO, but our objection to Consultation Question 7 is of a more practical nature. URCA mentions that BTC should include the traffic of OLOs in its bilateral agreements but only mentions price as the variable to which OLOs would commit. However, BTC's confidential contracts for international traffic include other parameters, for example, on payment terms, distribution of traffic and traffic commitments. BTC would expect OLOs to sign up to these terms to ensure there is back-to-back commitment between all contract parties. This would make the terms of these contracts part of BTC's regulated environment. This raises many practical issues – for example what happens if an OLO does not agree with some of the terms in these contracts? Given BTC's proposed obligation to provide the service under the RAIO, would this require a re-negotiation with the international carrier? What would then happen if the international carrier does not agree? It is easy to see how such an approach would restrict BTC's commercial flexibility and with no obvious benefit to OLOs, other than that it saves them a bit of time to negotiate contracts which are considered fairly standard throughout the industry. The result would be a messy, poorly thought-out construct with significant potential for disputes between operators and with the potential for considerable damage to BTC.

BTC does see a commercial interest in this service and it has therefore included an international outbound service in its Wholesale Commercial Contract. This service would allow OLOs to benefit from the existing terms and conditions as agreed with international carriers and OLOs would therefore be provided with the very facility that URCA requires, just not as part of the RAIO.

We request URCA to review its position based on the above, and allow BTC to negotiate commercial terms for an international outbound service with OLOs.

Consultation question 8(i)

Do you agree that BTC must:

(i) add a RAIO call termination service for calls to freephone numbers on its network

Please detail your response in full.

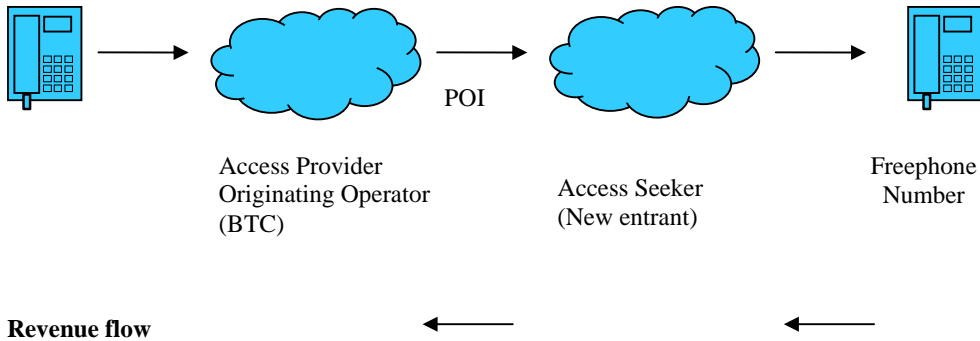
BTC has concluded that it should withdraw the Call Origination Service to Freephone Numbers from the RAIO, and instead provide a Call Termination Service to Freephone Numbers. It also believes that URCA should give more careful consideration to the regulation of freephone services.

The paying customer for freephone services is **not** the caller. It is the service provider – the travel agent, the retail store, the hotel or public body that wants to encourage its customers to call it. It negotiates terms for the freephone service with the operator, and a competitive market develops quickly once liberalisation is introduced because any operator with an IN platform can provide these services. Hence call termination for freephone services is not a bottleneck because freephone customers (the called party) can choose on which network it will receive calls. This is different from ordinary call termination, where the calling party makes the decision about on which network the call will be terminated through the dialled number. Hence the distribution of market power for freephone services is different from normal call termination services.

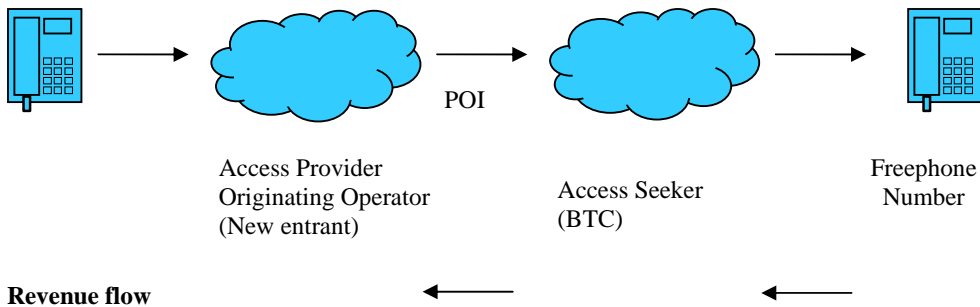
Furthermore, the flow of revenues for freephone services is in the reverse direction to ordinary calls, as illustrated in Diagram 2.1.

Diagram 2.1: Reciprocal call origination to freephone numbers

Call direction 1



Call direction 2



The freephone customer pays the terminating operator for providing the freephone calls as a retail service, and the terminating operator pays the originating operator as a wholesale service (the originating operator receives no retail revenue from the calling party).

BTC recognises that in order to satisfy the principles of any to any connectivity, callers on one network should be able to reach freephone numbers based on other networks. It considers that there are two options for dealing with freephone services.

Call origination service to freephone numbers

In its Final Decision on SMP, URCA included calls to freephone services in its definition of call termination², but did not distinguish between these calls and other types of call termination. In specifying a call origination service to freephone numbers in the RAIO, BTC ensures that other operators are not discriminated against when they provide freephone services and that the specifics of the service are taken into account. Furthermore, customers on the other operators’ access network can make calls to BTC’s freephone numbers because the operators take on a reciprocal

² URCA. Obligations imposed on Operators with Significant Market Power (SMP) – Final Decision. ECS 11/2010 para 4.2.2.

obligation to provide a call origination service, and BTC takes on an obligation to terminate these calls.

As a RAIO service, BTC would provide call origination to freephone numbers at a cost based price, which would be paid by the terminating operator out of the revenues it gains from the freephone customer. For calls in the opposite direction, the other operator may propose a reciprocal arrangement for call origination charges or a different price, which may (or may not) be acceptable to BTC. BTC believes this is an appropriate approach on this particular service³, however this arrangement does not follow URCA's definition of call termination to freephone numbers as a RAIO service.

Call termination service to freephone numbers

In its comments on this Consultation Question, URCA states that BTC should specify a call termination service to freephone numbers so that customers on another operator's network can reach freephone numbers on BTC's network. BTC notes that this argument applies with equal force for calls in the opposite direction, and hence considers that the obligation to provide such a service should be reciprocal.

As described above, the customers for this call termination service are the freephone service providers, and this would result in the inclusion of a retail service in the RAIO, which appears to BTC to be inappropriate. Furthermore, prices for call termination should not be cost based, published or regulated because, as discussed above, the market is competitive. Call origination charges would be negotiated between the operators.

Alternatively, URCA could set a cost based termination fee to be paid by the other operators to BTC for the carriage of freephone calls from their customers, and BTC would pay the operators a commercially negotiated origination fee, which would compensate them for the costs of call origination and call termination. However this appears to BTC to be an unnecessarily complex arrangement. BTC is not aware that this model applies in any other jurisdiction.

BTC considers that this option, while it satisfies URCA's SMP designations, is less satisfactory than having call origination as the RAIO service.

BTC concludes that although a reciprocal call origination service is the best approach to ensuring that freephone numbers are accessible to all callers, it should withdraw this service from the RAIO, and instead provide a termination service for calls to freephone services.

Consultation question 8(ii)

Do you agree that BTC must:

³ This approach is used by Ofcom – see its Review of fixed narrowband services wholesale markets, section 15, Number Translation Service Call Origination. 15 October 2009. Available at http://stakeholders.ofcom.org.uk/binaries/consultations/wnmr_statement_consultation/summary/main.pdf

(ii) remove the RAIO charge for call origination from BTC's mobile network to freephone numbers on an OLOs network if BTC charges for such airtime? Please detail your response in full.

In the light of BTC's response to Consultation Question 8(ii), and proposal that the Call Origination to Freephone Numbers Service will be removed from the RAIO, and a call termination service included, there will no longer be a call origination charge for freephone numbers from fixed or mobile phones in the RAIO. Hence this question becomes redundant. Of course, whether BTC charges its mobile retail customers for calls to freephone numbers in order to recover the airtime costs, it is a retail matter and hence not an issue for this Consultation Document.

Consultation Question 9

Do you agree that BTC must include a service for terminating calls from OLOs to premium rate numbers in its RAIO? Please detail your response in full.

BTC does not agree with URCA.

In its response to Question 6, BTC has explained that URCA's view is based on a misunderstanding of the market for outbound international calls. Because any operator can negotiate arrangements with a few (minimum two for redundancy) international hubbing providers for the termination of international outbound calls, there are no significant barriers to providing this service. Moreover, it is difficult to see how BTC can have market power over the termination of international outbound calls, given that it has no control over the terminating network in the destination country. BTC considers that the same arguments apply to premium rate services in other countries.

BTC also notes that the question does not distinguish between calls to premium rate services in other countries and those in The Bahamas. Hence any answers to this question should be examined carefully to assess whether the answers refer to national or international premium rate services.

While there are no premium rate services in The Bahamas at present, BTC is anticipating this development by including such a service in its Commercial Wholesale Offer. It does not believe that such a service should be designated as a RAIO service because it is a new market and because these services have low barriers to entry. URCA should forbear from regulating it until a market failure has been observed in the market, consistent with the requirements of the Communications Act Article 5 (a). Furthermore, the premium rate services market is akin to the freephone market, in that the service providers will have a choice of supplier for terminating services.

Consultation Question 10

Do you agree that BTC should offer both direct accounting arrangements and cascading account arrangements for its call transit service? Please detail your response in full.

BTC does not agree that it should offer cascade billing. This arrangement may be appropriate in a large market with many players because new entrants would find the

task of agreeing termination arrangements with many operators burdensome. In The Bahamas, the number of operators using BTC's transit service is likely to be small, and the operators are likely to have direct interconnection arrangements the each other. Furthermore, BTC's billing system would need adaptation to cater for wholesale cascade billing, and as BTC would become liable for making payments for call termination on behalf of the operators using cascade billing, it would be liable for their bad debts should they fail to pay BTC.

Consultation Question 11

Do you agree that BTC should remove any call handover requirements from the RAIO and that BTC should amend the RAIO to the wording proposed by URCA? Please detail your response in full.

BTC is content to follow the spirit of URCA's proposal as it considers that call handover is a matter that can be resolved amicably through discussions between the operators.

The only exception to URCA's approach should be calls to emergency services, which should be handed over on the island where they are originated (near end handover). This will ensure that the call goes direct to the emergency centre on the correct island, and that precious time is not wasted by re-routing the call. This decision should not be left to the Access Seeker, but should be mandated in the RAIO.

BTC also suggests that the wording proposed by URCA should be amended. Instead of "any technically and economically reasonable point", BTC proposes "any POI" This is because traffic can only be handed over at a POI, and as this term is used in the rest of the clause, this change will remove any question that there is a difference between "any technically and economically reasonable point" and a POI.

Consultation Question 12

Do you agree that the following terms should be incorporated in BTC's RAIO:

- *Joining Circuit, meaning the T1 capacity provided over a PoI;*
- *Joining Path, meaning the higher level transmission bearer; and*
- *Interconnect Traffic Route, meaning the group of 64kbit/s channels over which a given type of interconnect traffic is directed. A Traffic Route will usually be carried over two diverse Joining Paths for security and may even have an overflow via another PoI to cope with unusual traffic flows?*

Please detail your response in full.

BTC partially agrees with URCA, although it notes that in the RAIO it was using the term "joining circuit" as used by URCA in the Access and Interconnection Guidelines. In the RAIO BTC sought to distinguish between Joining Circuits over existing links and those over new links (or Joining Paths in URCA's new terms). The use of the term Joining Path for the fibre or microwave bearer will make the distinction clearer.

However BTC does not think that the term interconnection traffic route is helpful in today's technology. BTC has almost completed its next generation network roll out, and it is likely that interconnection will be implemented directly between IP networks.

No new operator would construct a non-IP network today. In this world, the minimum Ethernet transmission capacity is a T1, and 64k channels are not used. Hence BTC sees no reason to include the term Interconnect Traffic Route in the RAIO.

Consultation Question 13

Do you agree that further details need to be included in the RAIO on how decisions relating to the planning, construction and provision of the Joining Path are achieved and Annex G should reflect the appropriate charges of the chosen cost-recovery system? Please detail your response in full.

Following BTC's response to Question 12, it would make sense to amend Annexes A, B, C, H and I to reflect the new distinction between Joining Paths and Joining Circuits. BTC's response to Question 21 provides its proposed changes to the charges for Joining Paths and Joining Circuits in Annex G.

Consultation Question 14

Do you agree that the current number of PoIs provided by BTC and its proposed approach to review interconnection requests at new PoIs are feasible? Please detail your response in full.

BTC agrees with its own proposals for two points of interconnection, and with the approach to requests for new POI. BTC has installed two switches in its next generation network, and has no need of additional switches. Hence the only locations it can offer for points of interconnection are at these two locations – New Providence and Grand Bahama.

BTC is not aware of what is meant by “virtual points of interconnection”. This may be the same as customer sited interconnection (as detailed in Clauses A.13.24 – 25 of the RAIO). BTC expects that behind the nomenclature is the question of which operator should pay for connectivity between BTC's POI and the other operator's point of presence. BTC considers that the same principles should apply to these Joining Paths and Circuits as to any other Joining Paths and Circuits.

Consultation Question 15

Do you agree with the following recommendations by URCA:

- (i) BTC should, in responding to this consultation document, provide an appropriate forecasting and capacity planning system, reflecting the scale of local operations.*
 - (ii) The agreed forecasting and capacity planning system should be reflected in BTC's RAIO which, before being concluded, must be reviewed and approved by URCA.*
- Please detail your response in full.*

BTC agrees with URCA that the RAIO should set out the procedures for capacity planning and ordering. However it expects that there is little agreement between it and URCA on what is appropriate to The Bahamas.

BTC believes that any forecasting, planning and provisioning system must be led by the operators, not by the national regulatory authority. The operators know their requirements and their systems better than the regulatory authority, and their commitment is necessary to make the system work. This is particularly the case in

The Bahamas where priority is given to light touch regulation and the primacy of commercial negotiations (see our comments in Section 1.4). The role of the regulator should be to ensure that a SMP operator does not take the opportunity to impose unnecessary and onerous requirements on the other operator, and that the process ensures that capacity is delivered when it is required by the access seeker. In specifying “The System” in such detail, BTC considers that URCA is exceeding its remit.

The system outlined by URCA in the second paragraph of its commentary, presumably as an example of good practice and what it expects BTC to provide, is an accurate description of planning and forecasting systems developed by the European incumbent operators in the 1990s. They took the opportunity to design systems that were onerous on new entrants, that provided them with forecasts that gave them insights into the new entrant’s retail plans, and that created a potential for income from penalty payments when the forecasts proved erroneous.

BTC considers that this system is not appropriate for The Bahamas because:

- in common with many operators, BTC does not use traffic forecasts for capacity planning on its network; it monitors usage on routes, and starts to upgrade capacity when utilisation reaches a certain level
- forecasts from a new entrant are not reliable because they will not know the likely market take up or the reaction of competitors to their marketing campaigns
- hence the imposition of penalties on new entrants for inaccurate forecasts is unjust
- taken together, forecasts from multiple operators will overstate demand because of double counting, and as a result any forecasting system falls into disuse because no one believes its results
- voice traffic on fixed networks is generally declining, and hence capacity increases within networks are less of an issue
- on BTC’s next generation network, increases in capacity are simple and quick to implement
- as data usage grows on next generation networks, voice traffic is becoming a smaller proportion of total traffic, and hence a minor driver of capacity.

Hence BTC rejects the system outlined in URCA’s comments as unnecessary, unworkable and a waste of resources – both for BTC and the other operators on The Bahamas.

