



cablebahamas

**PRELIMINARY DETERMINATION
AND DRAFT ORDER**

**CONTENT REGULATION: APPLICATION OF THE CODE OF
PRACTICE FOR CONTENT REGULATION (ECS 06/2012) TO
CARRIAGE SERVICES, CONTENT SERVICES AND ON-
DEMAND AUDIOVISUAL MEDIA SERVICES AND THE
APPLICATION OF MUST CARRY OBLIGATIONS TO CONTENT
SERVICES INTENDED FOR RECEPTION BY SUBSCRIBERS OF
CARRIAGE SERVICES IN THE BAHAMAS –**

ECS 11/2012

**Submitted to the
Utilities Regulation and Competition Authority**

April 27, 2012

**submitted by
Cable Bahamas Ltd.**



Cable Bahamas Ltd., Caribbean Crossings Ltd. and Systems Resource Group Limited (hereinafter, "CBL") hereby respond to the preliminary determination and draft order: ECS 11/2012 issued by URCA on 27th March 2012.

I. INTRODUCTION

- a. In November 2011, URCA initiated a public consultation in relation to the draft Code of Practice for the Regulation of Content Services and Audiovisual media services. CBL submitted its response on December 30, 2011 and contained therein were our views that URCA had already pre-judged the issue of whether the Code should apply to carriage services, content services and on-demand audiovisual media services at it was going to regulate content provided on all content services¹ (i.e. free to air broadcast and cable television). We also submitted that if the Code is applied to CBL it should also be applied to satellite operators. An individual Licensee should not be at a disadvantage vis-a-vis a class licensee or at a competitive disadvantage to non-licensees operating in the Bahamas. The fact that URCA is deliberating whether the sale of satellite television services in The Bahamas constitutes a 'carriage service' or a 'content service' as defined in section 2 of the Act², may be cause to pause this preliminary determination.
- b. URCA in its preliminary determination (ECS 11/2012) issued on the 27th March, 2012 at paragraph 1.7 has opined that except where a contrary intention is expressly noted in the provisions of the Code and having regard to the widespread availability of carriage services, content services and on-demand audiovisual media service in the Bahamas, it appears to URCA that it would be:
- in the best interests of the Bahamas
 - necessary for the effective achievement of the objectives set out in section 4 of the Communications Act; and
 - consistent with the provisions of section 53 of the Communications Act
- for Licensees providing carriage services, content services and on-demand audiovisual media services in the Bahamas to also comply with and observe the Code.
- c. At paragraph 1.8 it also appears to URCA that it would be:
- in the best interests of the Bahamas
 - necessary for the effective achievement of the objectives set out in section 4 of the Communications Act; and
 - consistent with the provisions of section 53(2)(i) of the Communications Act
- for Licensees providing content services intended for reception by subscribers of carriage services in The Bahamas to also comply with and observe the Must Carry

¹ Code of Practice for the Regulation of Content Services and Audiovisual Media Services: ECS 19/2011 page 15.

² Code of Practice for the Regulation of Content Services and Audiovisual Media Services: ECS 05/2012 page 21.



Obligations in the Appendix hereto requiring such services to simultaneously carry, without alteration, the complete packaged television channels of all audiovisual media services designated as Public Service Broadcaster.

- d. At paragraph 1.9, URCA continues that in making its preliminary determination, URCA has had regard to the overarching requirement under section 5 of the Communications Act for regulatory measures to be efficient and proportionate for their purpose and introduced in a manner that is transparent, fair and nondiscriminatory.

Universal Application of the Code

URCA has decided that the Code should apply to all content services. In CBL's view it seems illogical for URCA to be in a quandary whether the code should apply to satellite services being provided in the Bahamas. The legislation and/or principle should be technology neutral. An individual Licensee should not be at a disadvantage vis-a-vis a class licensee or at a competitive disadvantage to non-licensees operating in the Bahamas. The fact that URCA is deliberating whether the sale of satellite television services in The Bahamas constitutes a 'carriage service' or a 'content service' as defined in section 2 of the Act³, may be cause to pause this preliminary determination. URCA may very well consider that any person selling satellite delivered content in the Bahamas is unable to exercise editorial responsibility⁴ in order to effect compliance with the Code. This is the same argument for CBL. Further it seem incongruous that URCA is deliberating whether entities selling satellite television services in the Bahamas constitutes a 'carriage service' or a 'content service' as defined in section 2 of the Act in light of the its own statement that the code will apply to content delivered by Licensees via the internet if the Licensee targets it at persons and promotes or advertises that content within the Bahamas. URCA's statutory objective is to further the electronic communications interest of consumers⁵ in The (*entire*) Bahamas, it is therefore highly discriminatory for providers of the same content to be subject to different regulatory policies. This will be an unfair regulatory practice which in the day to day lives of consumers will see different content being provided by different providers for the supposedly same programming. The Codes are intended to provide definitive benefits to the broadcasting industry: a clear set of regulations that are applicable to all relevant broadcasters in The Bahamas helps to ensure a level playing field. This can lead to the promotion of competition and innovation of services⁶

³ Code of Practice for the Regulation of Content Services and Audiovisual Media Services: ECS 05/2012 page 21.

⁴ Editorial responsibility is defined in section 2 of the Communications Act, 2009

⁵ Communications Act, 2009 - s. 4

⁶ Consultation Document – Code of Practice for the Regulation of Content Services and audio visual media services ECS 19/2011



Application of the Code to Licensees providing carriage services, content services and on-demand audiovisual media services in the Bahamas.

URCA's proposal to apply the Code to carriage services, content services and on-demand audiovisual media services seems overly censorious given that cable programming has historically not been subject to regulation of this type whether here or abroad. It has to be borne in mind that any comparison of jurisdictions regulating content on cable television is characterized by the programmer having editorial responsibility for the contents of the programme. Over 15 years ago through the collaborative efforts of the FCC, the National Association of Broadcasters (NAB) and other industry stakeholders in the United States a Parental Guidelines (ratings guidelines) system was introduced. These guidelines which apply to broadcast and cable networks which was adopted by the FCC and its partners is identical to the one recommended by URCA⁷. It is agreed that the majority of CBL's content services programming originate in the United States, the same ratings ascribed to programming in the U.S is provided by CBL and is accessible to every CBL subscriber 24 hours per day, 365 days per year on CBL's channel 5, channel Guide. Though CBL has no editorial responsibility over its content services it is confident that the use of the ratings system in conjunction with filtering technology (as is the case in the U.S) provides consumers with information to help them make more informed choices about the television programs they watch.

It is CBL's view that technology is available to its subscribers in the form of television sets, which allow the use of filtering mechanisms coupled with set-top boxes equipped with parental controls. This technology gives its subscribers the power of choice over which programming is suitable for their household and fulfills URCA's mandate as set out in section 53(2)(a) of the Communications Act. In light of the aforementioned description of available technology the application of the Code does not seem to be consistent with light handedness or necessary for the effective achievement of the objectives set out in section 4 of the Act.

Section 4 of the Act sets out the main objectives of the electronic communications policy. URCA omits to indicate which objective it believes applying the Code to Licensees providing carriage services, content services and on-demand audiovisual media services in the Bahamas meets. URCA considers that applying the Code to Licensees providing carriage services, content services and on-demand audiovisual media services in the Bahamas is consistent with section 53 of the Act. While section 53 relates to development of codes of practice for audiovisual media services in the Bahamas, the suitability of the Code to content services or on-demand services needs to be very carefully examined. The significant characteristic is the ability to exercise editorial responsibility, According to section 5(b)(ii) URCA should have due regard to the costs and implications of those regulatory and other measures on affected parties. Our review of each clause of the Code indicates the principle difficulty with them is that realistically we are not able comply. We think that it is important that we manage consumer expectation in this regard. CBL has been complying with the code as it relates to our local programming and its locally transmitted programming as it relates to CBL 12, because it has editorial responsibility and

⁷ Code of Practice for Content Regulation Final Decision ECS 06/2012 – Part 5.11



control over what is broadcasts on its own channel however, with regard to its (overseas) content services CBL reiterates that it has no editorial responsibility and control over that content and will not be able to comply with the Code in that regard.

We therefore recommend that clause 1. 6 of the Code is amended to include the following clauses that will not apply to content delivered via a carriage service, a content service or an on-demand audio-visual media service. Clauses 2.1, 2.3, 2.5, 2.7; clause 3.1; clauses 4.1, 4.2, 4.4, 4.5, 4.10 - 4.12; clauses 5.7, 5.8, 5.10, 5.11; clause 7; clauses 8.1 – 8.12, 8.13(1), 8.14(2), 8.15, 8.17, 8.18 – 8.22; clauses 9.3(4) & (5).

Clause 8.23 should be restricted to channels on which the Licensee has permission by the signal provider to alter the transmission.

Clause 8.24 seems to go beyond URCA’s mandate. There is specific legislation as well as civil and criminal remedies for infringement. We suggest that this clause is not representative of light-handed legislation and is an agenda better handled elsewhere.

Licensees providing content services intended for reception by subscribers of carriage services in The Bahamas to also comply with and observe the Must Carry Obligations in the Appendix.

CBL has since its inception broadcasts the Broadcasting Corporation of the Bahamas’ station ZNS signal where it has been made available and in accordance with the cable television licence between CBL and the Government of the Bahamas dated 5 July, 1995. Broadcasting has been provided without charge. There has been no discussion on the ‘must carry’ provisions in the consultation conducted between 9th November and 30th December, 2011 save and except in the Statement of Results published on 2 March 2012⁸. URCA indicates that the Licensee shall bear the cost of the carriage of the must carry services. The entirely new model of regulation has imposed additional obligations on designated Licensees and we urge URCA to recognize that there is a cost for the carriage of must carry services. It would seem consistent with the new model regulation that Licensees are able to recover the cost of providing services. URCA should be consistent in requiring Licensees to absorb the cost of social policies. The obligations under section 119 and schedule 5 of the Comms. Act requires CBL to provide a multichannel line-up that includes ZNS as one of the channels. It seems outside URCA’s jurisdiction or redundant to require CBL to carry the public service broadcasters signals through ‘must carry’ obligations.

Requirement under section 5 of the Communications Act

URCA indicates that it has had regard to the overarching requirement for regulatory measures to be efficient and proportionate for their purpose and introduced in a manner that is transparent, fair and nondiscriminatory. In light of the available technology and the mandated digitization programme, it may have been more efficient and proportionate for

⁸ This occurred in response to a suggestion on Part 3 of the Code



URCA to have only applied clause 5.10. Most of CBL's programmes carry classifications and probably will comply with the requirements of the Code since it is programming from the United States. There is programming from countries other than United States in time zones other than the eastern time zone which may cause some programs to come outside the "watershed" period (where applicable) of the Code. Furthermore other aspects of the Code (e.g. newscast,) are outside the control of the retransmitter wherever the programming originates. We again commend to URCA its own observation during the consultation on the process for developing Codes of Practice⁹:

While URCA envisages that new Codes would focus primarily on Bahamian-operated radio and TV services, *the Working Group would need to consider how they should apply to overseas services (e.g. US television channels) that are available in the Bahamas (emphasis mine)*. The Group would need to be pragmatic about this, given that there is generally no practical or available means for Bahamian operators (such as Cable Bahamas) to impose any form of editorial control over programmes on overseas channels, or to be able to review programmes on those channels ahead of transmission to monitor compliance.

The specific content related objectives identified as important to the development of a broadcasting sector must be pragmatic and achievable by a licensee.

URCA further suggested that the key themes that emerges from review of content Codes around the world, ... namely that pay-TV services – such as the bundled packages offered in the Bahamas that include overseas television channels – are generally subject to lighter rules than free-to-air services, and typically make use of ratings and parental control mechanisms.¹⁰

II. COMMENTS ON THE CODE

In the Statement of Results issued on 2nd March, 2012 (ECS 05/2012) and amended on 19 April, 2012 (version 1.0.1) URCA indicated that the provisions of clauses 2.4, clauses 3.2 to 3.5, clauses 4.3, 4.6 to 4.9 and 4.13 to 4.17, and clauses 7.1 to 7.12 of this Code shall not apply to content delivered via a carriage service, a content service or on an on-demand audio-visual media service to adult persons subscribing to the service who specifically select the content in question, provided that the Licensees shall so far as it is able to, takes all reasonable steps to:

- (a) Inform the adult subscriber through classifications and/or advisories as are required by clauses 5.10 – 5.11 [of] this Code of the nature of the programming;
- (b) Ensure that an adequate parental control mechanism has been implemented in conjunction with the advisory and classification system and filtering technology set

⁹ Content Regulation: Process for Developing Codes of Practice – ECS 02/2010 issued 3 February, 2010

¹⁰ Content Regulation: Process for Developing Codes of Practice – ECS 02/2010 p.20



out in clauses 5.10 and 5.11 of this Code, which enables adult subscribers to prevent access to unsuitable content by children; and

- (c) Provide appropriate training, instructional materials, and assistance to subscribers regarding the use and operation of parental control mechanisms through filtering technology, and guidelines for maintenance of security from accidental or unsanctioned use by children.

We have highlighted additional clauses in the Code which should not be applied. Our reason is basically that we do not have editorial responsibility. There are two aspects to the business that CBL operates under its licence issued by URCA. One aspect of the business is the channel known as Cable 12 or the Community Channel. CBL controls that channel in that it decides what will appear on the channel, it has editorial responsibility as defined by the Comms. Act. The other aspect of CBL is the retransmission of programmes purchased from overseas as well as the transmission of local broadcasters. CBL does not have the power to influence or interrupt the line-up of the programmes for retransmission. The absence of editorial responsibility for these channels means that compliance with certain obligations of the Code is not within our power. It is therefore our submission that these provisions should not apply to Licensees providing carriage services, content services and on-demand audiovisual media services in the Bahamas.

In ECS 19/2011 URCA posed the following question in respect of audiovisual media services. We shall answer the same question in the context of applying these provisions to licensees providing carriage services, content services and on-demand audiovisual media services in the Bahamas. We have inserted comments where applicable. The term editorial responsibility means that we do not have the contractual or technical means to give effect to the clause.

Question 1: Do you agree with URCA’s proposals in Part 1 of the draft Code of Practice regarding definitions and interpretation, purpose of the Code, the regulatory framework, compliance with the Code and review of the Code? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

URCA in its Statement of Result and of its own volition decided to ‘improve’ the definition of ‘audiovisual media service’ by adding to the statutory definition ‘cable system’ as defined in the Copyright Act. URCA is a statutory body that has been created by Parliament and as such does not have legislative authority to alter the meaning of words that have been statutorily defined. Parliament has defined URCA’s ambit and if URCA finds it wanting, then the responsible and legally permissible way to address this is by amending the legislation. Our comments are also applicable to URCA’s ‘improving’ the definition of content service and carriage service and the amendment to clause 1.2(3) with the addition of “and on-demand audiovisual media service” to the end of section 52. It is not correct since that is not an accurate representation of section 52.

Question 2: Do you agree with URCA’s proposals in Part 2 of the draft Code of Practice regarding positive rules, operational and technical rules: If not, why not? Should any other provision be included in this Part of the Code or any removed?



Answer: There is generally no practical means for Licensees providing carriage services, content services and on-demand audiovisual media services to impose any form of editorial control over programmes on overseas channels, or to be able to review programmes on those channels ahead of transmission to monitor compliance.