However BTC does recognise that there may be an issue over ensuring that capacity on joining paths and joining circuits is provided when required by access seekers, and that some system is necessary for the planning and provisioning of these facilities. In Annex B it has proposed an ordering system that:

- gives advance warning to BTC of the requirement for a Joining Path (see Clause B.7.2)
- commits the Access Seeker to the order for new Joining Circuits or Paths through the “cash with order” requirement (Clause B.7.6)

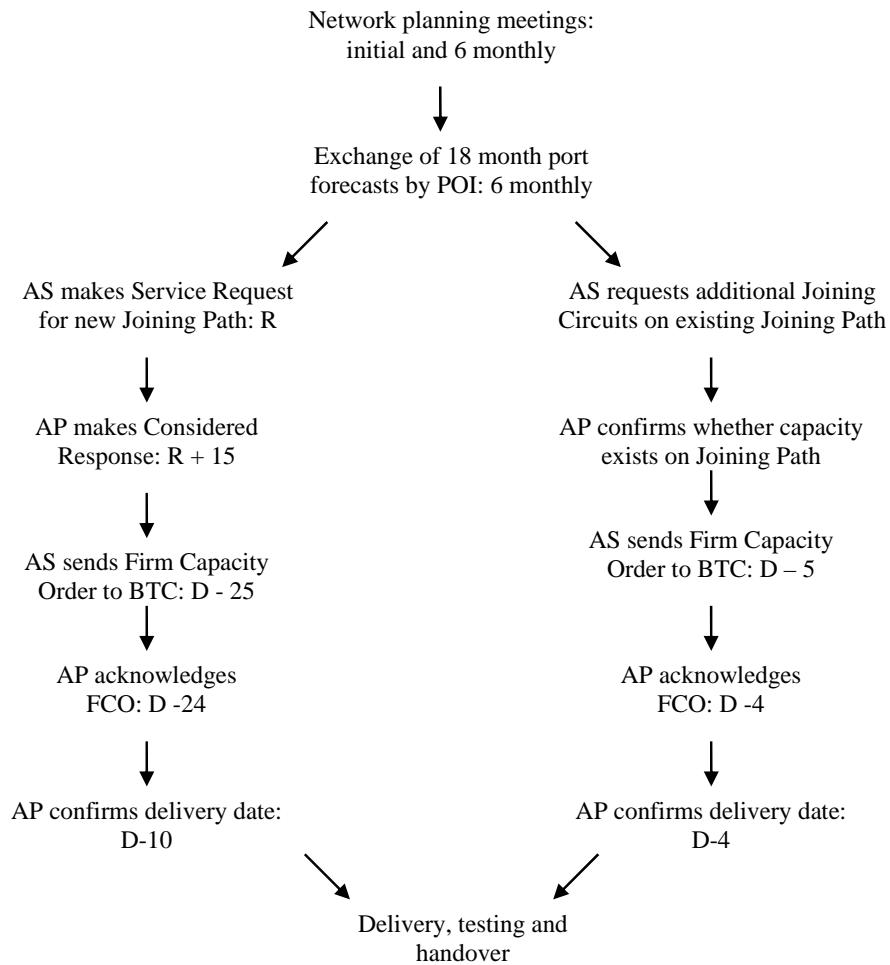
- enables the Access Seeker to specify the desired delivery date with the Firm Capacity Order (Clause B.7.6)
- commits the Access Provider to a date for providing the capacity with the Firm Capacity Order Acknowledgement (Clause B.7.7)
- provides penalties for late delivery (Table H.9).

BTC believes that this is a robust system that should be given time to prove that is effective before URCA mandates any changes to it.

BTC does recognise the need to exchange information between the operators so that any requirements for additional port capacity can be built into its budgeting process. This element was not included in Annex B, and its inclusion should assuage any concerns that URCA and other operators may have over the timely provision of capacity.

BTC’s planning, forecasting and provisioning system is summarised in Diagram 2.2.

Diagram 2.2: Summary of BTC’s planning, forecasting and provisioning system



R = Date of submission of Service Request
D = Delivery of facilities date

The main elements of the planning and forecasting system are as follows:

1. During the negotiations over the Interconnection Agreement, BTC's and the other operator's engineers will meet and exchange their network plans. These will show the layout and capacity of the metropolitan/transmission network, the signalling network, the points of interconnection (POI) and other points of presence, along with any proposed changes during the next 3 years. This information will be classified as confidential between the operators. During these meetings the operators will discuss and agree the initial requirements for interconnection, including POI, number of ports required at each POI, Joining Paths and Joining Circuits, and technical interfaces. As a minimum, interconnection should be at two POI with two separate Joining Paths to each in order to provide resilience.
2. These meetings will be repeated at least every 12 months and revised network plans should be updated by the end of July of each year (in accordance with Clause 12.2). The operators will also discuss their likely capacity requirements over the next 12 months, and will exchange port forecasts. This information will show the number of ports required at each POI in each six month period over the coming 18 months. This information will be used for budgeting purposes, and does not represent a commitment on the operators to purchase or to supply.
3. The process from hereon depends on whether the Access Seeker requires capacity on an existing Joining Path between its point of presence and the POI or on a new Joining Path (including where there is no spare capacity on an existing Joining Path).
4. If the Access Seeker requires a new Joining Path, it will submit a Service Request (as detailed in Clause B.7.2).
5. The Access Provider will then provide a Considered Response, which will include an estimate of the cost of providing the new Path (unless the Access Provider considers the request to be unfeasible).
6. If the Access Seeker finds the estimate acceptable, it can then place the Firm Capacity Order (as detailed in Clause B.7.5). This is a contractual commitment by the Access Seeker to take and pay for the capacity.
7. The Access Provider then acknowledges the Firm Capacity Order (as detailed in Clause B.7.6). This is a contractual commitment by the Access Provider to provide the capacity, and the invoicing process is initiated for 25% of the cost.
8. If the Access Seeker requires a new Joining Circuit over an existing Joining Path, it will submit a business letter requesting the additional capacity (as detailed in Clause B.7.2). The Access Provider then confirms whether or not there is spare capacity on the Path.
9. Assuming that spare capacity exists, the Access Seeker may then submit a Firm Capacity Order. This is a contractual commitment by the Access Seeker to take and pay for the capacity. The Access Provider then responds with the Firm Capacity Order Acknowledgement (as detailed above and in Clause B.7.6). This is a contractual commitment by the Access Provider to provide the capacity, and the invoicing process is initiated for 25% of the cost.
10. The new Joining Path or new Joining Circuits are then provisioned, tested and handed over, as detailed in Clauses B.7.7- 9.
11. Each operator is responsible for monitoring capacity utilisation in its own network and ensuring that it complies with the quality of service standards set out in Clause H.4.

BTC notes that its RAI0 already describes processes and timescales for several matters mentioned by URCA in its commentary, for example:

- removal of Joining Circuits – Clause B.7.11
- new POI – Clause B.6
- network alterations - Clause D.13 - 14
- software upgrades – Clause D.15
- data management amendments – Clause D.16.

BTC considers that other matters can be handled by discussions and negotiations between the operators as and when actual requirements arise. In a market as small as The Bahamas, the number of interconnecting operators is likely to be small and relationships between them will be informal, often involving colleagues who have worked together before. In the interests of light touch regulation, it is not necessary to specify ex-ante formal processes for every eventuality, and any problems, should they arise, can be resolved on an ex-post basis through the dispute process.

Consultation Question 16

Do you agree that BTC should continue to offer free local calls given the non-zero RAI0 charge for intra-island interconnection? Please detail your response in full.

BTC welcomes the position of URCA and its acceptance of per-minute charges for intra-island call termination services leading up to this question, but it is not clear why Question 16 itself relates to BTC's retail pricing practice for intra-island fixed calls, which is not the subject of this consultation.

BTC agrees with the general principles laid out by URCA in support of a per-minute tariff for intra-island call termination services. As noted by URCA, per-minute tariffs will ensure compliance with the Access and Interconnection Guidelines published on April 22nd, 2010 (in accordance with s. 40(1) (b) of the Comms Act and Condition 40 of BTC's Individual Operating Licence) which require interconnection charges offered by SMP operators to be cost-oriented. This approach would also ensure that URCA follows international practice, with local call termination predominantly being charged on a per minute basis, even in markets where retail bundles of line rental and free calls are present. Regional examples include the British Virgin Islands, Dominica and St Kitts.

BTC does not agree with URCA's assessment that OLOs would respond to a per-minute charge by BTC with a per-minute charge of their own. It is BTC's expectation that OLOs would introduce such a charge irrespective of BTC's approach, and that OLOs would introduce higher per minute charges than BTC on the grounds of 'scale inefficiencies' or something similar. This notion was aired at the RAI0 workshop by Cable Bahamas of all operators, which is the operator most likely to benefit from benefits associated with its existing TV and broadband network, i.e. scope effects in relation to the provision of cable TV signals will allow CBL to provide telephony at low incremental costs, resulting in lower call termination charges.

URCA states that 'Therefore, any OLO will be able to set its own call termination charges'. It is worth noting that the market for call termination on an individual

network is a natural monopoly with every operator having 100% market share on this market, irrespective of its size. This implies that dominance on these markets is highly likely, even in the absence of a formal SMP finding. BTC would invite URCA to monitor pricing behaviour in these markets closely in order for the development of efficient competition in the Bahamas not to be impeded. BTC is in a particularly weak negotiation position to counter abuse in these markets, because it can not vary terms and conditions for its own (regulated) termination services to counter abusive negotiation positions taken by OLOs. BTC contends that a practice of asymmetrical intra-island termination rates would give even more support for URCA's assessment that differentiated on-net/off-net retail rates will be needed in the Bahamas. This would provide at least some pressure on OLOs to ensure that their proposed termination rates are in line with efficiently incurred costs.

BTC believes that the aim for call termination tariffs between fixed networks should be that they are based on reciprocal terms, for the following reasons:

- Competitive and technological neutrality. The aim of reciprocity is to ensure competitive and technological neutrality between incumbent and OLOs and to remove the distorting effects of the ability of the OLO to exploit the incumbent's lack of countervailing buying power as a consequence of its regulated status.
- Strong incentives to minimise costs. Where OLOs are more efficient than the incumbent, they are rewarded through greater profit margins, which in turn provide the incentive to achieve greater productive efficiency.
- Cost causation. BTC's interconnect tariffs are set at cost, whereas we would be interested to find out whether OLOs will base their upcoming tariff proposals for call termination on their networks on a similar notion.
- Practicability. The practicability of a pricing proposal relates to whether the proposal can be easily implemented, and without exhausting disproportionate resources on the part of BTC, OLOs and URCA for the development of, for example, cost models for each OLO.

BTC would invite URCA to monitor the upcoming negotiations on termination rates on the OLO networks closely, both in light of the above and in light of URCA's responsibilities as the Competition Authority for telecommunications in the Bahamas. There is an opportunity here to avoid the protracted processes observed in other markets to ensure that interconnection tariffs are reciprocal (a key target for EU regulators for example) because regulators did not intervene early enough in the markets for termination on the networks of OLOs.

Looking at URCA's assessment of the pricing practices in the USA, BTC would point out that the classic economic argument on the relationship between wholesale and retail services has very little to do with whether 'providers effectively 'fund' termination on other networks through their retail charges'. On call termination services, the relevant discussion is how to set tariffs at cost in such a way that other carriers are provided with the right incentives to invest, to ensure that market entry is efficient and to ensure that the interests of consumers are protected. For this reason they are typically set at cost-plus as per URCA's suggestions and as happens in the USA, like in many other countries.

BTC is of the opinion that any discussions on its retail pricing practices, including pricing of local retail calls, should be subject to a comprehensive discussion on all of BTC's regulated retail services to ensure consistency and to capture relevant interdependencies. BTC would welcome such a discussion as part on the introduction of a retail price cap, which should address issues on regulated retail tariff structures and tariff levels and would, for example, include discussion on the treatment of BTC's material access deficit.

In response to Question 16, BTC agrees that at this stage it should continue to offer free local calls. Any objections to such practice would form a logical part of a retail price regulation discussion, which BTC would welcome.

Consultation Question 17

Do you agree that BTC should be able to charge a cost oriented tariff in the RAIO for terminating calls to emergency services, and that each licensed operator should recover the costs of providing free emergency call services to their retail customers from their general revenues? Please detail your response in full.

BTC fully agrees.

As mentioned by URCA, this is the practice in most jurisdictions and should therefore not be controversial. As stated, the approach would allow BTC to recover its cost incurred in providing the equivalent wholesale service without requiring BTC to subsidize the competition. BTC believes this is a fair principle.

Consultation Question 18

Do you agree with URCA's requirement for BTC to submit retail proposals for calls to DQ enquiries and automated ancillary services given BTC's non-zero RAIO charges for equivalent wholesale inputs? Please detail your response in full.

BTC agrees that introducing such charges for these services is appropriate and proposals for retail charges will be forthcoming in due course.

Consultation Question 19

Do you agree that mobile termination charges should not be included in the final RAIO except for incoming international calls to mobiles (delivered via an OLO)? Please detail your response in full.

BTC does not agree with this view.

It is BTC's view that tariffs for call termination services including mobile termination should be set in such a way that they further the interests of persons in The Bahamas in relation to the electronics sector. Call termination rates for domestic traffic should therefore be cost-based in order for alternative carriers to base their investment decisions on the right incentives, to ensure efficient market entry and thus to promote the development of sustainable competition. For international traffic we refer URCA to our answer to Question 5. In this context we remind URCA of its own guidelines to SMP operators, as expressed on the last paragraph of section 4.2 of the Final Access and Interconnection Guidelines (ECS 14/2010):

“Further, any RAIO should be consistent with the following principles:

- Cost-oriented charges: Access and/or interconnection charges offered by an SMP operator should be cost-oriented (i.e., charges should allow the SMP operator to recover the efficiently incurred costs, including a reasonable rate of return on capital employed). For the purposes of these Guidelines, prices/charges set on a ‘cost plus’ basis are considered to be cost-oriented. Specific products may be provided or required on a ‘retail minus’ basis.”

Setting termination rates below cost would not result in any of the goals mentioned, as alternative operators would benefit from the externality associated with terminating calls on BTC’s network, without having to pay for the efficiently incurred costs of the service. This would result in an inefficient cross-subsidy from BTC to OLOs, it would stimulate inefficient market entry leading to an inefficient allocation of resources and it would have a negative impact on investment incentives and the interest of consumers – leading to lower levels of innovation and service provisioning.

As noted by URCA in the discussion on intra-island call termination, per-minute tariffs will ensure compliance with the Final Access and Interconnection Guidelines published on April 22nd 2010 (in accordance with s. 40(1)(b) of the Comms Act and Condition 40 of BTC’s Individual Operating Licence) which require interconnection charges offered by SMP operators to be cost-oriented. It is clear that a tariff of 0 for mobile call termination would provide a breach of the principles set out in these documents and we would welcome an explanation from URCA as to the legal basis on which we can ignore the principles set out in the Act, BTC’s licence and the Guidelines. An approach where mobile termination charges are set at 0, combined with per minute charges for international termination, would also introduce bypass opportunities in the market, as recognised by URCA in its analysis of intra-island call termination charges.

BTC considers that any more pragmatic notions such as whether the costs of any wholesale service have already been ‘covered by retail charges’ or whether there is ‘double dipping’ or ‘over-recovery’ are not relevant for this discussion. The only relevant discussion is how to set tariffs at cost in such a way that other carriers are provided with the right incentives to invest, to ensure that market entry is efficient and to ensure that the interests of consumers are protected. It is therefore BTC’s position that mobile termination rates should be set at cost and be charged per minute, and that any concerns on the retail side should be addressed through a comprehensive consultation on retail pricing, preferably in the context of introducing retail price caps for BTC to ensure predictability and certainty for all market players. Such a review would allow us to address any concerns about over-recovery on certain services, but in the context of significant under-recovery by BTC on other services like fixed access. A selective concern by URCA on ‘over-recovery’ on individual services simply misses the point that there are currently significant cross-subsidies running through BTC’s business as a consequence of BTC’s historic pricing practices, aimed at ensuring affordability of service to low-end customers. It would be inappropriate for URCA to ‘pick and choose’ which over-recoveries to object to, without a comprehensive review of BTC’s overall retail pricing practices.

Consultation Question 20

Do you agree that it is appropriate for BTC to set a single rate in the RAIO across all times of the day for its fixed voice products? Please detail your response in full.

BTC agrees with the conclusion of URCA, but we note that in IP/NGN environments the notion of using peak/off peak tariffs to optimise the utilisation of the network is an outmoded concept. BTC is investing heavily in next generation infrastructure and this should be taken into account should BTC ever change the time-of-day gradient for its retail services in the future. The important issue here is one of margin squeeze, which may not necessarily arise when different time-of-day gradients apply to retail and wholesale services.

Consultation Question 21

Do you agree that BTC should publish charges for joining services for all available links in its RAIO? Please detail your response in full.

As URCA mentions, BTC has already confirmed that it will provide charges for joining services as part of this public consultation. It should be noted that it was never BTC's intention to set rates 'without regulatory oversight' as stated by URCA. In any scenario, BTC would have an obligation to be transparent in its methodology and to ensure cost-orientation so we do not understand the basis for URCA's statement. Also, the current interconnection regime with SRG does not begin to cover the multitude of variables relevant for cost-based charges across different operational environments, potentially between islands and based on whether or not infrastructure is already in place in certain areas. The existing tariffs for SRG joining circuits are therefore only of limited use.

Consultation Question 22

Do you agree that for its final RAIO, BTC should develop revised charges based on the amendments to its Accounting Separation model? Please detail your response in full.

BTC does not agree. We will set out our views on the amendments proposed by URCA in the following paragraphs.