	PART 2: Operational and Technical Rules	Comments
2.1	(1) The Licensee is responsible for ensuring compliance with this Code, whether pre-recorded or live, regardless of whether it has delegated such responsibility to its programming personnel or other agents as part of its day-to-day business.	Issue: editorial responsibility
	(2) The Licensee's discretion in selecting programmes must be exercised responsibly and in good taste. In particular, nothing should be selected for broadcasting that is: (a) contrary to law, including the Communications Act, the Broadcasting Act and regulatory or other measures issued by URCA; or (b) contrary to this Code.	Issue: editorial responsibility
2.2	Every Licensee shall ensure that all of its employees and agents involved in any matter covered by this Code on the Licensee's behalf are provided with a copy and made aware of the provisions of this Code, which shall be readily available to such persons at all times.	ok
2.3	All contracts entered into by or on behalf of a Licensee for the broadcasting of programming or advertisements shall be made subject to and comply with this Code.	Issue: editorial responsibility
2.5	(1) Every Licensee shall cause each of its broadcasting stations to be identified to its audience as follows: (a) at frequent intervals during the course of transmissions, including those made for tests, adjustments or experiments, commencing at the beginning and concluding at the end of each transmission period of operation, otherwise at least four (4) times each day, one of which must be during each of the following time periods: 12:00 AM (midnight) to 6:00AM, 6:01AM to 12:00PM (noon), 12:01PM to 6:00PM, and 6:01PM to 12:00AM (midnight); and (b) preferably within the period from five minutes before to five minutes after the hour, at a natural break in programming. Licensee may make these announcements aurally (for radio) and visually (for television).	CBL will only be able to comply with this requirement on stations that it has the permission to insert advertisements. All other stations we will not be able to comply with this requirement.
	(2) Official station identification shall consist of: (a) the name of the Licensee; (b) the broadcasting station's radio frequency or channel number as stated on the station's Licence; and (c) the broadcasting station's call letters, call sign or station identification immediately followed by the community or communities specified in its Licence as the station's territorial location.	CBL will only be able to comply with this requirement on stations that it has the permission to insert advertisements. All other stations we will not be able to comply with this requirement.



2.6	(1) All broadcasts must conform to any technical standards published by URCA in accordance with section 58(b) of Communications Act.	
	(2) Any person or entity wishing to have content broadcast by a Licensee may be required by the Licensee to submit that content to the Licensee concerned: (a) in completed form, ready for broadcast (including a typed copy of the script if required); (b) up to ninety six (96) hours before the time when that advertisement or programme is to be broadcast; and (c) where relevant, pre-recorded and in a form and manner that complies with technical standards acceptable to that Licensee.	
	(3) Every Licensee that intends to adopt technical standards as contemplated by Clause 2.6(2)(c) of this Code shall, by no later than 1 st March 2012 and thereafter at least two months prior to the Licensee making any charges thereto, submit such technical standards for URCA's non-objection. URCA may, if it considers a Licensee's technical standards are unreasonable, direct that Licensee in writing to amend its technical standards.	
	(4) Every Licensee to whom content has been submitted by any person or entity for broadcast shall be entitled to refuse to broadcast that content if it does not comply with URCA's or the Licensee's technical standards, this Code or any written law in The Bahamas.	
2.7	(1) Any promotions of the Licensee's programming must comply with the requirements for the watershed and the other rules in this Code during the time period in which such promotion is broadcast, regardless of the brevity of the promotion.	Issue: editorial responsibility
	(2) If, in the promotion for a programme, a Licensee includes an advisory that the programme contains material which may seriously distress or seriously offend the audience, then that advisory must comply with the requirements of Clause 5.10 of this Code for the period in which it is broadcast.	Issue: editorial responsibility
	(3) Where a Licensee broadcasts any preview or trailer, the Licensee must ensure that such previews or trailers meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such previews or trailers carry such classifications and/or advisories as are required by this Code.	Issue: editorial responsibility

Question 3: Do you agree with URCA's proposals in Part 3 of the draft Code of Practice regarding underlying principles and positive rules? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

	PART 3 : Underlying Principles for Broadcasting in The Bahamas	Comments
3.1	(1) Without limitation to the specific rules set out elsewhere in this Code, Licensees shall in the selection, preparation and scheduling of programming for broadcast via any means of electronic communications, seek to provide content which is consistent with the standards of good taste and decency which are generally prevalent and accepted in Bahamian society.	Issue: editorial responsibility



	(2) Consistent with the principles set out above, Licensees shall seek to avoid the broadcast of content which would be considered by the general public in The Bahamas to be harmful, abusive, discriminatory or otherwise contrary to the standards of taste and decency which generally obtain in Bahamian society.	Issue: editorial responsibility
3.2	Recognizing that the public has varied tastes in programming material, every Licensee is encouraged to ensure that, as far as possible, programmes with a Bahamian-based focus are broadcast on a regular basis, taking into account Bahamian interests and concerns and ensuring that such programmes conform to this Code.	
3.3	Every Licensee is encouraged to broadcast programming that serves the diversity of interests within The Bahamas and different audiences within The Bahamas.	
3.4	Licensees are encouraged to provide educational broadcasts to the extent practicable within their programming schedules to augment the educational and cultural influences of schools and other educational and cultural institutions in The Bahamas.	
3.5	Licensees who solely or primarily broadcast musical items are encouraged to include within their programmes music performed by Bahamians.	

Question 4: Do you agree with URCA’s proposals in Part 4 of the draft Code of Practice regarding Law and Order, Harmful and offensive content and religious programming? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

	PART 4: Harm and Offence	Comments
4.1	<p>(1) The following categories indicate material which is of a criminal nature that will invariably be unsuitable for broadcast:</p> <p>(a) material which:</p> <ul style="list-style-type: none"> (i) is reasonably likely to encourage or incite the commission of a crime; (ii) is reasonably likely to lead to public disorder; (iii) threatens harm or evil; (iv) presents detailed depiction of the use of illegal drugs, or instruction in or encouragement of illegal drug use; (v) advocates or promotes hatred in any form (up to and including genocide) against, or vilifies, any person or identifiable group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or physical or mental disability; (vi) circulates or makes available false information regarding the outbreak of a deadly or contagious disease. <p>(b) descriptions or demonstrations of criminal techniques</p>	Issue: editorial responsibility



	<p>which:</p> <ul style="list-style-type: none"> (i) contain essential details that could enable the commission of a crime; (ii) explain criminal techniques that might invite imitation; (iii) prejudice the success of attempts to deal with, detect or prevent crime; (iv) endanger the security of The Bahamas; (v) amount to propaganda for war; (vi) could endanger lives; (vii) prejudice the success of attempts to deal with hijacking or kidnapping. <p>(c) a programme which, when considered in all of its circumstances, falsely simulates news or events in such a way as to mislead or alarm the public.</p>	
	(2) Save for sub-Clauses 4.1(1)(a)(i), (iv), and 4.1(1)(b)(iii), (vi) and (vii), exceptions to the provisions of Clause 4.1(1) of this Code may be justifiable during the watershed in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious or educational purpose or where the depiction or demonstration is non-explicit.	Issue: editorial responsibility
	(3) Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.1(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classification and/or advisories as are required by this Code.	Issue: editorial responsibility
4.2	(1) The Licensee shall not broadcast information about any person or undertaking or any event which is correct, untrue, or misleading, and which the Licensee knew, ought to have known, or would have discovered through reasonable investigation, to be incorrect, untrue or misleading.	Issue: editorial responsibility
	(2) Where a Licensee discovers that incorrect, untrue or misleading information has been broadcast, the licensee shall take steps immediately to broadcast a correction of the information, and shall broadcast an apology to any person about whom the incorrect or misleading information was broadcast. The Licensee shall transmit the correction and apology at a time or times and in such a manner as is likely to reach as much as possible of the audience that would have seen or heard the original broadcast.	Issue: editorial responsibility.
	(3) Where a third-party (for example, a caller on a call-in talk show) does not comply with the rules set out in this Code and such non-compliance is broadcast, the Licensee shall promptly terminate the broadcast of such content and immediately during the programme or as soon as possible thereafter make an apology and correction.	Issue: editorial responsibility



	(4) Humorous or satirical programmes shall not be in breach of the rules contained in this Clause so long as the humorous or satirical intent is clear to any reasonable person. However, this Clause does not permit the use of threats toward any individual or group of persons.	
4.4	<p>(1) A Licensee may not broadcast material which contains a scene or scenes, simulated or real, of any of the following:</p> <ul style="list-style-type: none"> (i) child pornography; (ii) bestiality; (iii) incest or rape; (iv) violent sexual conduct; (v) explicit sexual conduct which violates the right to human dignity of any person in the sense that it advocates a particular form of hatred based on gender or which degrades a person or which constitutes incitement to cause harm; (vi) the infliction of or explicit effects of extreme violence which constitutes incitement to cause harm; (vii) the depiction of exploitative or non consensual sexual relations as being desirable; or (viii) participating in, engaging in or assisting another person to engage in sexual conduct or a lewd display of nudity by a person who is, or who is depicted as being, under the age of 18 years. 	Issue: editorial responsibility
	(2) Save for the content described in Clause 4.4(1)(a), (b), (e) and (h), exceptions to the provisions of Clause 4.4(1) of this Code may be justifiable during the watershed in the context of programmes with legitimate cultural, historical or educational purpose provided that the depiction or demonstration is as limited and non-explicit as possible having regard to the context, and that it does not present the conduct as being desirable or socially acceptable.	Issue: editorial responsibility
	(3) Care should be taken at all times when scheduling programmes containing material not listed in Clause 4.4(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes outside or in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that any such programmes broadcast meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classification and/or advisories as are required by this Code.	Issue: editorial responsibility
4.5	Methods of suicide and self-harm must not be included in programmes broadcast outside the watershed under any	Issue: editorial responsibility (a)



	circumstances, and during the watershed except in exceptional circumstances where they are editorially or contextually justified.	
4.10	(1) Licensees shall not broadcast programming material that sanctions, promotes or glamorizes any aspect of violence against women.	Issue: editorial responsibility
	(2) Licensees shall ensure that women are not depicted as victims of violence unless the violence is integral to the subject of the report. Licensees shall be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence.	Issue: editorial responsibility
4.11	(1) Licensees shall not broadcast programming material that sanctions, promotes or glamorizes violence based on race, nationality, ethnicity, religion, gender, sexual preference, age, or mental or physical disability.	Issue: editorial responsibility
	(2) Exceptions to the provisions of Clause 4.11(1) of this Code may be justifiable outside the watershed, in the context of programmes with a legitimate humorous, dramatic, satirical, cultural, religious, historical, medical or educational purpose provided that the representation is limited and non-explicit.	
	(3) Care should be taken at all times when scheduling programmes containing material listed in Clause 4.11(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that apply to all programming broadcast under this Code, and that, where applicable, such programmes carry such classifications and/or advisories as are required by this Code.	Issue: editorial responsibility
4.12	(1) Licensees shall not broadcast programming material that sanctions, promotes or glamorizes violence against animals. However, Licensees shall not be restricted in the television broadcast of legally sanctioned sporting and other activities associated with animals. In such broadcasts, judgment shall be used in the selection of video and associated audio, particularly if the broadcast is outside of the watershed.	Issue: editorial responsibility
	(2) Exceptions to the provisions of Clause 4.12(1) of this Code may be justifiable outside the watershed in the context of programmes with a legitimate historical, medical or educational purpose or where the representation is non-explicit.	
	(3) Care should be taken at all times when scheduling programmes containing material listed in Clause 4.12(2) of this Code, bearing in mind the likely audience for the channel at that time. Particular care should be taken when scheduling such programmes in close proximity to the beginning or end of the watershed. Licensees are reminded to ensure that such programmes meet the same standards of scheduling and content that applies to all programming broadcast under this Code, and that, where applicable, such programmes carry such classification and/or advisories as are required by this Code.	Issue: editorial responsibility



Question 5: Do you agree with URCA’s proposals in Part 5 of the draft Code of Practice regarding the protection of young persons and a television programme classification system? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

5.7	(1) Is a contributor to a programme or a participant in an advertisement is under eighteen (18) years of age, the Licensee shall obtain consent or shall ensure that the producer of the programme or advertisement, or someone acting on behalf of the Licensee or the producer has, as the case may be, first obtained consent to the contributor’s or participant’s participation in the programme or advertisement from a parent or guardian or other person of eighteen (18) or over in loco parentis to the contributor. In particular, Licensees or producers should not ask persons under eighteen (18) years for his or her views on matters likely to be beyond their capacity to answer properly without such consent.	Issue: editorial responsibility
	(2) Children must not be caused unnecessary distress or anxiety by their involvement in programmes or advertisements.	Issue: editorial responsibility
5.8	(1) Where children are accused or convicted of crimes, Licensees shall avoid broadcasting the children’s names and/or images.	Issue: editorial responsibility
	(2) In reporting certain kinds of crime, such as sexual assaults or incidents involving children, Licensees must ensure that degree of explicit detail is appropriately matched to the probable presence of children listening or viewing, having regard to the time period of the broadcast.	Issue: editorial responsibility
	(3) In reporting certain crimes, such as sexual assaults or incidents involving children, Licensees must take into account the need for protection of the children involved. Steps should be taken to minimize psychological trauma to children.	Issue: editorial responsibility
5.9	The provisions of Clauses 5.1 to 5.6 of this Code shall not apply to content delivered via a carriage service, provided that the Licensee providing such services shall take all reasonable steps to: <ul style="list-style-type: none"> (a) Inform the adult subscriber through classification and/or advisories as are required by this Code of the nature of the programming and the fact that such programming may not comply with all provisions of this Code; and (b) Ensure that an adequate parental control mechanism has been implemented in conjunction with the advisory and classification system set out in Clause 5.10 and 5.11 of this Code, which would enable adult subscribers to prevent access to unsuitable content by children; and (c) Provide appropriate training, instructional materials, and assistance to subscribers regarding the use and operation of parental control mechanisms, and guidelines as to maintenance of security from accidental or unsanctioned use by minors. 	
5.10	(1) Warnings and advisories should be given when any radio or television programming includes broadcasts of mature subject	Issue: editorial responsibility



	<p>matter or scenes with nudity, sexually explicit material, violence, coarse or offensive language, or other material which may cause offence. The rules in this Clause apply to all content but do not prejudice the limitations set out in other parts of this Code in the broadcast of any type of content.</p>	
	<p>(2) Licensees shall warn or advise television viewers on screen in advance and at frequent intervals throughout the programme when broadcasting any content which:</p> <ul style="list-style-type: none"> (a) Contains scenes of extraordinary violence; or (b) Includes graphic reporting on sensitive subject matters; or (c) Includes the personal views of presenters or reporter. 	<p>Issue: editorial responsibility</p>
	<p>(3) Where necessary, Licensees shall also include an advisory or warning that a programme contains material, which may seriously distress or seriously offend the audience and/or is unsuitable to children, and that advisory or warning must comply with every requirement in this Code for the time period in which it is broadcast.</p>	<p>Issue: editorial responsibility</p>
	<p>(4) Licensees shall appropriately classify programmes in accordance with Clauses 5.10 and 5.11 of this Code so that the programmes:</p> <ul style="list-style-type: none"> (a) Do not deceive or disadvantage the audience; or (b) Are not presented in such a way as to cause panic, unwarranted alarm or undue distress to the audience. 	<p>Issue: editorial responsibility</p>
	<p>(5) Licensees shall, in addition to the advisories, required in sub-Clauses 5.10(1) and 5.10(2) of this Code, display the appropriate classification on-screen for classification system set out in Clause 5.11 of this Code.</p>	<p>Issue: editorial responsibility</p>
	<p>(6) A classification symbol of at least 32 television lines in height, in a readily legible typeface, must be displayed at the bottom right of the television screen for at least 3 seconds at the following times:</p> <ul style="list-style-type: none"> (a) as close as practicable to the programme's start; (b) as soon as practicable after each break; (c) in any promotion for the programme (except for radio or outdoor advertising). 	<p>Issue: editorial responsibility</p>