BTC's volume conversion

In the RAIO consultation document, URCA criticises BTC's approach to the conversion of traffic volumes into a common unit on the basis that, according to URCA, the volume conversion methodology adopted in the separated accounts model does not reflect the network capacity requirements. In other words, the conversion factors are only based on actual traffic and do not take into account any spare capacity (for example at off-peak times) in the network.

BTC disagrees with URCA for the following reasons:

- The methodology adopted by BTC in the AS model, which is based on actual traffic, rather than capacity, is a standard methodology which has been adopted internationally in various jurisdictions in top-down models. Through discussions with its Consultants, BTC understands that this includes South

Africa, Saudi Arabia, UAE, Jersey and Sweden amongst others. Therefore, the claim made by URCA that capacity-equivalent conversion factors are “the most common methodology” is difficult to understand, again in the context of top-down models. BTC would be grateful if URCA could provide a list of countries in which top-down models have adopted a capacity-based traffic conversion methodology as BTC has been unable to identify any such examples.

- No reference was made at all in either the Draft or Final Separated Accounts Guidelines issued by URCA with respect to network capacity considerations. Therefore, it is not acceptable at this late stage for URCA to introduce new interpretations to the separated accounts methodology which were not in the guidelines. It would also be unusual for such references to be made in the guidelines as usually it is up to the company to decide on conversion factors and these are the subject of the regulatory audit. BTC has discussed this with Deloitte who has provided several examples of conversion factors being calculated in this way and this being accepted by the regulator auditors. This includes Telkom South Africa (where KPMG is the regulatory auditor) and Etisalat UAE (where PwC is the regulatory auditor).
- The alternative methodology proposed by URCA is not clearly explained and BTC would welcome a clarification on how URCA envisages this alternative methodology to be applied in practice. BTC notes that URCA seems to be proposing a methodology that is based on information that is generally not available to operators and is not available to BTC. In particular, URCA states that the conversion should ideally be done on a “route by route basis”⁴. This would be extremely difficult, if not impossible, to apply in practice because:
 - While URCA is correct in saying that networks are generally dimensioned based on capacity required, URCA has not taken into consideration that it is very costly to upgrade network capacity and therefore investment plans of operators do not just reflect current capacity demand, but also expected future traffic. URCA does not provide any explanation regarding how this would be accommodated into its alternative methodology. Moreover, network capacity plans are based on estimates of total traffic (e.g. total voice traffic and total data traffic), and not traffic by “product”. Again, URCA has not considered this issue at all in its document. BTC is of the opinion that such a methodology would require such a large number of assumptions that, contrary to URCA’s intentions, the cost causality principle would not be reflected.
- The split between the various voice products (fixed-to-fixed, fixed-to-mobile, mobile-to-mobile, mobile-to-fixed, etc) is not monitored on a route-by-route basis. BTC is not aware of any international operator that keeps a record of such information.
- Even if it was possible to extract such information from network systems, it would be very onerous, both in terms of time and of resources, to analyse such a large amount of data. The benefits of such a costly procedure have not been justified by URCA.

⁴ RAIO consultation document, page 36

In summary, it seems to BTC that URCA has not considered the feasibility and proportionality of its alternative approach and has instead tried to introduce ex-post an additional requirement that was not consulted upon during the consultation on the separated accounts. BTC proposes that URCA should accept BTC's approach for the 2009 accounts and that this issue should become a subject of discussion between BTC and the regulatory auditors in 2010 onwards.

POI network component cost

In the RAIO consultation document, URCA states that BTC has allocated operating costs to the POI network components which are not related to POI-specific activities. For example, URCA states that BTC has allocated to this network component the operating costs related to the time spent by the Legal and Regulatory department on interconnection issues. URCA suggests that, instead, these costs should be spread to all interconnection and retail products.

BTC finds that URCA's proposal is inconsistent with the principle of cost causality which is the fundamental basis upon which accounting separation models are developed and which has strongly advocated by URCA throughout this consultation process. The costs allocated by BTC to this network component only and exclusively relate to interconnection-specific activities and therefore should only be recovered by interconnection products (which include both incoming and outgoing calls to other operators). There is no rationale, on a cost causality basis, for allocating these costs to retail products since they have not caused the cost to be incurred. BTC has provided URCA with the survey data and allocation keys by which costs are allocated to the POI and it can be seen that the costs allocated to the POI are those which are specifically caused by interconnection products. These costs have not been caused by retail products.

BTC has been consistent in its application of cost causality. For example, BTC has been careful in identifying all retail-specific costs and ensured that none of those costs were allocated to interconnection products. BTC sees no reason why a different principle should be adopted to interconnection-specific costs. This would be completely arbitrary and inconsistent with the principles stated in the Separated Accounts Guidelines. BTC is of the opinion that URCA is being selective and inconsistent in its application of the cost causality principle.

Consultation Question 23

Do you agree with URCA's approach that where BTC has used the AS model for developing interconnection tariffs, these tariffs be used for 2010 (with appropriate adjustments for the cost allocation issues highlighted by URCA) and adjustments for efficiency be incorporated, in parallel with production of the AS model based on 2010 financials, from Summer 2011 onwards? Please detail your response in full.

BTC finds this entire section and the question to which it relates wholly inappropriate. In this section URCA introduces a set of benchmarks for various services and a 'high level review of BTC's efficiency'. BTC believes that at this stage it would be inappropriate to make any statements, high level or otherwise, about BTC's efficiency in providing services in the Bahamas and we believe that the quality of URCA's analysis supports this position. BTC is also of the view that the separated accounts are the only relevant indication of service costs incurred in the specific operational

circumstances in the Bahamas and that these should therefore be the starting point for any discussion. BTC strongly objects to any suggestions of inefficiency in the absence of a robust analysis provided by URCA and its advisors. We will now address some of the material presented and highlight the limitations of their use.

URCA's benchmarking exercise

URCA sets out some general principles for the conduct of its benchmarking study including:

1. Interconnection charges in The Bahamas should not be based on those prevailing in other countries without careful consideration.
2. Ideally, such comparisons should be made to countries which have similar observable characteristics to The Bahamas, as this will – to the extent possible – reduce the expected differences between cost levels in each country.

BTC agrees that benchmarking should not be relied on without careful consideration. There are legitimate variations in efficiently incurred costs due to a number of variables including size of the operations (scale), the full service portfolio provided by the operator, particularly the impact of TV and broadband volumes on PSTN costs (scope), operational circumstances, differences in labour costs, differences in wealth and distribution of the population, import duties, taxes etc. BTC is therefore very concerned about the way the 'peer group' was constructed by URCA. For example, none of the countries presented are archipelagos like the Bahamas and this is likely to have a substantial impact on any benchmarking study because BTC provides service across expensive under-sea cable networks to sometimes small communities as part of its universal service obligations. In the absence of clarity on the impact of this major cost driver, it is hard to put any reliance on the benchmarks presented.

Another major difference across the 'peer group' is scale. In an industry with high fixed costs, unit costs drop with increases in volumes running across a network. Again, URCA shows no concern about this major and widely accepted driver of efficiently incurred unit costs in spite of its statement that 'benchmarking must be undertaken with care and any conclusions drawn from the analysis should also be made carefully.'

BTC broadly agrees with the inclusion of other Caribbean states as a peer group for benchmarking purposes provided the above factors are taken into account. BTC does not agree with the sudden appearance of 'other island states' like Bahrain, Guernsey, Jersey and Malta. No attempt is made by URCA to explain the relevance of these benchmarks other than that they are also 'island states'. For example, BTC is concerned about the inclusion of Bahrain, which is indeed an island state but which has a highly concentrated population living in suburbs around a city centre with high-rise office buildings. Bahrain is therefore more reminiscent of Singapore (with which it is often compared in benchmarking studies) than it is of the Bahamas and operators in Bahrain are likely to operate in far more favourable circumstances than BTC. We would urge URCA to rely on Caribbean states in its benchmarking study rather than on this random selection of other countries.

Section 4.2.2 Fixed Termination Rates (FTR)

In this section URCA presents the findings of its study on fixed termination rates. The benchmarks presented include both intra-island and inter-island call termination charges compared with, largely, intra-island call termination rates for the other states. BTC believes it is highly inappropriate to include BTC's proposed inter-island call termination rate in this comparison. The other termination rates represent tariffs for call termination on a single island or small group of islands. This is obviously not comparable to a situation where call termination is provided across 42 islands in The Bahamas using an extensive under-sea cable network. The very first responsibility when conducting a benchmark study is to ensure that service definitions for the peer group are comparable and URCA has failed in this important first step. This is such a flaw in the comparison that it invalidates any conclusions, preliminary or otherwise relating to this benchmarking study.

In relation to intra-island call termination, BTC notes that its proposed rate are based on the separated accounts, which have been provided based on instructions received by URCA. At this stage, they are the only indication of costs incurred in the provision of telecommunications services in the Bahamas and, in the absence of a comprehensive review of the noted differences between the Bahamas and other countries, no reliance should be placed on this comparison.

Section 4.2.3 Fixed Network Transit

In this section, again, URCA fails to take account of the most basic difference between the Bahamas and the peer group, which is that inter-island transit services are provided between islands in the case of the Bahamas, whereas in the case of the peer group transit charges largely relate to on-island transit services. This therefore excludes an appreciation of the use of inter-island submarine cables and it does not take account of the fact that BTC's inter-island charge is a double-tandem service, i.e. it uses two switching segments. Without at least an attempt to take this into consideration it is again not clear what relevance this benchmark has for this consultation.

In relation to intra-island call transit, again BTC notes that its proposed rate are based on its 2009 separated accounts, which have been provided based on instructions received by URCA. At this stage, they are the only indication of costs incurred in the provision of telecommunications services in the Bahamas and, in the absence of a comprehensive review of the noted differences between the Bahamas and other countries, no reliance should be placed on the presented benchmark.

Section 4.2.4 Call termination to Emergency Services

As before, there is no attempt to analyse whether the observed differences in tariffs relate to differences in circumstances between the countries under review. We recommend that URCA conducts further analysis of these issues before it jumps to conclusions on relevant benchmarks for this service.

Section 4.2.5 Call termination to Directory Enquiries

BTC is happy to see that there is agreement on BTC's proposed level of this tariff with URCA, although our general objections to the benchmarking study apply also to this section. We are also intrigued by URCA's decision to use 'recommended MTRs as of 1 April 2010 for ECTEL member states, which is suggesting that these rates

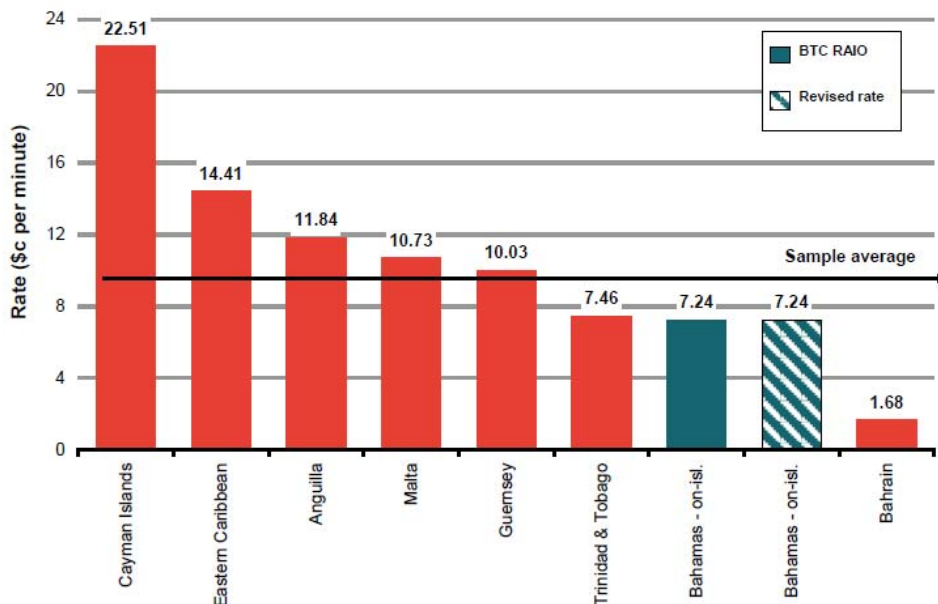
have not been formally approved or imposed. Given URCA’s objections to the use of an unapproved RIO in Jamaica, our suggestion would be to exclude this benchmark from this sample.

Section 4.2.6 Mobile call termination (MTRs)

We note that, in this section, URCA’s concerns about BTC’s proposed rates when they are higher than benchmarks presented is not replicated with a similar concern when BTC’s proposed rate is low by regional benchmarks, as is the case with mobile termination.

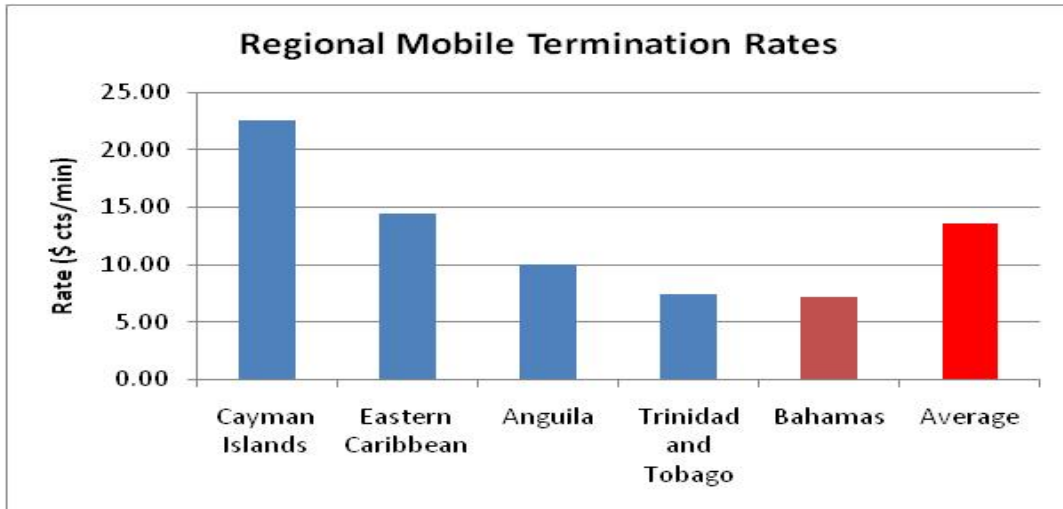
As noted we believe Bahrain to be a particularly poor benchmark for any service provided in the Bahamas and Figure 9 presented by URCA in this section bears out that this benchmark is particularly inappropriate for this exercise.

Figure 9. Mobile call termination rates (MTRs)



It is clear from the graph that Bahrain is such an outlier compared with Caribbean benchmarks that a more reasonable conclusion would be that Bahrain may not provide a relevant comparison. Again this benchmark is included without any attempt to analyse the reasons for the wide distribution of the sample results, which should have set alarm bells ringing from the start.

If we remove the non-Caribbean benchmarks from the comparison provided by URCA, the graph would look at follows:



We suggest that, based on the above comparison, the first indication (and indication only) is that BTC's suggested rate for mobile termination rates are low by regional standards, in fact they are 47% lower than the straight average presented (BTC's 7.24 \$ cts/min versus a regional average of 13.60 \$ cts/min, excluding the proposed Bahamas tariff). Our points on making URCA's benchmarking study more comparable still stand, but we would invite URCA to show an equal concern where BTC's rates are below benchmarks when trying to establish relevant rates for BTC.

Section 4.2.7 A High-Level Review of BTC's Efficiency

This section starts with the assertion that 'As part of its review of BTC's separated accounts, URCA has attempted to ascertain the extent to which BTC's cost base reflects that of an efficient operator'.

It is BTC's assertion that URCA does not currently have the tools available to make such a judgement, as is borne out by the following paragraphs. At no stage before this consultation did URCA mention any methodologies to the industry to assess efficiency, nor did URCA conduct a study that stands up to reasonable scrutiny in this consultation paper. URCA could simply have stated that 'in the future URCA will make an assessment of BTC's efficiency in order to establish efficiently incurred unit costs in the Bahamas'. BTC would have been happy to support such a statement and the industry could then have had a discussion about methodologies and timeframes. As it stands the 'study' presented is highly prejudicial to BTC's position and, as we shall demonstrate, based on a fundamentally flawed analysis.

Our initial problems with the analysis presented by URCA are that:

1. Most of the benchmarks provided are for larger countries from Eastern Europe, South-America and the Middle East, which are not in fact islands, unlike the sample presented by URCA to benchmark BTC's proposed RAO tariffs. URCA provides no justification, comment or qualification for the operators chosen for the sample and BTC believes that such justification is essential for a thorough analysis of any findings. For example, why is a benchmark for Bulgaria relevant for this discussion? Is Bulgaria similar in terms of operational circumstances? Does it have similar GDP? Does it have the same

population size and operational circumstances? Is it in fact an archipelago of islands? The answer to all these questions is a resounding no. Similarly how did URCA decide that Argentina would provide a good benchmark? Or Panama?

2. The number of connections per employee is an outdated method of analysing efficiency because it does not take into account the significant amount of outsourcing that takes place in many telecommunications operators. By using outsourcing, operators can maintain the number of connections but reduce their headcounts. In contrast, BTC keeps most of its operations in-house and BTC does not form part of a wider Group of Companies like is the case for Lime (Cable & Wireless) subsidiaries. Again no interest is shown in analysing the impact of such cost drivers in the analysis presented.
3. BTC is undertaking significant investments in its NGN, billing system, etc, and these may well explain why the Bahamas has a high cost per connection.
4. The analysis does not take into account differences in costs per output factor; costs are likely to vary between broadband, PSTN and mobile services and the mix of these connections will therefore determine the appropriate level of the cost-base.
5. The analysis of connections per employee is over simplistic because it ignores economies of scale (which result in small operators, such as BTC, having much lower number of connections per employee than larger operators). By including operators such as those in Venezuela, Argentina and Poland, where the number of lines is more than 50 times the number of lines in The Bahamas, the analysis produces a very misleading result. Small operators have higher costs because they are small, and URCA's analysis ignores this fact. The following table demonstrates that even URCA's heroic benchmarks are mainly a result of this cost driver:

Table 2.3: Economies of scale and URCA's measures of inefficiency

Country	Fixed network subscribers 2009 (000)	Rank size of network	Rank connection/employee (Fig 10)	Rank cost/connection (Fig 11)
Bermuda	57.7	1	2	1
Barbados	135.7	2	4	4
Bahamas	139.9	3	1	3
Macau	170.5	4	7	5
Jamaica	302.3	5	n.a	9
Estonia	492.8	6	3	7
Jordan	501.2	7	11	13
Slovakia	1021.7	8	8	6
Croatia	1859.2	9	10	10
Bulgaria	2164.4	10	5	15
Hungary	3068.7	11	6	8
Venezuela	6866.6	12	14	12
Poland	9556.2	13	9	11
Argentina	9764.1	14	12	14

"Other Caribbean" excluded from analysis

n.a Jamaica is not included in Figure 10 of URCA's consultation document

Source of fixed network data: ITU

Because URCA's tables do not include data for the actual number of connections per employee or cost per connection (the Y axis in both Figures 10 and 11 is shown as confidential), we can only compare the data by ranking the countries. A statistical method of analysis (regression) shows that most of the variation in both measures is due to economies of scale (53% in the case of connection per employee and 66% in the case of cost per connection).

URCA states that 'This initial analysis does not necessarily imply that BTC is inefficient as these differences in average costs and operational performance could be driven by the operating environment in The Bahamas.' Having recognised this fact, the question is therefore what URCA is trying to achieve with presenting the results of this analysis? The results are certainly not robust enough for public consumption or to draw conclusions, although an attempt is made to do so. This approach, which 'hints' at perceived inefficiencies is highly damaging to BTC's position and prejudicial to the outcome of any future efficiency studies.

With reference to Consultation Question 23, BTC agrees to use the separated accounts outputs as the starting point where possible, but would require a detailed methodology, an explanation on the use of BTC's separated accounts results and a detailed timetable with milestones before it could actually answer Question 23. BTC can at this stage not have any comfort that URCA's envisaged efficiency analysis would meet internationally accepted standards of care, based on the observed deficiencies of the current consultation process.

Consultation Question 24

Do you agree with URCA's proposal:

(i) Not to require BTC to change its draft RAIO charge for its calls to Directory Services for this year's RAIO; but

(ii) To develop revised charges for this service, based on its AS unit cost results, in subsequent years.

Please detail your response in full.

BTC agrees with both proposals.

However, BTC is a bit puzzled however by two statements in this section:

"However, BTC's argument is not in line with URCA's final SMP Decision which considers the operator assistance service to be part of a market in which BTC is deemed to have market power."

We refer URCA to its Final Access and Interconnection Guidelines (ECS 14/2010), last paragraph of section 4.2, where it clearly states that retail minus can be considered for SMP services. Furthermore, up to this point BTC has not in fact been asked to 'justify' its tariff proposal in any detail, with the exception of the public workshop on the RAIO. Now that we have been asked to do so, we can state that the current separated accounts outputs for this service are in fact not suitable for the purpose of this exercise, for the reasons set out by URCA in this paragraph. This is the practical reason for opting for retail minus, while we believe that the contestability of the market provides the main reason of regulatory principle.

BTC would also like to address the following issues raised by URCA in this section:

- Significant variation in charges within sample: we agree with the observation, but we note that URCA, in its own benchmarking analysis presented, does not show an interest to actually adjust its methodology presented when a similar situation occurs (see our response on the use of the Bahrain benchmark in the mobile termination analysis). As stated, it is BTC’s position that Caribbean States provide the best starting point for any analysis and that any additions to the sample should be carefully considered and justified.
- Unapproved RAIO charges for Jamaica: BTC notes here that the approved RIO tariffs in Jamaica are in fact from 2007 and these tariffs are therefore somewhat out-of-date. It is BTC’s view that a more recent RIO would be more appropriate to use if it is URCA’s aim to present current cost estimates for comparable services.

Consultation Question 25

Do you agree with the revised approach and resulting RAIO charges for BTC’s Automated Ancillary charges (as set out in Table 2)? Please detail your response in full.

Having looked at the analysis presented, we agree with URCA that the limited benchmark available for this service provides a serious limitation on development of a suitable tariff for this service. We note that the difference between the approved RIO-5 in Jamaica and the proposed RIO-6 tariff is significant, which is suggesting that the single benchmark country used is in fact not providing a stable starting point for tariff setting purposes.

Table 2.4: Benchmark with Cable and Wireless (Jamaica)

RAIO Service	Draft RAIO	Approved	Pending
	charge	Jamaica RIO-5	Jamaica RIO-6
	(cents per call)	(cents per call)	(cents per call)
Automated ancillary service - Weather (915)	2.70	1.10	7.23
Automated ancillary service - Time (917)	0.70	0.62	5.23

As can be seen from the table, the RIO-6 rates represent a multiple of around 6.5 times and 8.5 times of the presented RIO-5 rates, respectively for the 915 and 917 service. BTC is therefore left with the practical problem that there is not currently a cost-plus estimate available and the regional benchmarks may not provide a reasonable starting point. In the case of this service, there is also currently no retail rate in place that would allow for a retail-minus approach. BTC believes this to be the more appropriate approach for this service because this is a service that is clearly contestable for other operators because the barriers to entry are insignificant (any OLO can buy a platform for the provision of this service and the information for both services is, of course, readily available). In fact, the low barriers to entry raise the issue why BTC has been deemed to have SMP for these services in the first place. On the wholesale side of the discussion BTC does not believe that the above tariff differentials would have a material impact on the development of the sector, but URCA has required BTC to also introduce a retail charge on the basis of the above. Looking at the variations in the table, future adjustments in retail rates could be

forthcoming if Jamaica's RIO-6 is approved and wholesale rates in the Bahamas would increase correspondingly. Our proposal is therefore to agree a retail rate for this service with URCA, and then to base the wholesale tariff on a retail minus approach to ensure a degree of stability in BTC's retail pricing.

Consultation Question 26

Do you agree with the revised approach and resulting RAIO charges for BTC's international transit charges (as set out in Table 3)? Please detail your response in full.

BTC does not agree with URCA's suggestion.

BTC opted for the Jamaica rate due to its relative geographical proximity to the Bahamas – the international submarine cable network is therefore more likely to be similar to that outside the Bahamas.

In addition, URCA's two benchmarks vary wildly, with the Jamaica benchmark twice the level of the TSTT benchmark. URCA raises this as a concern in other parts of the consultation, but has no problems to adjust the proposed rate here (when the effect is a reduction).

BTC's proposed rate did not have a calculation error, rather this service tariff was calculated using a different exchange rate. For consistency, BTC agrees to use the same exchange rates used for the other services and introduce a charge of 1.03 \$ cts/min.

Consultation Question 27

Do you agree with URCA's proposition:

(i) not to require any changes to BTC's draft RAIO charges for its Operator Assistance service, but

(ii) to require BTC to remove minimum call duration (of three minutes) from this service?

Please detail your response in full.

BTC welcomes URCA's acceptance of BTC's proposed rates and BTC commits to ensuring that a cost-plus tariff will be derived based on BTC's 2010 separated accounts. As recognised by URCA, in the absence of this information it is extremely difficult to provide a cost-plus rate at this stage and BTC is pleased to see that its suggested rate is accepted for the purposes of this exercise.

BTC has followed the practice of many other operators in having a three minute minimum charge for retail calls to Operator Assistance. It considers that this practice should be maintained for wholesale calls.

Consultation Question 28

Do you agree that, in absence of further evidence on cost-reflectivity of its current charge, BTC should reduce the RAIO charge to \$1.91 per data entry? Please detail your response in full.

BTC agrees with the statement by URCA that in future higher service volumes may require a different approach than the described email process. However, for the time being this is the accepted approach and BTC is pleased to see that URCA recognises the merits of BTC's approach to costing the service.

Consultation Question 29

Do you agree that BTC should:

(i) prepare, and publish, separate charges for its two PoI facilities in New Providence and Grand Bahama; and

(ii) that these charges should contain location-specific accommodation cost estimates, which are reflective of the current utilisation of the relevant facilities (i.e., an average cost per square foot charge, weighted by the share of commercial and office space).?

Please detail your response in full.

BTC agrees with part (i) of URCA's question that the RAIO should show separate charges for POI in New Providence and Grand Bahama, to reflect the different costs of commercial space on these islands.

BTC considers that the charges should reflect the value of the co-location facilities offered to the interconnecting operators, including air conditioning, security, raised floors, etc. It does not see how the utilisation of the rest of BTC's building for commercial or office space has any relevant to the value or cost of the co-location facilities. Hence BTC does not agree with part (ii) of URCA's question.

Consultation Question 30

Do you agree/disagree with URCA's identification of the issues and URCA's recommendations on the individual clauses in the draft RAIO?

Please detail your response in full, clause by clause.

1. Pages 6 to 7 of Introduction to Interconnection Agreement

BTC response

While BTC agrees that the introduction should be accurate, this does not mean that it should not include information that is non-binding. The purpose of the introduction is to assist a new operator to understand the RAIO and how to negotiate an agreement with BTC. Hence a decision on whether information is relevant or not is better taken by BTC, not URCA.

BTC conclusion

BTC considers that these pages are accurate, and hence no amendments are necessary.

2. Paragraph 3 of Introduction

BTC response

BTC believes that URCA has not thought through the process of approval fully. The draft RAIO cannot become a RAIO until it has been approved by URCA - until then it is a draft RAIO. Similarly, until amendments proposed by BTC have been through the process set out in section 7 of URCA's Access and Interconnection Guidelines, they remain proposed amendments, and cannot be included in the RAIO. These terms and this approach are clearly set out in section 7 of the Access and Interconnection Guidelines. Hence BTC is unable to change or impose changes in the RAIO until

URCA has given its approval. There is therefore no need to make any changes to the text.

BTC conclusion

No amendment is needed to this clause.

3. Paragraph 4 of Introduction

BTC response

Following normal commercial practice, BTC will provide a new operator with its non disclosure agreement on request, thus enabling it to know what it is being asked to sign. There is therefore no need for publication of this document, but BTC will be prepared to publish a standard NDA on its website.

As URCA recognises in its comments, there is no need to remind a new operator of its rights under the Communications Act or other legislation in the NDA because these rights are not affected by the NDA, and indeed any new operator will gain some knowledge of the regulatory framework in the Bahamas as part of its assessment of the market, which will be carried out before it approaches BTC. URCA's proposal is therefore unnecessary, and does not comply with the requirement of light touch regulation.

BTC considers that it would be helpful to new operators if it included more information about the process leading to interconnection negotiations in this paragraph. In particular BTC will request information from the operators on its points of contact, its licence to operate, network plan, and likely capacity requirements at the points of interconnection.

BTC conclusion

BTC accepts the proposal that the NDA should be published. It rejects URCA's proposal for additional wording.

At the end of this paragraph, the following wording should be added:

“Before BTC can start detailed negotiations over interconnection, it will request information about the Operator's points of contact, its licence to operate, network plan, and likely capacity requirements at the points of interconnection.”

4. Paragraph 5 of Introduction

BTC response

BTC's views on reciprocity are fully set out in Section 1.2 above. For the reasons given there, it considers that reciprocal terms should be used as the norm, unless there are good reasons for having unilateral terms.

BTC conclusion

The word “some “ should be inserted between the words “entails” and “reciprocal” in line 1 of this paragraph.

5. Penultimate paragraph of Introduction

BTC response

While BTC finds it difficult to think of an amendment that does not require immediate implementation, it sees no harm in including the wording proposed by URCA.

BTC conclusion

BTC agrees with URCA's proposal for this clause.

6. Final paragraph of Introduction

BTC response

URCA is proposing that BTC should continue to supply services that are no longer classified as SMP services under the existing interconnection agreement until that agreement has been terminated. This proposal is not workable because:

- the interconnection agreement covers several services, and the termination of the whole agreement in order to reflect changes in one service is not desirable or necessary
- there is no fixed term to the interconnection agreement (see Clause 4.2), and the interconnection agreement cannot be terminated unilaterally unless the conditions of Clause 19 apply; none of the conditions set out in the clause apply to the declassification of a SMP service. While it would be possible for BTC to request a review of the interconnection agreement in this circumstance under Clause 21.1.2, it is unlikely that the other Party would agree voluntarily to the removal of the service from the interconnection agreement, thus leaving the only route open to BTC of the dispute process. As the purpose of such a dispute would be to implement a decision already taken by URCA, this does seem a time consuming and pointless route.

Hence in practical terms URCA's proposal would prevent BTC from changing the regulated terms of a declassified service to more commercial terms. BTC assumes that this is not URCA's objective. If it is, URCA is departing from the principle of light touch regulation (see Section 1.4), and is regulating services when regulation is no longer necessary. This would be clearly disproportionate and undesirable.

If URCA has taken a decision that BTC no longer has significant market power in a particular wholesale market and therefore the associated services should not be regulated, it should not seek to maintain regulation over these services. It has to recognise that an OLO would try to keep the service under regulated conditions (especially price). BTC will therefore need to provide the operator with some incentive to move on to a more commercial arrangement, and it appears to BTC that the ending of the interconnection agreement for the particular service is the only way of achieving this. In practical terms BTC is unlikely to cease providing the service because to the loss of revenues, but it must be able to threaten the termination of the service if the other operator is unwilling to negotiate a more commercial arrangement.

BTC conclusion

BTC sees no need to change the wording of this paragraph.

7. Heading of agreement

BTC response

In its comments URCA is drawing a clear distinction between access and interconnection.

The term access is not recognised in the Communications Act 2009, where interconnection is defined as:

“the physical or logical linking of networks to allow the users of one network to communicate with users of another network or to access carriage services provided by another licensee.” (Article 2).

In its Access and Interconnection Guidelines, URCA uses the same definition of interconnection, and introduces a definition of access as:

“the making available of facilities and/or carriage services, to an other operator, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services” (page 1).

The definitions follow usual practice in that interconnection services are seen as those which involve the bilateral exchange of traffic, while access services involve the provision of a facility to one operator by another (usually unilaterally). The services described in Clauses A1 - A.4 and A.8 - A.11 are pure interconnection services. On pages 32 and 33 URCA has required BTC to provide points of interconnection and joining circuits to support interconnection (Clauses A.12 and A.13). The remaining services - Directory Enquiries (A.5), Directory Number Inclusion Service (A.6), and Operator Assistance (A.7) are necessary so that one user can communicate with another user, and hence are also interconnection services. Typical examples of access services include mast sharing, duct sharing and national roaming, and none of these are included in BTC’s RAIO. It therefore appears to BTC that the title of the agreement as an “Interconnection Agreement” is both accurate and sufficient.

Indeed, URCA should think ahead to the possibility that it will find some operators have SMP in certain access services, and will require a reference offer for these services. The terms and conditions for these services will be significantly different from those required for interconnection, and URCA may require a separate Reference Access Offer. To have one agreement entitled “Access and Interconnection Agreement” and another entitled “Access Agreement” will be rather confusing!

BTC conclusion

BTC disagrees with URCA’s recommendation.