	<p>(7) Licensees shall maintain the following broadcasting standards in the preparation and presentation of content that subscribers pay a fee to receive:</p> <ul style="list-style-type: none"> (a) Viewers shall be informed by regular and consistent advisories about programming broadcast (including classifications and warnings) and filtering technology. (b) Classifications shall be available for all programming except for advertisements. (c) If available, classifications should be shown on-screen at the beginning of programmes and following any breaks for advertisements, be included in any electronic programme guides, in any relevant promotional material and in any accompanying printed guides where Licensees make such classifications available to the publishers of these printed guides. (d) Visual warning and advisories should also be available. When used, verbal warnings should screen at the start of the programme, with accompanying text and also following any breaks for advertisements. (e) Filtering technology shall be made available on the basis that subscribers elect to use it, provided that a subscriber is easily able to initiate use at any time through the television remote control or similar device. 	<p>Not clear if this is the overriding standard should apply to carriage, content services and on-demand audiovisual services</p> <ul style="list-style-type: none"> (b) Issue: editorial responsibility (c) Issue: editorial responsibility (d) Issue: editorial responsibility (e) ok
	<p>(8) A Licensee shall ensure, so far as it is able to, that programming broadcast or carried by its is classified for viewing or listening in accordance with this Code or under a comparable Code or regime in the country where the programming or broadcast originated.</p>	<p>ok</p>
<p>5.11</p>	<p>Television Programme Classification System</p>	

Question 6: Do you agree with URCA’s proposals in Part 6 of the draft Code of Practice regarding election broadcasts and advertising, other aspects of election broadcasts and political advertisements and operational matters in elections, referendums and political broadcasts? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: CBL believes that the by context the Part 6 could only apply to Bahamian elections and therefore would not be applicable to the content services.

Question 7: Do you agree with URCA’s proposals in Part 7 of the draft Code of Practice regarding advertising, sponsorship and non-programming material? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: not applicable

Question 8: Do you agree with URCA’s proposals in Part 8 [and Part 9] of the draft Code of Practice regarding accuracy and impartiality, fairness and privacy, national



emergencies and disasters, miscellaneous news and factual material in news and factual programmes? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

	PART 8: News and Factual Programmes	Comments
8.1	(1) Licensees are required to ensure that the content of news, current affairs and other factual programmes, including matters which are of local, national or international public importance, matters relating to political or industrial controversy or matters relating to current public policy, are accurate, truthful, unbiased, and presented objectively and with due impartiality.	Issue: editorial responsibility
	(2) Views, facts and content dealing with controversial issues of public importance should be balanced, and must not be misrepresented or aim to mislead the audience. Where possible, adequate evidence should be included in the programmes to support the views that are being presented.	Issue: editorial responsibility
	(3) Licensees shall ensure that they have adequate evidence or information to support the accuracy of news, current affairs and factual programming produced by them.	Issue: editorial responsibility
	(4) When reporting statistics in news, current affairs and factual programmes, Licensees shall present such statistics in a manner which accurately reflects the results, and the source of the statistics must be stated.	Issue: editorial responsibility
8.2	(1) Licensees shall not intentionally, through negligence, or otherwise depart from the facts, distort, exaggerate. Misrepresent or make material omissions in the content of news, current affairs and other factual programmes or broadcasts information that they know to be false or inaccurate.	Issue: editorial responsibility
	(2) Licensees shall be required to ensure the ending of interviews or footage does not distort or misrepresent subjects or their views. Interviews may be edited provided that the meaning of the interview is not changed or misrepresented.	Issue: editorial responsibility
8.3	Licensees shall acknowledge and publicly correct errors of fact at the earliest opportunity. Such corrections shall be appropriately scheduled in the same or a similar time period so as to reach an audience similar to the audience that originally received the misinformation.	Issue: editorial responsibility
8.4	(1) Licensees shall be required to clearly distinguish the reporting and analysis of news, current affairs and factual information from commentary and opinion, including programmes that present authored views may include the opinions of a journalist, commentator or academic with professional expertise or a specialty in an area.	Issue: editorial responsibility



	(2) Licensees may present commentary and opinion, including personal views or authored programmes as a part of their news, current affairs and factual programming, but the commentaries and opinions must carry such aural and/or written advisories as are required by this Code and must be kept distinct and apart from the Licensee's news, current affairs and factual programmes.	Issue: editorial responsibility
	(3) Except in the case of political or special-interest opinion, the background details to the Licensee's analysis, and opinion referred to in Clause 8.4(2) must be based, as appropriate, on the most reliable scientific data, available evidence, sound social concepts, or expert opinion.	Issue: editorial responsibility
8.5	(1) Licensees shall make clear to the audience, through aural and/or written advisories as required by Clause 5.10 of this Code, that the personal views of presenters or reporters, which may call into question the impartiality of a programme, are actually commentaries by such presenters or reporters.	Issue: editorial responsibility
	(2) Subject to Clause 8.5(1) of this Code, presenters (including the presenters of "personal views" or "authored" programmes or items), reporters, and the hosts of discussion programmes may express their own views in news, current affairs and factual programmed on matters which are of local, national or international public importance, including matters relating to political or industrial controversy or matters relating to current public policy. However, subject to Clauses 8.1, 8.11, 8.18 and 8.20 of this Code, the Licensee should provide an opportunity for alternative viewpoints to be adequately represented in the programme.	Issue: editorial responsibility
8.6	(1) Licensees are encouraged to cover controversial issues or events that carry elements of public interest, in recognition that healthy controversy is essential to the maintenance of democratic institutions. Subject to Clauses 8.1, 8.11 and 8.20 of this Code, Licensees should ensure, so far as they able, that for subjects of a controversial nature, all viewpoints represented in the programme are treated fairly and in a balanced manner and given appropriate airtime.	Issue: editorial responsibility
	(2) Licensees are responsible for ensuring that the coverage of controversial events and issues meet the same standards of scheduling that applies to all programming broadcast under this Code. Where necessary, the Licensee is responsible for handling such programmes in a sensitive manner and for ensuring that it carries such classifications and/or advisories as are required by Clause 5.10 of this Code.	Issue: editorial responsibility
	(3) In exercising their discretion to cover controversial events and issues, Licensees should take into consideration that because certain subject matter or issues may be offensive to some persons within the community, this is not a justification for excluding the subject matter or issues from coverage in a	Issue: editorial responsibility