8. The parties

BTC response

As the draft Interconnection Agreement is a pro-forma agreement, it is not possible to insert the name of the other operator. When a proper agreement is drawn up, the words “[Operator of (address)]” will be replaced by the name and address of the operator, along with any abbreviation if the other operator so wishes.

In drafting the RAIO, BTC has found no need to refer specifically to the other operator, because the terms “Access Seeker” and Access Provider” (along with the other terms as defined in Annex I) are quite sufficient. Hence URCA’s proposal will not achieve anything.

BTC conclusion

BTC disagrees with URCA's recommendation.

9. 3.2 - Available interconnection services**BTC response**

See BTC's comments on Consultation Questions 5 – 9 above.

BTC conclusion

BTC sees no need to amend Clause 3.2.

10. 6.1 Reciprocal pricing**BTC response**

As we commented in our response to Consultation Question 2, BTC accepts that Clause 6.1 should be removed.

BTC conclusion

The second sentence in this Clause ("The prices ... services") should be deleted.

11. 8.2 - Best endeavours**BTC response**

BTC accepts URCA's proposed rewording and its reasoning.

BTC conclusion

In line 1 the words "use its best endeavours to adhere to" should be replaced with "comply with".

12. 11 - New services**BTC response**

URCA is proposing that a process for new non-RAIO services should be included in the RAIO. BTC is developing its Commercial Wholesale Offer and associated processes, which may be faster and less formal than the RAIO processes because there is no need for a regulatory trail. BTC believes that as a result any operator wishing to obtain a new non-RAIO service from BTC will receive a business-like response. BTC is aware that if the service is a non-RAIO service, there will be a competitor for the provision of the service, and it is in BTC's commercial interest to respond quickly and positively to any such approach.

URCA is empowered under Article 40 (1) (b) of the Communications Act 2009 to require a SMP operator to provide a reference offer. It has no power to require either an operator without SMP to provide a reference offer or an operator with SMP to provide a reference offer for services in a market in which it does not have SMP. Hence there is no obligation on BTC to include services related to markets in which it does not have SMP in the RAIO

BTC conclusion

BTC considers that URCA's proposal is unnecessary and unenforceable.

13. 12. - Network planning**BTC response**

See BTC's response to Consultation Question 15 above.

BTC conclusion

BTC does not agree with URCA, and sees no need to change this clause.

14. 13.2 Equipment approval

BTC response

BTC recognises that URCA has powers under the Communications Act 2009 Article 8(1) (g) to regulate equipment standards. However to date URCA has not exercised this power, and BTC has been the de facto regulator of equipment standards. URCA's proposed amendment would result in making any interconnection illegal under the RAIO because URCA has not approved any equipment or equipment standards. Clearly this is not desirable. BTC does not know when URCA will undertake this task, and hence the reference to the relevant approvals authority enables equipment approved by international bodies such as ANSI or ITU to be used.

BTC conclusion

BTC proposes that the clause should be reworded as:

“13.2 Neither Party shall knowingly connect or permit the connection to its Network of any equipment or apparatus, including any terminal equipment that is not approved by URCA, ANSI or ITU for attachment to its Network.”

and that ANSI and ITU should be given their full names in Annex I - Definitions

15. 16.2 Misrepresentation

BTC response

The purpose of this clause is to prevent a new operator talking up its services to a potential customer by reference to its possession of an interconnection agreement with BTC, and to prevent one operator claiming that it is acting on behalf of the other. If this clause is breached by one operator, the same remedies are available to the other operator as for the breach of any other clause, as set out in Clauses 18 and 19. URCA's point about denigration is covered in Clause 16.1.

BTC conclusion

There is no need for any change in the wording of this clause.

16. 16.4 Cooperation over fraud

BTC response

If this clause is breached by one operator, the same remedies are available to the other operator as for the breach of any other clause, as set out in Clauses 18 and 19. BTC notes that all clauses of the RAIO do not indicate what the consequences are of a breach. This is because Clauses 18 and 19 apply to the whole agreement.

BTC conclusion

There is no need for any change in the wording of this clause.

17. 18.2.4, 18.4.5, 19.1.4 Suspension in event of bankruptcy

BTC response

The purpose of the five days notice period is to allow URCA time to object to the suspension if it thinks that this is necessary. It would then be able to issue a direction to the suspending party under its powers in the Communications Act Article 8 (1) (e). That direction may require the suspending operator to provide basic services to the customers of the bankrupt operator. If an operator becomes bankrupt, it is because it cannot pay its debts, and any operator would be acting irresponsibly in continuing to provide interconnection services knowing that the other operator cannot pay for them.

BTC does not consider that the RAIO should take the interests of any Administrator of a bankrupt operator into consideration. The process of reorganising and selling such an operation could take a long time, and in any case the written agreement of the other operator would be necessary for any assignment of the interconnection agreement under Clause 29.1. The suspending operator would need to ensure that the successor company was able to meet the requirements of Clause 24 (bank guarantee).

BTC conclusion

No change is necessary to this clause.

18. 18.3.4 Wrongful suspension

BTC response

If a Court of Law finds that a suspending operator has carried out a wrongful suspension, it would be because the process set out in Clause 18 has not been followed properly or because the breach was not material. In either case the suspension would not be as defined in Clause 18, and so Clause 18.3.4 could not apply.

BTC conclusion

No change is necessary to this clause.

19. 18.4.3 etc Telecommunications services

BTC response

BTC agrees that the term “Telecommunications services” should be replaced by the term “electronic communications services” as this will bring the terminology into line with that used in the Communications Act 2009.

BTC conclusion

BTC agrees with URCA’s recommendation.

20. 18.4.4 Clause reference

BTC response

The correct clause reference is to Clause 24.

BTC conclusion

BTC agrees with this correction.

21. 19.1.1 First Party

BTC response

URCA has misunderstood the application of this clause. It is designed to be reciprocal rather than to refer to only one operator. Hence the “first party” refers to the first party

mentioned in Clause 19.1, and could be BTC or the interconnecting operator. The same terminology is used throughout this clause. The words “terminating operator” cannot be used here as they are given a completely different meaning in Annex I.

BTC conclusion

No change is necessary to this clause.

22. 19.2.4 Wrongful termination

BTC response

If a Court of Law finds that an operator has carried out a wrongful termination, it would be because the process set out in Clause 18 had not followed properly or because the breach was not material. In either case the termination would not be as defined in Clause 19, and so Clause 19.2.4 could not apply.

BTC conclusion

No change is necessary to this clause.

23. 19.3.1 Duplication

BTC response

URCA’s comment is correct.

BTC conclusion

BTC agrees with this correction.

24. 19.4.3 Equipment removal on termination

BTC response

URCA has misunderstood this Clause, which clearly states that the other Party, that is the operator whose agreement has been terminated, is responsible for the costs of removing equipment etc. This may be the Access Seeker or the Access Provider. BTC believes that this is a reasonable application of the principle of cost causation - it is the other Party that has caused the termination and hence has caused the need to remove the equipment.

BTC conclusion

BTC does not agree with URCA’s recommendation.

25. 20 Labour disputes

BTC response

BTC believes that URCA’s point is already covered by the definition of a Force Majeure incident as “circumstances outside the reasonable control” of a Party. The example given by URCA, of a management lock-out, would be under the reasonable control of the Party. Of course, this clause applies equally to both operators, contrary to the reading placed on it by URCA.

URCA’s proposed rewording is too general as the term “sphere of influence” could apply to any labour dispute where one operator had part responsibility or a tangential interest for the outcome.

BTC conclusion

BTC does not agree with URCA's recommendation.

26. 20.5 Word omission

BTC response

URCA's comment is correct.

BTC conclusion

BTC agrees with this correction.

27. 21.1 General review

BTC response

BTC's intention in Clauses 21.1 and 21.2 is that an operator may request a review at any time if the circumstances described in Clauses 21.1 - 4 apply, and on the anniversary of the Effective Date in Clause 1 for any other matters (including the circumstances described in URCA's comments). This restriction is to prevent the continuous serving of review notices. Of course, any new services required under the RAIO would be handled under Clause B.8.

BTC considers that if its intention is not clear, the words "at any time" should be added between the words "Agreement" and "by" in line 1 of Clause 21.1.

BTC conclusion

Clause 21.1 should be amended as suggested above.

28. 21.3 Review date

BTC response

The reference to Clause 1 in Clause 21.3 is incorrect, and should instead be to the "Effective Date", that is the date of the Interconnection Agreement.

URCA's second comment and recommendation on this clause make no sense in the context of the RAIO. There is no defined date for the ending of the interconnection agreement (see Clause 4.2), so it is difficult to see how negotiations for reviewing the agreement could take place after the end of the agreement. The recommendation that a review notice could only be served within four months of the end of the agreement would prevent any reviews taking place while the agreement was in force.

BTC conclusion

Clause 21.3 should be amended as suggested above.

29. 21.4 Review of Annexes

BTC response

URCA has misunderstood the meaning of this clause. It does not say that BTC will implement any changes to Annexes C, D, E and G, but that it may serve a review notice at any time, which then allows the parties to negotiate the changes, as set out in Clause 21.5.

The origin of this clause goes back to the discussion over URCA's draft Access and Interconnection Guidelines, where URCA proposed that the RAIO should be divided into legally binding and non-legally binding schedules (para 5.5). While BTC

commented that this approach was not practicable, it appreciated URCA's aim that certain non controversial amendments to the technical and operational aspects of the RAIO should not be subject to the processes outlined in sections 7 and 8 of the Access and Interconnection Guidelines. This clause was BTC's attempt to solve this problem without the artificial division into legally binding and non legally binding schedules.

In the final version of the Access and Interconnection Guidelines, URCA set out more detailed rules for the revision of the RAIO, which require a SMP operator to give 30 business days notice to URCA and other licensed operators. If URCA does not challenge the amendment, the SMP operator may proceed with the amendment. The amendment would then be incorporated into the RAIO and then flow through into the interconnection agreement. On the assumption that URCA would not challenge non-controversial changes, BTC proposes that Clause 21.4 can be deleted.

BTC conclusion

Clause 21.4 should be deleted.

30. 21.7 Dispute timescales

BTC response

BTC considers that a specific time period for negotiations is necessary before the dispute procedure can be invoked so that the parties have an opportunity to undertake good faith negotiations. URCA's proposed wording appears insufficient because it allows one party to move straight to the dispute process unilaterally without allowing any time for good faith negotiations.

However BTC does accept that the period of three months is long, and instead proposes one month.

BTC conclusion

In line 2 of Clause 21.7 the words "3 calendar months" should be replaced by "one calendar month".

31. 21.8 Amendments to RAIO

BTC response

The purpose of a RAIO is to set out standard terms and conditions that apply to all operators, and thus to avoid discrimination. Hence it is difficult to conceive of RAIO terms that would apply to some operators and not to others. Hence URCA's proposed amendment appears unnecessary. If such an occasion did take place, URCA would be able to restrict the applicability of the RAIO terms in its decision whether or not the amendment is included.

BTC conclusion

BTC sees no need to amend this clause.

32. 21.9 Contact details

BTC response

BTC believes that it is in the interests of both operators to ensure that contact details are up to date because a failure to do so may cause significant problems. Hence there is no need to specify detailed processes and timescales. If this does prove to be a problem, it can be addressed through the Joint Working Party.

BTC conclusion

BTC sees no need to amend this clause.

33. 22.3 First party

BTC response

BTC agrees with URCA that the words “the first party” should be deleted.

BTC conclusion

BTC agrees with URCA’s proposal.

34. 23.5 Breaches of agreement

BTC response

BTC is surprised at this comment. Clause 18 states clearly the process to be followed in the event of the breach of this and any other term of the Agreement. URCA’s suggestion that each clause of the Agreement should specify the consequences of a breach would result in a lengthy and less manageable agreement.

BTC conclusion

BTC sees no need to amend this clause.

35. 23.7 Duration of confidentiality clause

BTC response

BTC considers that the period of five years after the expiry or termination of the Interconnection Agreement is adequate because after this period any confidential information is likely to be out of date or no longer of any importance. An obligation to maintain confidentiality in perpetuity is an onerous obligation on both Parties.

In the normal course of events, an Interconnection Agreement will continue indefinitely, and BTC considers that whether confidentiality should be maintained for five years or in perpetuity has no material effect on competition in The Bahamas, and therefore should not be a matter of concern to URCA. Of course, if an interconnecting operator wishes to maintain confidentiality for a longer period of time than proposed in the RAIO, BTC would be willing to negotiate directly with the operator.

BTC conclusion

BTC sees no need to amend this clause.

36. 24 Bank guarantee

BTC response

These clauses permit BTC to request a financial security, the amount being set to reflect the “risk involved” (line 4 of Clause 24.1). This flexibility allows BTC to take into account factors such as those mentioned in URCA’s comments (BTC’s liabilities, the financial standing of the interconnecting operator, and previous dealings). The details of the financial security can be negotiated between the operators, provided that they are not discriminatory.

The type of financial security should be a matter for BTC as it is taking the financial risk, not the other operator. The term “reasonably acceptable” places a constraint on

BTC's decision on whether the type of security proposed by the other operator is agreeable to BTC.

BTC believes that the review period of three months is needed to accommodate rapid changes in traffic patterns. It does not expect that this will result in three monthly changes for most financial guarantees, but BTC does require the flexibility that a three month period provides.

The quarterly review will examine the factors listed in Clause 24.1. If a Party is not satisfied with the result it has recourse to the disputes procedure (Annex F), as permitted under Clause 17.

In reviewing URCA's comments about the numbering of this clause, BTC has realised that a clause has been inadvertently omitted. Clause 24.3 should be inserted as follows:

"24.3 BTC may also carry out credit vetting of an existing Operator where BTC has reasonable concern about the ability of the Operator to cover debts including without limitation where BTC has evidence of a poor payment history or the Operator's credit rating has been downgraded or threatened to be downgraded. The method to be used will be communicated to the Operator and will be standard to all Operators."

The next clause should then be numbered 24.4, and the subsequent numbering is correct.

The addition of the word "and" at the end of Clause 24.4.1 is a helpful clarification.

BTC conclusion

The omitted Clause 24.3 should be included (see above), and the word "and" should be added at the end of Clause 24.4.1.

37. 26. Delivery of notices

BTC response

URCA is concerned about the consequences should no acknowledgement of a notice be received within the stipulated period of 24 hours. BTC suggests that an additional clause should be added, as follows:

"26.4 If the Party sending a notice pursuant to this Agreement does not receive an acknowledgement within the timescale set out in Clause 26.3, it shall deliver a copy of the notice by hand to the address of the relevant contact person and obtain a receipt for the notice. This shall be sufficient proof of the delivery of the notice."

BTC conclusion

An additional clause, as proposed above, should be added.

38. 27 Limitation of liability

BTC response

BTC does not accept the comment that the aim of this clause is to limit its own liability. Interconnecting operators provide services to each other, and as BTC is

likely to have the larger network, the potential of damage to its network is considerably greater.

The purpose of these clauses is to limit the commercial risk to both operators, however caused. Hence BTC does not agree that the limitations on liability should be lifted on certain causes. Indeed, such a differentiation is likely to lead to protracted arguments over the cause of the damage. Hence there is no need for a stipulation about exclusions of activities that are outside the law.

Clause 27.4 has been included to take account of the specific issue of access to emergency services from VoIP terminals, which may not provide this functionality if the electricity supply has failed. In some jurisdictions the national regulatory authority has required providers of these terminals to inform users of the limitations of these terminals. To date URCA has not done this. This clause does not prevent customers from suing their service provider in the event of a failure to access emergency services, as URCA's comments suggest, but ensures that the other operator (the Access Provider) is not a party to the claim.

BTC conclusion

BTC sees no need to amend this clause.

39. 28 Severability

BTC response

BTC accepts URCA's proposal.

BTC conclusion

The words "URCA, Utilities Appeals Tribunal and other relevant bodies" should be inserted between "court" and "having" in line 2.

40. 29.2 "run"

BTC response

If the word "run" offends URCA, BTC is content for an alternative to take its place.

BTC conclusion

The word "run" in line 5 should be replaced by "operate".

41. 30 Whole agreement

BTC response

URCA misunderstands the scope of this clause, which concerns only agreements between the Parties on the subject of the agreement (interconnection). Clearly third parties, such as URCA and the law, place duties on both Parties, but these are not affected by this clause. Hence there is no need to mention them.

BTC conclusion

BTC sees no need to amend this clause.

42. A1.1, A2.1 and A3.1 Data transmission

BTC response

BTC agrees that low speed data transmission should be included in these service definitions.

BTC conclusion

The words “and low speed data” should be added after the word “facsimile” in line 2.

43. A1.1 International inbound termination

BTC response

See BTC’s response to Consultation Question 6. BTC is agreeable to including the termination of calls from international destinations via domestic operators in this service description, provided that the call termination rate for these calls is based on the tariff charged at BTC’s international POPs in Miami for termination to The Bahamas minus the international transit rate.