	programme.	
8.7	(1) Licensees, any of their employees and independent producers of news broadcasts are prohibited from direct or indirect payment, promise of payment or payment kind to: (a) subjects or sources, including convicted or confessed criminals or any other person relating to his or her crimes(s); or (b) witness or any other person reasonably expected to testify as a witness in an active or likely and foreseeable criminal proceeding and whether dependent on the outcome of the trial or not; or; (c) convicted or confessed criminals and persons with a nested interest in the subject matter of a news report.	
	(2) Neither a Licensee, nor its agents or employees, shall accept financial compensation from anyone who seeks to influence news coverage. The Licensee should take all reasonable steps to ensure compliance with this rule.	
8.8	(1) Licensee shall make every effort to ensure that news is attributed on the record.	Issue: editorial responsibility
	(2) Confidential sources should be used only if: (a) it is clearly in the public interest to gather important information; or (b) it conveys important information; or (c) a person providing information might be harmed.	Issue: editorial responsibility
	(3) Licensees should take special care to ensure the veracity of the information provided by such confidential sources.	Issue: editorial responsibility
8.9	Exceptions to the rules in Clauses 8.1 to 8.6 of this Code shall be permitted for humour, satire, parody or fictional purposes, provided that it is clear that the programme is of a humorous, fictional or satirical nature, and is therefore not genuine news.	
8.10	(1) Licensees must avoid unjust or unfair treatment of individuals or organizations in programmes.	Issue: editorial responsibility
	(2) People and organizations taking part or referred to in programmes should be dealt with fairly. The participants should, except as required in the public interest, be informed of the nature of their participation. Licensees should respect the right of individuals to express their own opinions.	Issue: editorial responsibility
8.11	(1) Licensees and the broadcast journalists that they employ shall respect the dignity, privacy and well-being of everyone with whom they deal, and will make every effort to ensure that news gathering and reporting do not unreasonably infringe privacy except when it is justified in the public interest.	
	(2) Insofar as both news and comment are concerned, Licensees shall exercise exceptional care and consideration in matters involving the dignity or private lives and private concerns of individuals, bearing in mind that the rights to dignity and privacy may be overridden by a legitimate public interest.	Issue: editorial responsibility
8.12	Licensees shall be required to avoid disclosing individuals' private details, such as the location of their home or family details, except where justified in the public interest.	



8.13	(1) Exceptions to the rules in Clauses 8.12 shall only be permitted when it is justified in the public interest and only when made with the relevant individual's or organization's consent.	
	(2) Licensees may record telephone calls between employees of the Licensee and another party only if the Licensee has, from the outset of the call, identified themselves and their broadcasting station, explained the purpose of the call and that the call is being recorded for possible broadcast (if that is the case). If at a later stage it becomes clear that a call that has been recorded will be broadcast (but this was not explained to the other party at the time of the call) then the Licensee must obtain consent from the other party before broadcast, unless in the circumstances of the call the Licensee reasonably believes it is not necessary to do so.	
8.14	(1) Licensees and the broadcast journalists that they employ shall treat people who are the subjects of news, current affairs or other factual programmes, or who are the sources of information for such programmes, with decency	
	(2) Disturbing or alarming material should only be broadcast when it is justified in the public interest.	Issue: editorial responsibility
8.15	(1) Licensees shall ensure that the content of news, current affairs and factual programmes are presented with sensitivity in the case of material likely to cause some distress to a substantial number of the audience, such as televised images of dead or seriously wounded people or animals, images or interviews with victims of traumatic incidents, or reporting on criminal activities of a traumatic nature. Such material should only be used when deemed editorially essential, and if so, sparingly, and have appropriate regard to the feelings of viewers and family members.	Issue: editorial responsibility
	(2) Licensees must use judgment and discretion in deciding the degree of graphic detail to be included in news, current affairs and factual programmes when children are likely to be watching. Warnings within such programmes should be used when appropriate.	Issue: editorial responsibility
	(3) Licensees must use special sensitivity when dealing with children and shall be sensitive to the depiction or involvement of children or vulnerable people. Particular sensitivity shall be shown to bereaved relatives, survivors and witnesses of traumatic incidents.	Issue: editorial responsibility
	(4) When dealing with the issue of violence, Licensees should exercise particular care and discretion.	Issue: editorial responsibility
	(5) When reports on executions and assassinations are broadcast, the coverage should not be explicit, prolonged, or repeated gratuitously.	Issue: editorial responsibility
	(6) Warnings before the broadcast of material of a potentially sensitive or traumatic nature must be spoken, and should also appear on-screen for television when a news, current affairs, or	Issue: editorial responsibility



	other factual programme includes material which in the Licensee's reasonable opinion has the potential to distress or offend a substantial part of the audience. The warning must precede the relevant report in a news or current affairs programme and precede the programme in other cases, particularly outside the watershed. Warnings must provide an adequate indication of the nature of the material, while avoiding details which may seriously distress or seriously offend viewers or listeners.	
	(7) Licensees shall employ discretion in the use of explicit or graphic language related to stories of destruction, accidents or sexual violence which could disturb children and sensitive audiences.	Issue: editorial responsibility
	(8) Licensees should ensure that journalists and other employees of Licensees strive to conduct themselves in a courteous and considerate manner when dealing with members of the public, keeping broadcast equipment as unobtrusive as possible and also to prevent their presence from distorting the character or importance of events.	
8.16	Licensees are prohibited from obtaining information, audio or pictures through misrepresentation or deception (including surreptitious filming or recording) except when there is a public interest ground for doing so.	
8.17	(1) Licensees shall offer individuals whose views are criticized in a news, current affairs or factual programme, or who are accused of wrongdoing or incompetence, a right to reply in the same programme.	Issue: editorial responsibility
	(2) If an individual makes no comment or refuses to appear in a broadcast and gives reasons for doing so, the Licensee shall make clear the individual's stated reasons for doing so together with the fact of the refusal.	Issue: editorial responsibility
8.18	Licensees reporting on violent situations or criminal activities must do so in a way that does not knowingly endanger lives, offer comfort and support or provide vital information to the perpetrator(s). Licensees must not contact either the victims or the perpetrators of a criminal activity or violent event during the course of the event for the purpose of conducting an interview in a manner which would interfere with police investigations or a peaceful resolution of the situation.	Issue: editorial responsibility
8.19	Licensees shall avoid unfairly singling out for identification individual persons or businesses when commenting on or criticizing the behaviour of groups of persons or businesses, but it is not unfair for a Licensee to correctly identify an individual person or business as part of that group if: <ul style="list-style-type: none"> (a) the Licensee is reasonably satisfied that the individual person or business engages in the behaviour commented on or criticized; or (b) the Licensee discloses to its audience that the individual person or business does not engage in the behaviour commented on or criticized. 	Issue: editorial responsibility



8.20	Licensees shall take all reasonable steps to ensure that murder or accident victims are not identified before their families have been notified by the police or other authorities.	Issue: editorial responsibility
8.21	Licensees shall ensure that the reporting of matters that are or may be before the courts do not interfere with the rights of individuals to a fair trial.	Issue: editorial responsibility
8.22	Licensees shall exercise care and discretion when reporting on suicides or attempted suicides and shall avoid detailed descriptions of methods used when doing so.	Issue: editorial responsibility
8.23	(1) Licensees shall broadcast emergency messages relating to hurricane warnings, floods, fires, national and local emergencies or disasters and other similar safety messages emanating from national or local government and national or local emergency service organizations free of charge.	Restricted to channels we can put information on
	(2) Licensees are required to broadcast emergency messages in a timely and accurate manner. Licensees broadcasting such messages shall have clear internal procedures in place to ensure coordination with emergency or essential service organizations.	Restricted to channels we can put information on
	(2) As a general guide, emergency or essential service organizations include Police, Fire, Ambulance, National Emergency Management Authority (NEMA), Water, and Electricity, Port or Health authorities and the Department of Meteorology. Licensees and appropriate emergency or essential service organizations should jointly identify, develop and maintain effective lines of communication.	
	(3) Licensees should: <ul style="list-style-type: none"> (a) consult with appropriate emergency and essential service organizations and implement internal procedures to ensure timely and accurate broadcast warnings and information supplied by such organizations relative to an existing or threatened emergency; and (b) ensure a designated person is identified by the Licensee as the contact officer during business and non-business hours for all matters relative to this Clause. 	
	(4) It is recognized that compliance by Licensees with the provisions of this Clause is dependent upon the co-operation of the emergency or essential services organizations. A Licensee will not be regarded as being in breach of this Code if any emergency or essential service organizations declines or fails to respond to a Licensee's request to consult or be provided with relevant information, and a Licensee will not be responsible for inaccurate information provided by any emergency or essential service organizations.	
8.24	(1) In the context of this Code, intellectual property means persons or undertakings who have been granted certain exclusive legal ownership rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs; and	