BTC conclusion

Clause A.1.1 should be reworded as:

“**Service definition:** The Call Termination Service to Geographic Numbers comprises the completion of voice Calls (including facsimile transmission and low speed data) to end-users accessed by geographic numbers that have been issued to services on the Access Provider’s network.”

Similar amendments should be made to Clauses A.2.1 and A.3.1, and Clauses G.1, G.2 and G.3 in Annex G – Price List should distinguish between calls from domestic and international origins, as follows:

G.1 Call Termination to Geographic Numbers (cents per minute)

	All hours
Calls from numbers in The Bahamas National Numbering Plan to numbers on the same island	2.68
Calls from numbers in The Bahamas National Numbering Plan to numbers on another island	3.35
Calls from all other numbers	***

Calls are charged on a per second basis

Prices exclude any sales or value added tax

**** tariff charged at BTC’s international POPs in Miami for termination to The Bahamas (non regulated price) minus the international transit rate (see G.10 below).*

G.2 Call Termination to Non-Geographic Numbers (cents per minute)

	All hours
Calls from numbers in The Bahamas National Numbering Plan to numbers to non-geographic numbers	2.70
Calls from all other numbers	***

Calls are charged on a per second basis

Prices exclude any sales or value added tax

*** tariff charged at BTC's international POPs in Miami for termination to The Bahamas (non regulated price) minus the international transit rate (see G.10 below).

G.3 Call Termination to Mobile Numbers (cents per minute)

	All hours
Calls from numbers in The Bahamas National Numbering Plan to mobile numbers on the same island	7.24
Calls from all other numbers	***

Calls are charged on a per second basis

Prices exclude any sales or value added tax

*** tariff charged at BTC's international POPs in Miami for termination to The Bahamas (non regulated price) minus the international transit rate (see G.10 below).

BTC will introduce a cost-based mobile termination rate in the event that inbound retail call charges to mobile users (MPP) are discontinued or in the case these tariffs are lowered below the cost of providing the mobile termination service.

44. A1.2 Call handover

BTC response

See BTC's response to Consultation Question 11. BTC considers that the wording proposed by URCA in its comments on Question 11, with the amendments proposed by BTC, should replace Clause D.2.3. Clause A.1.2 (and the equivalent clause in the other service descriptions) would then be reworded to refer to this clause.

BTC conclusion

Clause A.1.2 (and the equivalent clause in the other service descriptions) should be reworded as:

"A.1.2 Call handover: the Parties shall hand over calls to each other in accordance with Clause D.2.3."

45. A1.3 etc The Parties

BTC response

URCA's proposal makes no difference to the meaning of these clauses. Of course, termination traffic flows in both directions, and each Party acts as an Access Provider to the other.

BTC conclusion

BTC sees no need to amend these clauses.

46. A.1.5 Fault rectification

BTC response

The requirement for non-discrimination in quality of service is already covered in Clause 8.1 and D.7.8, and service restoration times are shown in Table H.7.

BTC conclusion

BTC sees no need to amend these clauses.

47. A1.9. The Parties

BTC response

URCA's proposal makes no difference to the meaning of these clauses. Of course, termination traffic flows in both directions, and each Party acts as the billing party to the other.

BTC conclusion

BTC sees no need to amend these clauses.

48. A3.9 Call termination to mobile numbers

BTC response

See BTC's response to Consultation Question 19.

BTC conclusion

BTC does not agree to the removal of mobile termination charges.

49. A.4.8 Termination calls

BTC response

BTC agrees with URCA's proposal.

BTC conclusion

The word "Termination" should be replaced with "Terminating" in line 1.

50. A.5.1 Directory Enquiries

BTC response

To date URCA has not designated any other numbers as Directory Enquiries numbers, and until it does, it is not possible to know whether they are covered by the service description and terms in Clause A.5 or whether they should be regulated services. Hence BTC considers that URCA's proposal is premature.

The term "short code" is more appropriate than "prefix".

BTC conclusion

BTC does not agree with URCA's proposal to extend the service to other numbers designated by URCA as directory enquiry numbers at present. It agrees that the word "prefix" should be replaced by "short code" in line 2 (and also in Clauses A.4.1 and A.7.1).

51. A.5.2 Second full stop

BTC response

While BTC accepts that the second full stop should be removed, it find difficulty in seeing how its inclusion or exclusion affects the development of competition in the telecommunications sector of The Bahamas.

BTC conclusion

Agrees with URCA's proposal.

52. A.6.2 Directory listings

BTC response

The rules on listing are to be found after Page 18 of BTC's White Pages Telephone Directory. BTC agrees to amend the wording of this clause so that the rules, as applicable to other operators, can be included in the RAIO.

BTC conclusion

The words

“A listing in ordinary type shall be included in the white pages in the name of the company or individual subscribing to the telephone service. Where BTC has not been notified by the Access Seeker of any change in number or subscriber details, the current listing will be maintained in the new directory”

should replace the words in lines 3 and 4:

“subject to the same rules of listing and inclusion rules as apply to other listings and inclusions”.

53. A.6.4 Directory format and charges

BTC response

The format for the directory entries is not a matter for negotiation between the operators because it must fit in with BTC's existing systems and processes.

In setting its charges for its Directory Number Inclusion Service, BTC has to consider the total costs of providing the service, including any charges made by the Access Seeker. It has assumed that the Access Seeker will not make any charges for providing information, and it is necessary to make this clear in the Agreement.

The reason why BTC's database administrator is given the responsibility for specifying information requirements for this service, rather than setting it out in the RAIO, is to allow changes to be made to the format without having to go through the approvals process for RAIO terms and conditions. The information specifications are mainly about the content and format of data fields, and hence a matter of detail rather than policy.

BTC conclusion

BTC sees no need to amend this clause.

54. A.7 Operator assistance

BTC response

To date URCA has not designated any other numbers as Directory Assistance numbers, and until it does, it is not possible to know whether they are covered by the service description and terms in Clause A.7 or whether they should be regulated services.. Hence BTC considers that URCA's proposal is premature.

The term “short code” is more appropriate than “prefix”.

BTC conclusion

BTC does not agree with URCA's proposal to extend the service to other numbers designated by URCA as directory enquiry numbers at present. It suggests that the word “prefix” should be replaced by “short code” in line 1.

55. A.8.10 Emergency calls BTC response

BTC response

BTC agrees that the sense of the first sentence can be improved.

BTC conclusion

The words “is a public service” should be deleted from lines 1 and 2.

56. A.9.1 Freephone service

BTC response

See BTC’s response to Consultation Question 8i.

BTC conclusion

BTC concludes that the Call Origination to Freephone Numbers service should be removed and be replaced by a termination service for calls to freephone service.

57. A.10.1 International termination

BTC response

See BTC’s response to Consultation Question 6.

BTC conclusion

BTC does not agree that international outbound call termination should be included as a regulated service.

58. Diagram A9

BTC response

Some of the detail in this diagram was lost when the document was converted from a Word file into a PDF file. This is also the case with Diagrams A.8 and A.10.

BTC conclusion

Diagrams A.8 – A.10 should be restored to the original version.

59. A.10.2 and A.11.2 Call handover

BTC response

See comments in paragraph 44 above.

BTC conclusion

See comments in paragraph 44 above.

60. A.10.9 Direct accounting

BTC response

See BTC’s response to Consultation Question 10.

BTC conclusion

BTC sees no need to amend this clause.

61. A.11.1. National call transit service

BTC response

BTC considers that the service definition of the mobile transit service should be clear to a competent operator. The transit charge is applicable for calls that are handed over

at the point of interconnection (POI) between the Access Seeker and the fixed network, and transited to the POI/MSC between the fixed network and the mobile network. The single transit charge applies when the fixed network POI and the mobile POI/MSC are on the same island, and the double transit charge when they are on different islands.

BTC cannot find the acronym “MCS” in the RAIO text (of course, MSC is the well known acronym for a mobile switching centre). Neither can it find the term “access provider” without capitalisation.

BTC conclusion

BTC sees no need to amend this clause.

62. A.11.10 Direct accounting

BTC response

See BTC’s response to Consultation Question 10.

BTC conclusion

BTC sees no need to amend this clause

63. A.12. Joining circuits

BTC response

See BTC’s response to Consultation Question 12.

BTC conclusion

This clause should be revised to distinguish between Joining Paths and Joining Circuits, as defined by URCA.

64. A.12.3 Responsibility of the operators

BTC response

BTC deliberately phrased this clause as it stands to ensure that there is no doubt about which operator is responsible for ordering interconnection circuits.

BTC conclusion

BTC sees no need to amend this clause.

65. A.12.4 Joining circuit maintenance

BTC response

BTC agrees with URCA’s proposed amendment.

BTC conclusion

This clause should be reworded as suggested by URCA.

66. A.12.7 Joining circuit definition

BTC response

BTC follows the terminology used by URCA in its Access and Interconnection Guidelines. See BTC’s response to Consultation Question 12.

BTC conclusion

See BTC's conclusion in paragraph 63 above.

67. A.12.11. Cost sharing

BTC response

We deal with the compliance aspects under our comments on Clause B.3.7. We agree that the wording of this clause should be amended, as below.

BTC conclusion

The last sentence should be reworded as:

“The Access Provider shall bill the Access Seeker for this service in accordance with Annex E – Billing Processes.”

The same amendment should be made to Clause 13.22.

68. A.12.12 Quality of service

BTC response

We agree that the scope of this clause should be extended to cover the other aspects of quality of service.

BTC conclusion

The clause should be reworded as:

“A.12.12. **Quality of service:** The provisioning, repair and management of Joining Circuits shall meet the quality of service standards set out in Annex H – Quality of Service Standards, Clauses H1, H2.3, H3, H5.1 – 5.3, H5.5 and H.6.”

69. A.12.14 Decommissioning

BTC response

URCA's comments do not make any proposals for changes to this clause.

BTC conclusion

BTC sees no need to amend this clause.

70. A.13.2. Co-location options

BTC response

BTC agrees with URCA that in span interconnection should be considered as an option.

BTC conclusion

The words “or in span interconnection” should be added between “interconnection” and “in” in line 5.

71. A.13.3 etc. Capitalisation

BTC response

While capitalisation of the words at the start of these clauses will provide consistency with the rest of the document, BTC considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

BTC sees no need to amend these clauses.

72. A.13.12 Unpacking facilities

BTC response

The Access Seeker may require unpacking facilities; it may also require a temporary storage area, parking facilities and special access for equipment. BTC regards these details as matters that can be discussed and resolved by the operators while the Access Seeker obtains the consent of the Access Provider to any on-site works, as required under Clause 13.12. BTC considers that it is not appropriate to include these details in the RAIO as BTC cannot commit to providing these facilities until the exact requirements of the Access Seeker are known. BTC assumes that the reference in URCA's comments should be to Clause 13.12, not Clause 13.2.

BTC conclusion

BTC sees no need to amend this clause.

73. A.13.13 Repair to damage

BTC response

BTC accepts URCA's proposal to limit any charges to those reasonably incurred. However the words "in the most appropriate way" leave open which operator should judge the appropriateness of repairs. This clearly has to be the operator which owns the damaged equipment.

BTC conclusion

The words "reasonably incurred" should be added between "the" and "cost" in line 5.

74. A.13.16 Equipment installation standards

BTC response

BTC is not aware that URCA has specified or approved any standards for equipment installation in co-location sites. Indeed, it considers that such Ex-ante standards are not a priority for URCA, and would not be consistent with the need for light touch regulation. It is clearly important that any equipment installation in a co-location site should comply with the standards used by the Access Provider for equipment installation, but this is best left to the operators concerned. Of course, if an operator feels that these standards are unnecessarily onerous, it would be able to follow the dispute resolution process, including referring the dispute with URCA.

BTC conclusion

BTC sees no need to amend this clause.

75. A.13.24. Multiplexer equipment

BTC response

While URCA's comment may be correct technically in some cases, it does not detract from the general description of customer sited interconnection.

BTC conclusion

BTC sees no need to amend this clause.

76. A.13.25 Charging clause

BTC response

As the Access Provider is not placing any equipment in the customer sited interconnection premises in normal circumstances, there is no need for a general charging clause. If the Access Provider does need to place a multiplexer in the premises of the Access Seeker, any charges by the Access Seeker can be negotiated individually.

BTC conclusion

BTC sees no need for an additional clause.

77. A.13.26 In span interconnection

BTC response

BTC notes that this sentence is permissive, and URCA's comments do not contradict the text. If the text is likely to cause confusion, the sentence can be omitted, and the most suitable technical layout can be agreed between the operators as part of the discussions over the Service Request.

BTC conclusion

The second sentence should be omitted.

78. A.13.29 Cost sharing

BTC response

BTC accepts URCA's proposal that each party should pay its costs up to the agreed point of interconnection.

BTC conclusion

The first sentence of this clause should read:

“A 13.29. **Charging:** Each Party shall bear its own costs of providing access from its switch to the agreed Point of Interconnection.”

79. A.13.29 Billing

BTC response

BTC believes that the description of the billing arrangements is clear. One operator may contract the provision of access from its premises to the Point of Interconnection from the other operator, and would then pay the costs of this provision, as set out in the Firm Estimate. As the contract could be placed by either operator, the use of the term “Party” is appropriate, rather than just BTC.

BTC conclusion

The last sentence should be reworded as:

“The first Party shall bill the other Party for this service in accordance with Annex E – Billing Processes.”

80. Schedule 1 to Annex A

BTC response

BTC does not agree that call termination to freephone numbers should be included as a RAIO service (see BTC's response to Consultation Question 8i).

BTC conclusion

No change should be made to this Schedule.

81. B.3.1. Response timescales

BTC response

The timescales for the Preliminary Response and Considered Response are clearly set out in clauses B.3.2 and B.3.4. There is no need for a separate acknowledgement of the receipt of the Service Request as this is contained in the Preliminary Response.

BTC conclusion

BTC sees no need to amend this clause.

82. B.3.2 Information requests

BTC response

BTC does not consider it necessary to justify why an Access Provider needs the additional information. The Access Provider is unlikely to request spurious information because it should respond to the Service Request as a commercial opportunity, and is required to act in good faith (Clause 9.1.1) and expeditiously (Clause B.4.1). If it was seeking spurious information, it would be easy to produce a justification for this.

BTC conclusion

BTC sees no need to amend this clause.

83. B.3.3 nominated

BTC response

BTC believes that the meaning of this clause is clear.

BTC conclusion

BTC sees no need to amend this clause.

84. B.3.6b Dispute initiation

BTC response

The ten day period is provided to allow for informal discussions between the operators before the formal dispute process is initiated.

If the Access Provider fails to respond to a Service Request within the timescales set out in Annex B, the same recourse is open to the Access Seeker as for the failure to observe all other terms in the Interconnection Agreement, namely the dispute process under Clause 17 or the Breach Notice process under Clause 18. BTC sees no need to spell this out for one specific clause.

BTC conclusion

BTC sees no need to amend this clause.

85. B.3.7 Dispute initiation

BTC response

The fifteen day period is provided to allow for informal discussions between the operators before the formal dispute process is initiated. A longer time period has been provided for a part acceptance because the discussions are likely to be more complex than for a full rejection.

BTC conclusion

BTC sees no need to amend this clause.

86. B.3.8 Dispute initiation

BTC response

The ten day period is provided to allow for the work on the Considered Response to be completed before the formal dispute process is initiated.

BTC conclusion

BTC sees no need to amend this clause.

87. B.5.1 Call termination to freephone numbers

BTC response

BTC agrees that call termination to freephone numbers should be included as a RAIO service (see BTC's response to Consultation Question 8i.).

BTC conclusion

BTC agrees that line 11 should be reworded as:

“A.9. Call Termination Service from Freephone Numbers”.

88. B.5.3 Planning and forecasting

BTC response

See BTC's response to Consultation Question 15.

BTC conclusion

The following words should be added at the end of Clause B.5.3:

“Each Party's Network Plan shall show the actual and planned points of interconnection, number of ports required at each POI, actual and planned Joining Paths and Joining Circuits, and actual and planned technical interfaces.”

The following clauses should be added:

“B.5.4 Using the processes established by Clauses D1.2 and D.1.3, the Parties will update their Network Plans least every 12 months and revised network plans will be updated by the end of July of each year.

B.5.5 The Parties will exchange forecasts of their requirements for port capacity on Joining Circuits carrying their traffic for termination on the other Party's network. These forecasts will set out the number of ports required at each Point of

Interconnection for each six month period for the next 12 months. These forecasts will be updated and exchanged between the Parties by the end of July each year.”