	includes copyrights, trademarks, patents, industrial design rights and trade secrets.	
	(2) Under this Code, plagiarism is unacceptable. Licensees and the broadcast journalists employed by them shall be expected to honour the intellectual property of others, including video and audio materials.	This has to be subject to the Copyright Act section 83(2) – allows us to broadcast over the air without permission.
8.25	(1) Licensees are encouraged to broadcast free of charge public service advertisements (also known as community service announcements) that are advertisements providing publicity for governmental agencies and registered charitable or community service organizations that primarily inform and educate the public by changing public opinion and raising awareness for a problem (such as safe driving, obesity, smoking, fitness, education, gambling addiction, alcoholism, drug addiction or safe sex) rather than sell a product or service.	
	(2) Public service advertisements shall, at the discretion of the Licensee, not exceed two (2) in any hour and their duration shall not exceed two (2) minutes at a time, such advertisements to be broadcast at times mutually agreed between the Licensee and the organization concerned.	
	(3) Licensees shall satisfy themselves that organizations applying for public service advertisements are genuine public sector organization, or registered charities or community service organizations, and that such organizations can demonstrate to the Licensee's satisfaction that they have the ability to cope with the response by the public to such advertisements	
	(4) Services described in public service advertisements should be free or for a nominal charge only. Public service advertisements publicizing commercial services are not acceptable.	
	(5) Public service advertisements may be accepted from religious bodies for a nominal charge provided the services publicized are solely for needy, destitute or underprivileged members of the public. Proselytizing is not permitted.	
	(6) Licensees shall treat public service advertisements the same as any other advertisement and such advertisements are therefore subject to all relevant provisions of this Code.	

	PART 9: Access Services	Comments
9.1	Licensees are encouraged to provide access services in their programming, including but not limited to news and current affairs television programmes.	
9.2	(1) Licensees broadcasting emergency, disaster or safety announcements are required to provide the essential information visually on television (in open captioning, leaving sufficient time to write the details down) and spoken on television and radio. This should include relevant contact numbers for further information.	
	(2) Licensees should, as far as possible, use sign language as one of their preferred forms of communication when	



	broadcasting emergency broadcasts, news and matters of national and international public importance on television.	
9.3	(1) Closed captioning (also known as subtitling) is English-language text on a television screen representing speech and sound effects that may not be audible to persons with hearing impairments, synchronized as closely as possible to the television soundtrack.	
	(2) Licensees should exercise due care in the presentation, lay-out, and non-speech information when broadcasting closed captioning, and must ensure that they have adequate procedures in place for monitoring the accuracy, speed and synchronization of their closed captioned broadcasts.	
	<p>(3) Closed captioning best practice guidelines which all Licensees providing closed captioning are encouraged to adopt are as follows:</p> <p style="padding-left: 40px;">(a) Presentation: closed captioning should use the CEA-708 designated screen fonts for all closed captions. Closed captions on standard and high definition television services should use either the EIA-608 standard ('Line 21') standard developed by the Electronic Industries Alliance (EIA) or the CEA-708 standard developed by the Consumer Electronics Association (CEA) for closed captioning for National Television System Committee (NTSC) and Advanced Television Systems Committee Inc. (ATSC) analogue and digital television broadcasts in the United States and Canada. URCA also recommends that providers of audiovisual media services, carriage services content services and on-demand audiovisual media services adhere to the same equipment standards used to render closed captioning. Licensees and service providers are encouraged to use anti-aliasing techniques to help make the appearance of closed captions clearer. Closed captions should be placed within the 'safe caption area' of a 14:9 display and should normally occupy the bottom of the screen, except where they would obscure the speaker's mouth or other vital information or activity. It is particularly important to avoid obscuring the face, as this convey emotions and tone of voice, as well as being necessary for lip-reading;</p>	



(b) **Pre-recorded and live closed captions/subtitles:** pre-prepared block closed captions is the best approach to providing accurate, easily legible and well-synchronized closed captioning and should be used for pre-recorded programmes. Recommended colours are white, yellow, cyan and green against a solid black background as these provide the best contrast. When scrolling closed captions need to be used, any scripted material should be used for advance preparation. In addition to achieving the highest possible levels of accuracy and synchronization, live closed captioning should flow continuously and smoothly;

(c) **Lay-out:** closed captions should normally comprise a single sentence occupying no more than two lines, unless three lines will not obscure the picture. If necessary, sentences should be broken or reformed into more than one sentence at natural linguistic breaks so that each caption forms an understandable segment. Where breaks occur, the split should be made in a way that makes clear that there is more to come. This can be achieved by ending the first caption with a conjunction, a colon or semi-colon as appropriate, or even a short run of dots. Line breaks within a word must be avoided;

(d) **Non-speech information:** in addition to speech, closed captioning should clearly describe relevant non-speech information, such as the mood of any music playing and the words of songs if possible (using the # sign to precede and conclude music), louder speech (using capital letters), inaudible mutterings or incoherent shouts, etc. (which should be explained as such). Captions should be displayed horizontally in the direction of any sound effects, and where the source of speech is not immediately apparent the first caption should have a caption to label the source. Italics or punctuation marks may be used to indicate emphasis. Where long speechless pauses in programmes occur, an explanatory caption should be inserted. Different colours should be used to denote different speakers. Captions should be used to identify the source of off-screen/off-camera speech where this is not obvious from the visible context;

(e) **Synchronization of speech and closed captioning:** the aim should be to synchronize speech and closed captioning as closely as possible. Caption appearance should coincide with speech onset and disappearance should coincide roughly with



	<p>the end of the corresponding speech segment. If necessary, closed captioning may be edited conservatively if this is necessary to avoid long delays between speech and closed captioning;</p> <p>(f) Speed of closed captioning: the speed should not normally exceed 160 to 180 words per minutes (wpm); closed captioning faster than 200 wpm would be difficult for many viewers to follow. Consideration may be given to displaying three lines of captioning rather than two, to allow a longer period for the subtitles to be read, provided that this does not obscure important parts of the picture. Slower speed and more heavily edited closed captioning are appropriate for young children, though care should be taken to ensure that these are accurate and grammatical, as children and parents use closed captioning in developing literacy skills;</p> <p>(g) Accuracy: closed captioning users need to be able both to watch what is going on, and to read the captioning, therefore it is important that these are as accurate as possible so that viewers do not need to guess what is meant by an inaccurate caption; and</p> <p>(h) Publicity: the word 'Subtitles' should be displayed legibly on the screen at the start of the programme.</p>	
	<p>(4) Licensees providing closed captioning must ensure that the availability of closed-captioning for individual television programmes is clearly indicated in station and on-screen programme guides, programme promotions and at the start of any programme, and the Licensee must provide information on closed captioning for inclusion in press advertising, where relevant.</p>	<p>Issue: editorial responsibility</p>
	<p>(5) Licensees must provide adequate advance warning to hearing-impaired viewers if scheduled closed captioning programmes cannot be broadcast. If technical problems prevent this warning being provided in closed captioned form, it must be given in open captioned form as soon as reasonably practicable before the programme begins.</p>	<p>Issue: editorial responsibility</p>
<p>9.4</p>	<p>Signing best practice guidelines which all Licensees providing signing are encouraged to adopt are as follows:</p>	