89. B.6.11 Timescale for Firm Estimate

BTC response

BTC does not consider that it is possible to produce a standard timescale for delivering a Firm Estimate that will fit all facility orders. The Access Seeker is provided with the bespoke timescale for providing a Firm Estimate in the Advanced Facility Order acknowledgement.

BTC conclusion

BTC sees no need to amend this clause.

90. B.6.12 Timescale for Firm Estimate and delivery

BTC response

BTC does not consider that it is possible to produce a standard timescale for delivering a Firm Estimate or the order that will fit all facility orders. The Access Seeker is provided with the bespoke timescale for providing a Firm Estimate in the Advanced Facility Order acknowledgement and the bespoke delivery date is provided in the Firm Estimate.

BTC conclusion

BTC sees no need to amend this clause.

91. B.7.2 Joining circuits

BTC response

See BTC’s response to Consultation Question 12.

BTC conclusion

Clause B.7.2 should be reworded as follows:

“B.7.2. **Service Request:** An Access Seeker requiring a new Joining Path from the Access Provider must apply in accordance with the procedure in Clause B.2. The Access Provider shall in its Considered Response give a Firm Estimate of the cost (if any) to be charged to the Access Provider as well as to the Access Seeker. There is no need for a Service Request for Joining Circuits on an existing Joining Path. Where the Access Seeker requires a Joining Circuit on an existing Joining Path, it will request confirmation that spare capacity exists on the Path with a business letter to the Access Provider before submitting a Firm Capacity Order.”

92. B.7.3 Cost sharing on Joining Circuits

BTC response

Paragraph 5.13 of URCA’s Access and Interconnection Guidelines does not distinguish between uni-directional and bi-directional Joining Circuits. BTC accepts 50/50 cost sharing on bi-directional routes, but does not on uni-directional routes. This is because on these routes the cost is caused by the Access Seeker’s requirement to send traffic for termination on the network of the Access Provider. Hence it is fair that the Access Seeker should bear the costs.

BTC conclusion

BTC sees no need to amend this clause.

93. B.7.3 Decision on uni- or bi-directional working**BTC response**

While BTC expects the Access Provider and Access Seeker will discuss the merits of uni- or bi-directional working, BTC considers it important that one or other operator has the final say in order to avoid deadlock and delay over the provision of the joining circuit. The Access Seeker's requirements for capacity on the route are clear because it has initiated the order for capacity. The Access Provider, on the other hand, may not need capacity or may have different requirements, and so it must be able to decide whether it requires bi-directional or uni-directional working. Hence the Access Provider should decide whether the route should be uni- or bi-directional working.

BTC conclusion

BTC sees no need to amend this clause.

94. B.7.11 Removal of circuits**BTC response**

BTC does not agree with URCA's stance on reciprocity, and this clause is a good example of the advantages of a reciprocal clause. For Joining Circuits BTC and the other operator are both Access Seekers (when they require capacity to send traffic) and Access Providers (when they receive traffic). In its role as Access Seeker, BTC may need to reduce the capacity on particular routes, and the timescales and processes should be included in the RAIO, as well as when it will be receiving orders to reduce capacity from other operators in its role as Access Provider. Interconnection Agreements are more manageable if all operators conform to the same timescales and processes.

While the capitalisation of the word "The" is incorrect in line 3, BTC considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

BTC sees no need to amend this clause.

95. B.8.3 Capitalisation**BTC response**

While capitalisation of the words at the start of this clause will provide consistency with the rest of the document, BTC considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

BTC sees no need to amend this clause.

96. B.8.4 Reciprocity**BTC response**

See BTC's comments on the principle of reciprocity in Section 1.2. As many interconnection services involve the exchange of traffic in both directions between the operators, the use of the same terms and conditions make the interconnection manageable and equitable.

BTC conclusion

This clause should be retained.

97. B8.3 - 14 Capitalisation

BTC response

While capitalisation of the words at the start of these clauses will provide consistency with the rest of the document, BTC considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

BTC sees no need to amend these clauses.

98. B.8.10 Considered response

BTC response

It is unclear from URCA's comments whether it regards the period of 45 working days as too long or too short a period. BTC believes that it is difficult to commit to a shorter period because the Considered Response is to a request for a new interconnection service, and until more details are known about the nature of the service, it is impossible to be clearer about what would be a reasonable time period. In any case, BTC does not expect many requests for new RAIO services (see comments in paragraph 12 on Clause 11).

BTC conclusion

BTC sees no need to amend these clauses.

99. B.8.11, B.8.12 and B.8.14 Dispute initiation

BTC response

BTC agrees that the period within which an Access Seeker can raise a dispute should not be limited. However for the reasons stated in paragraphs 84 - 86 above, a time period should be included to permit informal discussions between the operators before the dispute can be raised, and to ensure consistency with Clauses B.3.6 - 8.

BTC conclusion

Clause B.8.11 should be amended by the removal of line 4 ("receipt ... within").

Clause B.8.12 should be amended by the deletion of the words "such ... within" in line 4.

Clause B.8.14 should be amended by the removal of the words "receipt ... than" in lines 7 and 8.

100. B.8.13 Dispute initiation

BTC response

The thirty day period is provided to allow for informal discussions between the operators before the formal dispute process is initiated. A longer time period has been provided for a part acceptance because the discussions are likely to be more complex than for a full rejection. However BTC considers that the 30 day period should be standardised with Clause B.3.7, and so should be reduced to 15 working days.

BTC conclusion

In line 5 “thirty (30)” should be replaced by “fifteen (15)”.

101. B.8.14 Colon

BTC response

BTC considers that a colon is grammatically acceptable. In any case BTC considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

BTC sees no need to amend this clause.

102. C.1.1 Signalling standards

BTC response

As far as BTC is aware, URCA has not endorsed any SS7 specifications, nor has any plans for so doing. Hence URCA’s proposal that signalling should conform to its standards is not practicable.

BTC conclusion

BTC sees no need to amend this clause.

103. C.1.8 G.732

BTC response

BTC agrees with URCA’s correction.

BTC conclusion

In line 2 “G.732” should be replaced with “G.733”.

104. C.1.9 Reference

BTC response

BTC is unaware of the source of this reference

BTC conclusion

The words “modified ...chapter 37” in lines 2 and 3 should be deleted.

105. C.1.11 G.823

BTC response

BTC agrees with URCA’s correction.

BTC conclusion

In line 2 “G.823” should be replaced with “G.824”.

106. C.1.12 and C.1.13

BTC response

BTC agrees with URCA's correction.

BTC conclusion

In line 2 "G.732" should be replaced with "G.733".

107. C.1.14 References

BTC response

BTC agrees with URCA's correction.

BTC conclusion

The words "2048 kbit/s stream shall carry " A " law" should be replaced with 1.544 kbit/s stream shall carry "Mu" law".

108. C.2.2 Time slot 16

BTC response

BTC agrees with URCA's comment.

BTC conclusion

The reference to time slot 16 should be removed.

109. C.4.4 Number format

BTC response

Calls to international numbers are specifically excluded from the RAIO, as set out in Clause A.1.1 – please see BTC's comment 42 and response to Consultation Question 5. BTC agrees with the need to include a short code format.

BTC conclusion

The words "Short codes, as specified in the National Numbering Plan, shall be in the format XXX." should be added as a new sentence.

110. C.5.4 Removal of CLI

BTC response

BTC considers that the removal of CLI by an interconnecting operator is a fraudulent activity designed to deprive the other operator of termination revenues - a form of theft. As such, it must be prevented as quickly as possible. BTC points out that the clause does not permit the terminating operator to block all calls, only those without CLI. Perhaps URCA has not fully appreciated this limitation.

BTC also considers that URCA's proposal that it should become involved and that ten working days notice should be given is heavy handed and is not light touch regulation. URCA's proposal gives the interconnecting operator *carte blanche* to continue the fraudulent activity for at least ten working days, and this is not acceptable. Moreover, this is an inter-operator problem, and URCA should only become involved if an operator wishes to invoke the dispute procedure.

It would be sensible to include a timeframe for the interconnecting operator to respond, and BTC proposes that in the light of the seriousness of such a situation, two

working days is sufficient. After this period has ended, the operator would be entitled to start blocking calls without CLI if the other operator has not made an adequate response.

BTC conclusion

The words in line 3 “an opportunity” should be replaced by “two working days”.

111. Schedule 1 to Annex C, signalling specifications

BTC response

BTC does not understand URCA’s comments as several SIP related documents are mentioned in this Schedule.

BTC conclusion

No change is needed in this Schedule.

112. Schedule 2 to Annex C, network specifications

BTC response

BTC considers that this Schedule is consistent with Clauses C.1.4 and C.1.5.

BTC conclusion

No change is needed in this Schedule.

113. Schedule 2 to Annex C, C-2.2

BTC response

BTC does not see an anomaly here. This schedule contains technical specifications, while Annex E contains the specifications needed by the billing departments.

BTC conclusion

No change is needed in this Schedule.

114. Schedule 3 to Annex C, C-3.3.1

BTC response

It is important to perform tests on joining circuits so that any faults can be rectified before the interconnection goes live. In this way both operators can ensure that quality of service standards are maintained for customers and that billing systems work properly. These tests should follow internationally accepted methods so that both operators understand the results and can identify the causes of any test failures easily. Because interconnection traffic flows in both directions, it is important that the operators use the same tests.

BTC considers that the requirement to use internationally accepted testing methods has nothing to do with whether an operator has SMP or not. It is simply sound engineering practice. BTC reminds URCA that the purpose of a SMP designation is to permit a national regulatory authority to impose remedies that correct market distortions. It finds difficulty in seeing how testing a joining circuit is a market distortion.

BTC conclusion

No change is needed in this Schedule

115. Schedule 3 to Annex C, C-3.3.4

BTC response

BTC agrees that the fourth and fifth bullets should be combined, but considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

The fifth bullet point should be deleted.

116. Schedule 5, network configuration

BTC response

BTC accepts that the diagram could be improved. However, it now considers that no network diagram should appear in the RAIO. This is because any diagram giving sufficient detail to an interconnecting operator would be too large for the document, and may include some details that should remain confidential. Instead it proposes that the relevant details about its network should be provided to an operator requesting interconnection once the non-disclosure agreement has been completed.

BTC conclusion

Schedule 5 should be deleted.

117. D.1.6 Agenda circulation

BTC response

In its comments URCA has confused two separate arrangements. Clause D.1.1 refers to meetings between the Interconnection Managers. Clause D.1.6 refers to meetings of the Joint Working Party.

BTC conclusion

BTC sees no need to amend this clause.

118. D.2.3 Call handover

BTC response

See BTC's response to Consultation Question 11.

BTC conclusion

BTC agrees with URCA's proposed wording, with two amendments.

In line 2 and 3 of the first clause the words "any technically and economically reasonable point" should be replaced by "any Point of Interconnection".

The following words should be added at the end of the first clause:

"Notwithstanding Clauses D.x.x and D.x.y above, calls to emergency services shall be handed over at the Point of Interconnection on the same island as where the call originates, or in the case of islands where there are no Points of Interconnection, at the Point of Interconnection closest to the emergency call centre responsible for the location where the calls originates."

119. D.2.3 (b) Call termination to freephone numbers

BTC response

See BTC's response to Consultation Question 8i. However in the light of the changes to Clause D.2.3 discussed above, sub-clauses a – d of Clause D.2.3 are no longer needed.

BTC conclusion

Sub-clauses a – d of Clause D.2.3 should be deleted.

120. D.3.4. Originating operator

BTC response

BTC has deliberately used the term "Originating Operator" to ensure clarity. Both operators are Access Seekers, depending on the flow of traffic. This wording is also consistent with Clause A.12.3.

BTC conclusion

BTC sees no need to amend this clause.

121. D.4.2. National numbering plan

BTC response

BTC considers that URCA's proposal duplicates Clause 14.1, and so is unnecessary.

BTC conclusion

BTC sees no need to amend this clause.

122. D.5.1. Malicious call tracing

BTC response

As far as BTC is aware, only the Royal Bahamian Police Force is empowered to initiate malicious call tracing. Hence this clause is correct as worded.

BTC conclusion

BTC sees no need to amend this clause.

123. D.7.7 Numbering

BTC response

BTC agrees that the second line should appear as a sub-clause, but considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

The second line should be converted into a sub-clause.

124. D.7.11 Erroneous faults

BTC response

Clause 17.1 makes it clear that the dispute resolution procedure applies to any interconnection matter, and BTC sees no reason why Clause D.7.11 should be singled out for special confirmation that the dispute process applies to it.

BTC does not consider that whether the erroneous fault report was reasonably justified or not is relevant to the responsibility to pay for costs incurred in investigating the fault report. The investigating party has incurred costs in carrying out the investigation and the cost causer (the other party) should pay for these costs if it turns out that no fault exists on the investigating party's network.

BTC conclusion

BTC sees no need to amend this clause.

125. D.8.2 Information about rectification

BTC response

BTC agrees with URCA's proposal that the party responsible for the fault should inform the other party that the fault has been rectified.

BTC conclusion

The words "and inform the other Party of the rectification of the fault." should be added at the end of the clause.

126. D.8.3 Unplanned outages

BTC response

BTC considers that as the previous paragraph is headed "unplanned outages" it will be obvious to a competent operator where the relevant information about unplanned outages is to be found.

BTC conclusion

BTC sees no need to amend this clause.

127. D.8.5 Escalation process

BTC response

The escalation process described in Clause F.2.1 applies to disputes. BTC considers that a fault escalation process should operate on short timescales, depending on the nature and seriousness of the fault, and hence should be separate from the dispute escalation process.

BTC conclusion

BTC sees no need to amend this clause.

128. D.9.1 Scheduled maintenance works

BTC response

BTC agrees that a time period should be included for informing interconnecting operators of scheduled maintenance activities.

BTC conclusion

In line 5 the words "at least five (5) working days" should be added between "NOCs" and "in".

129. D.9.1 Cataleptic

BTC response

BTC agrees that the word should be capitalised. However it also considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

In line 8 the relevant words should read “Cataleptic or Partial Failure”.

130. D.11 Omission

BTC response

BTC agrees with URCA’s addition.

BTC conclusion

The words “by act or omission” should be added in line 1.

131. D.11.2 Numbering

BTC response

BTC agrees that the clause numbering is incorrect. However it also considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

Clause D.12.2 should be renumbered as D.11.2.

132. D.13.5 Network alterations

BTC response

BTC does not see any inconsistency in the notification periods given in Clauses D.13 and D.14, and believes that no changes are needed to the text in the light of URCA’s comments. Perhaps the author of these comments is not aware that BTC has almost completed the roll out of its NGN network, and hence the comments about NGN related changes are not relevant.

BTC conclusion

BTC sees no need to amend this clause.

133. D.14.4. Cost allocation

BTC response

BTC considers that because the sites and facilities described in Clause D.14.3 are shared facilities, it is equitable that each operator should bear its own costs. This also ensures that the costs of decommissioning are minimised.

BTC conclusion

BTC sees no need to amend this clause.

134. D.16 Data amendments

BTC response

The wording proposed by URCA makes no difference to the sense or meaning of the clause. Moreover this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

BTC sees no need to amend this clause.

135. D.16.1 Data amendments format

BTC response

BTC does not expect that it will take any significant time to agree the format of the notice for data amendments. Hence URCA's concern about the potential for delay is misplaced.

BTC conclusion

BTC sees no need to amend this clause.

136. D.16.4 Data amendment fees

BTC response

BTC fails to see URCA's problem with this clause, which sets out the basis for charging for data amendments. It is a matter of equity, not reciprocity, that the basis of charging should be the same for the operators.

It is not appropriate to include hourly wage rates in the RAIO as the fees for data amendments that benefit only one operator will be subject to agreement between the operators, based on the hourly wage rates. The wage rates should be treated as confidential information, and hence should not be published in the RAIO.

BTC conclusion

BTC sees no need to amend this clause.

137. Schedule 1 to Annex D D-1.2.1

BTC response

BTC considers that it is in the Access Provider's interest to ensure that the Access Seeker is informed of new contact details as soon as possible so that its staff are not bothered by misdirected phone calls. Hence no notice period is necessary.

BTC conclusion

BTC sees no need to amend this clause.

138. D-1.2.2 Emergency notice

BTC response

URCA has misread this clause, which states that the notice period should be 24 hours, "other than in the case of access for emergency maintenance". It agrees that the second "Access Seeker" should read "Access Provider".

BTC conclusion

In line 1 the second "Access Seeker" should read "Access Provider".

139. D-1.2.4 Hours of business and staff costs

BTC response

As is stated in this clause, the Access Provider will supply the Access Seeker with details of its standard hours of business, which may change from time to time. The

type of staff used to accompany visitors will depend on the purpose of the visit (see Clause D-1.2.3), and it is not appropriate to publish wage rates in the RAIO because this should be treated as confidential information.