	<p>(a) Language: English should be the default language for signed programmes. However, Licensees may also use other forms of sign language where consultation with disability groups has indicated that this would be acceptable. So far as possible, interpretation and voice-overs of signed programmed should be synchronized with the original speech/sign language;</p> <p>(b) Presentation: signed programmes may be presented or interpreted into sign language. Signed programmes, whether presented or interpreted in sign language, should be close captioned, to make it easier for people using both signing and closed captioning to understand and enjoy them;</p> <p>(c) Signers: sign language presenters, reporters and interpreters should be appropriately qualified, both to use sign language of native competency, and to communicate effectively through television. Some latitude is allowed for guests and interviewees, though broadcasters should ensure that they are understandable. The signer should use a style of interpretation and wear clothing that is appropriate to the style of the programme. It is important that signers' clothing allows them to be seen distinctly against the picture;</p> <p>(d) Size of image: the image of the signer superimposed upon the original programme should generally appear on the left side of the screen and occupy a space no smaller than one sixth of the picture size;</p> <p>(e) Techniques: the signer should use appropriate techniques to indicate whose speech he or she is interpreting, and to draw attention to significant sound effects (if any);</p> <p>(f) Delivery: different methods of delivery are permissible, provided that the provision of sign language complies with these rules, and it is available in a form that is accessible to all viewers who want it, without the need to purchase special equipment or services. For example, Licensees may choose to use interactive services to provide a signed version of a programme simultaneously with an unsigned version, provided the interactive option is publicized at the beginning of the programme, is full-screen and complies with the standards set out in these rules. Licensees may also use 'closed' signing should this become feasible. However, the requirement for accessibility would preclude the use of Internet Protocol Television to provide signed programmes, unless viewers had the necessary equipment or were provided with it free-of-charge. In any case,</p>	
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	Licensees who wish to use new forms of delivery should first consult URCA and groups representing persons with hearing or visual impairments.	
9.5	(1) Licensees are encouraged wherever possible, but not required, to provide audio description of their television programming.	
	(2) Licensees providing audio description are required to: <ul style="list-style-type: none"> (a) display a standard audio description video logo and broadcast an audio announcement indicating the presence of audio described video before the broadcast of each audio described programme; (b) repeat the announcement and logo following each commercial break; and (c) make information available regarding the audio described programmes that they will broadcast; and 	
	(3) Audio description best practice guidelines which all Licensees providing audio description are encouraged to adopt are as follows: <ul style="list-style-type: none"> (a) What to describe: to the extent relevant to the storyline, audio description should describe characters, locations, time and circumstance, any sounds that are not readily identifiable, on-screen action, and on-screen information; (b) What not to describe: the description should only provide information about what can be seen on the screen. Information unavailable to the sighted viewer should not be added though discretion is always necessary. 'A concrete bridge over some ships in a waterway' would fall short if the sighted audience sees Nassau's Paradise Island Bridge at Potter's Cay, even without an identifying caption. Generally, descriptions such as camera angles should not be used; (c) When to describe: audio description should not encroach on dialogue, important or complementary sound effects, or critical sound effects unless really necessary. Even then, audio description should only be used to impart relevant information when the dialogue or other sound is negligible or to read closed captioning or on-screen captions. To differentiate between closed captioning and audio description, the describer should do this by either the use of their voice (for example, stating the obvious, 'He says in Haitian...' or 'A caption reads...') or a second voice. During opening titles and end credits, care should be taken to avoid clumsy overlaps with song lyrics. During songs, audio description should ideally pause where there is a reprise of the lyrics and where the lyrics are not relevant to the storyline; (d) Language: audio description provides a real-time 	



commentary, so it should generally be in the present tense ('he sits'), the continuous present ('he is sitting') or the present participle ('Standing at the window, he lets out a deep sigh'), as appropriate. Variety is important, particularly with verbs. 'She scoots into the room' rather than the simple fact 'She enters the room' creates a clearer image for the viewer (a Thesaurus is always useful). Adverbs are useful shorthand to describing emotions and actions, but should not be subjective. Vocabulary should be matched to the genre of the programme, and should be accurate, easily understood, and succinct;

- (e) **Delivery:** delivery should be steady, unobtrusive and impersonal in style (but not monotonous), so that the personality and views of the describer do not colour the programme. Avoid terms such as 'we see'. However, it can be important to add emotion, excitement, lightness of touch at different points in different programmes to suit the mood and the plot development - the style should be matched to the genre of the programme. Diction should be clear and not hurried - every word should be clear, audible and timed carefully so that it does not overrun subsequent dialogue. The aim should be to enhance the enjoyment of a programme, not to distract from it;
- (f) **Balance:** judgment is needed in striking an appropriate balance between the amount of detail that is conveyed and the risk of overburdening the audience with detail and detracting from the enjoyment of the programme. Too much description, even where there is a lot of space for description, can make it difficult for viewers to absorb information. The programme should be allowed to 'breathe'. On the other hand, long gaps in the dialogue may need to be explained if the viewer is not to be left confused (for example, 'the cowboy rides across the prairie into the distance'). If a time slot available for audio description is short, it is better to focus on key moments and dynamics rather than to rush the description or fill every available moment. For example, it may be distracting in dance or fight scenes to describe every piece of action. A consistent approach is important: if a description starts out as detailed, it should not suddenly become limited;
- (g) **Describers:** describers should be chosen to fit the genre, the nature of the programme and the intended audience. Ideally, the same people should be used to describe a series of programmes, both to ensure a consistent style (for example, in terms of level of detail) and because the description forms a part of the programme for users;



	<p>(h) Children's programmes: language and pace of delivery for children's television programmes need particular care, having regard to the age and background of the target audience, as well as feedback from children and their parents. A more intimate style may be appropriate than would be the case for programmes aimed at adults;</p> <p>(i) Publicity: periodic announcements should be made about programmes with audio description;</p> <p>(j) Characters: identifying and describing characters is vital to effective audio description. Key features should be identified as soon as practicable, to help identify the person in the listener's mind's eye and avoid the need for long-winded and confusing descriptions (for example, 'the tall man' or 'district attorney Lopez'). But the describer should not give the name away if the plot requires the character's identity to be revealed at a later date. When describing characters, aspects such as dress, physical characteristics, facial expression, body language, ethnicity and age may be significant. Describers should not shy away from using colours or describing a character as pretty, or handsome, where relevant to the story. Generally names (rather than 'he' or 'she') are used more often than in normal speech, so as to avoid confusing the audience, particularly when there are several people taking part in a dialogue;</p> <p style="padding-left: 40px;">(k) On-screen action: wherever possible, the describer should try to describe at the same time as the action occurs. This is particularly important with regard to comic situations, where the audience, sighted and visually impaired, should be able to laugh at the same time. Where relevant, key back-references can be included. It may be necessary to set up the next scene during the current description;</p> <p style="padding-left: 40px;">(l) Settings: when describing locations, the describer should try to cover scene changes where possible; the locations (including scene changes wherever possible); the time of day/season/date setting where appropriate; any sounds that are not readily identifiable; and on-screen information (for</p>	
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	example, signs, hieroglyphics, open subtitles for foreign languages, captions, and opening and closing credits). The description should not censor what is on screen. However, it should not be necessary to use offensive language, unless (for example) when referring to content that is integral to understanding the programme, such as graffiti scrawled on a wall.	
9.6	Licensees are required to consult periodically with groups representing persons with hearing or visual impairments on issues such as the quality of access services, and the selection and scheduling of programs. To facilitate feedback from access service users, Licensees should also provide contact details on their websites, including e-mail addresses, telephone and text phone numbers. Licensees should monitor and respond to this feedback.	
9.7	Licensees are encouraged to provide URCA, by 31 st January in each calendar year, or upon request, with data on the volume of programmes for which they have provided each kind of access service during the preceding calendar year, grouped by genre such as news, factual programmes, current affairs programmes, dramas, comedies and so forth.	

Question 11: Do you have any further comments to make on the proposals in this consultation document that are not covered or raised by the other consultation questions?

Respectfully submitted



Judith Smith
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