BTC conclusion

BTC sees no need to amend this clause.

140. D-1.2.5 Contact persons

BTC response

BTC considers that it is in the Access Seeker's interest to ensure that the Access Provider is informed of new contact details as soon as possible so that its staff are not bothered by misdirected phone calls. Hence no notice period is necessary.

BTC conclusion

BTC sees no need to amend this clause.

141. Schedule 2 to Annex D

BTC response

BTC wishes to point out that it is using the joining circuits terminology used in URCA's Access and Interconnection Guidelines. It does not consider that URCA's proposal will make any difference to the sense or utility of the report.

BTC conclusion

BTC sees no need to amend this Annex.

142. E.2.1 Call termination to freephone numbers

BTC response

See BTC's response to Consultation Question 8i.

BTC conclusion

BTC agrees that line 9 should be reworded as:

"A.9. Call Termination Service from Freephone Numbers".

143. E.2.9 Retrospective billing period

BTC response

This clause is standard in the telecommunications industry, and allows sufficient time for all billing issues to be identified. It also limits the liability of operators for transactions from previous financial years. For some interconnection services (such as international termination, international roaming and transit calls with cascade billing) it may take some time for call charges to be sent to the Billing Party by third operators. If URCA accepts BTC's position on international outgoing calls and cascade billing, then the period of 12 months can be shortened to (say) six months. If it does not, the clause should be retained with a twelve month period.

BTC conclusion

BTC sees no need to amend this clause.

144. E.2.10 Clock synchronisation

BTC response

BTC considers that URCA's proposal is not consistent with the overall approach to billing disputes in Annex E. The Access Provider bills the Access Seeker for termination services, and if the Access Seeker (the Billed Party) disagrees with the bill, it should give the reasons for the disagreement (see Clause E7.1 and E.7.2). The same principles should apply to disagreements over synchronisation.

BTC notes that there are no proposals to charge different wholesale prices for peak and off-peak periods in The Bahamas, and so this matter is not important.

BTC conclusion

BTC sees no need to amend this clause.

145. E.3.4 area measurement

BTC response

BTC agrees that this clause should be consistent with Annex G.

BTC conclusion

In line 1 of first bullet point, substitute "foot" for "meter".

146. E.3.7 Billing period

BTC response

While billing periods of one calendar month are well established, this clause allows for unforeseen events or changes in business practices that would necessitate a change from this practice. Because these circumstances are unforeseen, it is not possible to specify the basis or notice period for such a change. BTC does not expect any changes to the practice of monthly billing in the foreseeable future.

BTC conclusion

BTC sees no need to amend this clause.

147. E.4.2 Period for unpaid debts

BTC response

BTC notes that the Invoiced Party will already have had 20 working days from the date of the invoice to settle its debts, and considers that a period of a further week (thus making five weeks from the date of the invoice) is long enough before the Invoicing Party can start action to recover the debt. As this clause sets out the process to be invoked, BTC does not believe that any further period is necessary after the relevant notice has been served for debt recovery processes to be started.

BTC conclusion

BTC sees no need to amend this clause.

148. E.4.6 Test calls

BTC response

The cost of test calls depends on the type of call and its duration, and hence it is not possible to specify in advance what the cost may be. There is no benefit to OLOs to having charges in the RAIO as they will need to be based on specific quotes from

third parties responding to a request that is relevant to the specific circumstances as agreed between BTC and the OLO. In any case, BTC expects that the cost will be minimal.

BTC conclusion

BTC sees no need to amend this clause, and urges URCA to leave things of such trivial nature to negotiations between BTC, OLOs and, in this case, third parties that actually provide such services.

149. E.6.1 Billing errors

BTC response

URCA has misread this clause. It does not prevent the Invoiced Party raising a dispute about any error, whatever the size. The clause ensures that bills with errors less than 2% are paid, while those with more than 2% error can be withheld. Clause E.7 covers billing disputes, and does not limit disputes to amounts over a certain size.

BTC considers that the last two sentences of this clause make it clear that the timescales referred to are those in Clause E.7.

BTC conclusion

BTC sees no need to amend this clause.

150. E.4.6 Over payments

BTC response

BTC agrees that it would be useful to specify the period in which an overpayment should be returned. Of course, either BTC or the other operator may be repaying the overpayment.

BTC conclusion

The words “within ten (10) working days of the notice of overpayment” should be added at the end of this clause.

151. E.7 Small errors

BTC response

BTC does not agree with URCA’s comments. The Invoiced Party is able to raise a dispute about any amount (see comment 146 above). It either accepts the bill as correct or questions it if it does not agree with the amount invoiced.

BTC conclusion

BTC sees no need to amend this clause.

152. E.7.8 Specialists

BTC response

BTC considers that URCA’s proposal does not add any meaning or clarity to the clause.

BTC conclusion

BTC sees no need to amend this clause.

153. E.7.14 Clause reference

BTC response

The reference should be to Clause 18 (Breach and suspension of interconnection services and Interconnection Agreement), not Clause 14 or Clause 17.

BTC conclusion

In line 5 “Clause 14 of the General” should be replaced by “Clause 18 of the Main”.

154. E.7.16 Cost allocation

BTC response

BTC agrees that the Third Party Expert should be able to allocate costs on a fair and reasonable basis in order to reflect the merits of the case, rather than the “winner takes all” approach of the present wording. This approach overtakes the current wording of the clause.

BTC conclusion

The clause should be reworded as:

“The Third Party Expert shall allocate the cost of his or her fees between the Disputing Party and the Invoicing Party, including the initial fees, on a fair and reasonable basis having regard to the nature of the dispute. If, as a result, one Party owes the other Party some or all of the initial fees of the Third Party Expert paid under Clause E.7.15, it shall refund the amount owed within twenty (20) Working Days of the Third Party Expert’s decision on the allocation of costs.”

155. E.7.17 space

BTC response

While BTC accepts that the space between “there” and “from” should be deleted, it considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

In line 3 the space between “there” and “from” should be deleted.

156. E.7.18 Evidence

BTC response

BTC agrees that “submitted” is a more appropriate word than “heard”.

BTC conclusion

In line 2 the word “submitted” should replace “heard”.

157. E.7.19 Net Receiver and Net Payer

BTC response

BTC agrees that the terms “Net Receiver” and “Net Payer” should be replaced with terms that are used elsewhere in the agreement.

BTC conclusion

In line 2 the words “Invoicing Party” should replace “Net Receiver”, and in line 3 the words “Invoiced Party” should replace “Net Payer”.

158. Schedule 2 to Annex E Text corrections

BTC response

BTC agrees with the corrections proposed by URCA.

BTC conclusion

In line 1 “date” should be replaced by “data”, and in line 7 “Table S.6.2” should be replaced by “Table E-2.2”.

159. F.4 Reference of disputes to URCA

BTC response

BTC is surprised by URCA’s comments as Annex F makes several references to URCA (for example, Table F.1, Clause F.4.1 and Clause F.5).

BTC conclusion

BTC sees no need to amend this Annex.

160. F.4.1 Clause reference

BTC response

BTC agrees that the reference should be to Clause F.3.

BTC considers that if one Party concludes that the matter cannot be resolved by the Chief Executive Officers, it would not be acting in good faith (as required by Clause 9.1.1) or using its best efforts to resolve a dispute (as required by Clause 9.1.6). Hence the stage of reference to the CEOs must be allowed to take place.

If the Chief Executive Officers fail to meet, then the dispute can be referred to URCA under Clause F.5. BTC notes that under URCA’s Access and Interconnection Guidelines, URCA will not entertain a dispute unless the operators have made good faith efforts to negotiate the matter over a period of four months (paragraph 10.5). BTC believes that Annex F complies with this requirement.

BTC conclusion

In line 2 “Clause F.4” should be amended to “Clause F.3”.

161. F.4.2 Interim relief

BTC response

In its Access and Interconnection Guidelines (paragraph 10.5), URCA states clearly that it will not entertain a dispute until the operators have made efforts to resolve the dispute over a period of four months or failed to resolve the matter through an alternative dispute resolution process. This statement precludes seeking interim relief from URCA during the alternative dispute resolution process, which is the subject of Clause F.4. Hence URCA’s proposal does not comply with its own Access and Interconnection Guidelines, which BTC has used as the basis for drafting the RAIO.

BTC conclusion

BTC sees no need to amend this Clause.

162. F.5 Escalation to URCA

BTC response

In its Access and Interconnection Guidelines (paragraph 10.5), URCA states clearly that it will not entertain a dispute until the operators have made efforts to resolve the dispute over a period of four months or failed to resolve the matter through an alternative dispute resolution process. Hence it is not possible to escalate a dispute to URCA until the escalation process described in Annex F Clauses F.2. and F.3 or the arbitration process described in Clause F.4 has been exhausted. Hence URCA's proposal does not comply with its own Access and Interconnection Guidelines, which BTC has used as the basis for drafting the RAIO.

BTC conclusion

BTC sees no need to amend this Clause.

163. F.5.1 Reference to URCA

BTC response

In its Access and Interconnection Guidelines (paragraph 10.5), URCA states clearly that it will not entertain a dispute until the operators have made efforts to resolve the dispute over a period of four months or failed to resolve the matter through an alternative dispute resolution process. The period of 30 Calendar Days used in Clause F.5.1 is considerably shorter than the period of four months stipulated by URCA. Hence URCA's proposal does not comply with its own Access and Interconnection Guidelines, which BTC has used as the basis for drafting the RAIO.

BTC considers that the point about the dispute process should be without prejudice to any rights that each operator has under relevant laws is adequately covered by Clause F.1.4.

BTC conclusion

BTC sees no need to amend this Clause.

164. F.5.2 Retrospective decision

BTC response

BTC points out that this clause is permissive, and does not prevent a decision by URCA applying the decision to another date. BTC accepts that URCA may make whatever decision it sees fit, and considers that this clause can be deleted.

BTC conclusion

Clause F.5.2 should be deleted.

165. G.7 Operator assistance calls

BTC response

See BTC's comments on Consultation Question 27 (ii).

BTC conclusion

BTC sees no need to amend this Clause.

166. G.12 Joining circuits and POI

BTC response

BTC has agreed to provide prices for Joining Paths in this response, as follows:

For In span Interconnection Joining Circuit

	ONE OFF CHARGES	MONTHLY CHARGES	
	\$	\$	
Joining Paths			
New Fiber termination per route	2511.84		
Existing Fiber – Lighting per route	850.00		
Distance dependent charge per mile with new duct	177,236.51	*1,646.44	*Taken from the Jamaican RIO -5
Distance dependent per mile sharing existing ducts	16,844.36	*544.686	*Taken from the Jamaican RIO -5
Joint Box (juc 11) – per box	6806.91	*19.78	*Taken from the Jamaican RIO -5

Early Termination Charge per remaining months

	ONE OFF CHARGES	MONTHLY CHARGES	
Joining Paths			
New Fiber Termination per route			
Existing Fiber – Lighting per route			
Distance dependent charge per mile with new duct		*493.927	*Taken from the Jamaican RIO -5
Distance dependent per mile sharing existing ducts		*163.402	*Taken from the Jamaican RIO -5
Joint Box (juc-11) – per box			

For Customer Sited Interconnection Joining Circuit

	ONE OFF CHARGES	MONTHLY CHARGES	
	\$	\$	
Joining Paths			
New Fiber termination per route	2511.84		
Existing Fiber – Lighting per route	850.00		
Distance dependent charge per mile with new duct	177,236.51	*1,646.44	*Taken from the Jamaican RIO -5
Distance dependent per mile sharing existing ducts	16,844.36	*544.686	*Taken from the Jamaican RIO -5

Early Termination charge per remaining months

Joining Paths			
New Fiber Termination per route			
Existing Fiber – Lighting per route			
Distance dependent charge per mile with new duct		*509.398	*Taken from the Jamaican RIO -5
Distance dependent per mile sharing existing ducts		*168.528	*Taken from the Jamaican RIO -5

BTC’s Joining Circuits will be based on IP technology. In the short term the exact specifications will need to be agreed between BTC and the other operator, and then a cost based price can be derived.

BTC conclusion

The table above should be added to Clause G.12.

167. H.1.3 Compliance with quality of service standards

BTC response

As stated in paragraph 11 above, BTC accepts URCA’s proposal.

BTC conclusion

In line 1 the words “use its best endeavours to adhere to” should be replaced with “comply with”.

168. H.3.1 Grade of service

BTC response

BTC believes that the 1% grade of service is sufficient, but looks forward to seeing the comments of other operators.

BTC conclusion

BTC sees no need to amend this Clause.

169. H.3.2 Availability of joining circuits

BTC response

BTC believes that the 99.5% availability is sufficient, but looks forward to seeing the comments of other operators.

BTC conclusion

BTC sees no need to amend this Clause.

170. H.3.3 Customer delays

BTC response

BTC agrees with URCA's comments.

BTC conclusion

The clause should be reworded as:

“H.3.3 These standards of service shall be measured according to the methods set out by ANSI. Any Customer Delays or planned maintenance shall be excluded from the calculations to estimate the availability standard described in Clause H.3.2.”

171. H.4.1 Network availability

BTC response

BTC considers that the unsuccessful calls ratio is a sufficient measure of network availability, and that factors such as customer behaviour will remain constant over time and not affect trends in the ratio.

BTC conclusion

In line 1 the word “grade” should be replaced by “standard”.

172. H.5.3 Duplication

BTC response

BTC agrees that this clause duplicates Clause H.3.2.

BTC conclusion

This clause and Table H.6 should be deleted.

173. H.6.1 Grace period

BTC response

BTC considers that the grace period is necessary while its systems and processes are adjusted for the new liberalised market, and while it can build up its experience of reasonable quality of service standards. The grace period can be reviewed and probably removed after a period of two years.

BTC also considers that the penalty levels set out in the RAIO are adequate.

BTC conclusion

BTC sees no need to amend this Clause.

174. H. 6.3 Penalty process

BTC response

BTC does not understand URCA's comment. Under the RAIO process, the Access Seeker will make a claim for a penalty to the Access Provider. It is difficult to see how the Access Seeker would then not agree with the penalty as it has made the original claim.

BTC conclusion

BTC sees no need to amend this Clause.

175. Annex I Access Service

BTC response

See BTC's comments in paragraph 7 above.

BTC conclusion

BTC sees no need to introduce a new definition of access service.

176. Annex I Data Management Amendments

BTC response

BTC agrees with URCA's comments.

BTC conclusion

The words "including the structure of CDRs" should be deleted from line 2.

177. Annex I Emergency services

BTC response

BTC is not aware that emergency services are defined in the Communications Act 2009, or that URCA has powers to define such services under this Act. However BTC's Operating Licence does define both "Emergency Call Numbers" and "Emergency Organisation". The service definition for the Emergency Call Service (Clause A.8.1) contains a fuller definition of which calls are included in the Service, and BTC suggests that this Clause should be extended by the inclusion of wording from BTC's Operating Licence, and that the definition in Annex I therefore becomes unnecessary.

BTC conclusion

The last sentence in Clause A.8.1 should be reworded as:

"Emergency service organisations include (but are not limited to) the police, ambulance and fire services, and the maritime search and rescue services, and any other organisation, as directed from time to time by URCA as providing a vital service relating to the safety of life in emergencies."

The definition of Emergency Services in Annex I should be deleted.

178. Annex I Licensed operator

BTC response

BTC agrees with URCA's proposal.

BTC conclusion

In line 2, the word "telecommunications" should be replaced by "electronic communications".

179. Annex I Network

BTC response

BTC agrees with URCA's proposal.

BTC conclusion

In line 1, the word "telecommunications" should be replaced by "electronic communications".

180. Annex I Partial Failure

BTC response

Of course, there is more than one port in each point of interconnection, thus making the 15% target measurable.

BTC suggests that the term "partial outage" should be used to make it consistent with Clause D.9.1.

BTC conclusion

In line 1, the word "failure" should be replaced with the word "Outage".

181. Annex I Requested Party

BTC response

BTC agrees with URCA's proposal.

BTC conclusion

In line 2 the word "Management" should be added between "Data" and "Amendment".

182. Annex I Requesting Party

BTC response

BTC agrees with URCA's proposal.

BTC conclusion

In line 2 the word "Management" should be added between "Data" and "Amendment".

183. Annex I Review Notice

BTC response

BTC agrees with URCA's proposal.

BTC conclusion

In line 1 the word "means" should be added between "Notice" and "a".

184. Annex I Service Interrupting Fault

BTC response

While BTC accepts that the word “fault” should be capitalised, it considers that this level of detail should not appear in a consultation document as it has no material effect on whether the RAIO complies with the relevant regulations etc.

BTC conclusion

The word “fault” should be capitalised in line 3.