



**cablebahamas**

**THREE YEAR STRATEGY & ANNUAL PLAN FOR 2012**

**ECS 24/2011**

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

**February 3, 2012**

**by  
Cable Bahamas Ltd.**



Cable Bahamas Ltd, Caribbean Crossings Ltd. and Systems Resource Group Limited (collectively, "the Companies") hereby submit their comments on the draft Three Year Strategy and Annual Plan for 2012.

### **Introduction**

The Companies continue their strong support for URCA in its role as an independent regulator. We reiterate the heavy responsibility this brings coupled with the unusually broad discretion that the statutory framework gives URCA in setting its budget. As part of independence and accountability it is incumbent upon URCA to ensure that its operations and programmes are efficiently managed and justified as a matter of need, priority and timing. The Companies are pleased to see that efficient and effective regulation remain amongst URCA's core guiding principles.<sup>1</sup>

Section 4(a) of the Communications Act speaks to enhancing the efficiency of the electronic communications sector as the first policy objective in that section. URCA itself is an important component of the sector and, as such, its own operations should be as efficient as possible. This efficiency objective is also inherent in subsections 5(b) (ii) & (c) of the Communications Act, which require URCA to have due regard to the costs and implications of regulatory measures on affected parties and to ensure that its regulatory measures are efficient. It goes without saying that such measures include (though they certainly are not limited to) the fees that URCA assesses to cover the cost of its own operations, programmes and activities.

Efficient administration should be a core focus of URCA's vision, mission statement and values, and should feature prominently as an element of URCA's strategic policies and self-evaluation process (*i.e.* evaluating efficiency as well as effectiveness) and integrated into all aspects of URCA's priorities and functions.

### **1. Industry overview vs URCA's Budget & Fees**

In reviewing the Draft Annual Plan and specifically URCA's budget, the projected budget continues to increase while the size of the sector continues a downward trend.

Based on 2008 figures URCA, in its first AOP, estimated that the size of the sector was approximately \$500 million or 6.6% of the country's Gross Domestic Product (\$7.564 billion).<sup>2</sup> In 2009 the sector was estimated at \$460 million or 6.2% of the GDP (\$7.42 billion)<sup>3</sup>. In 2010 URCA estimates that the size of the sector was approximately \$428 million or 5.7% of the country's gross domestic Product (GDP) (\$7.53 billion)<sup>4</sup>. The figures indicate a declining trend in the size of the sector.

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<sup>1</sup> Draft Plan at p. 10.

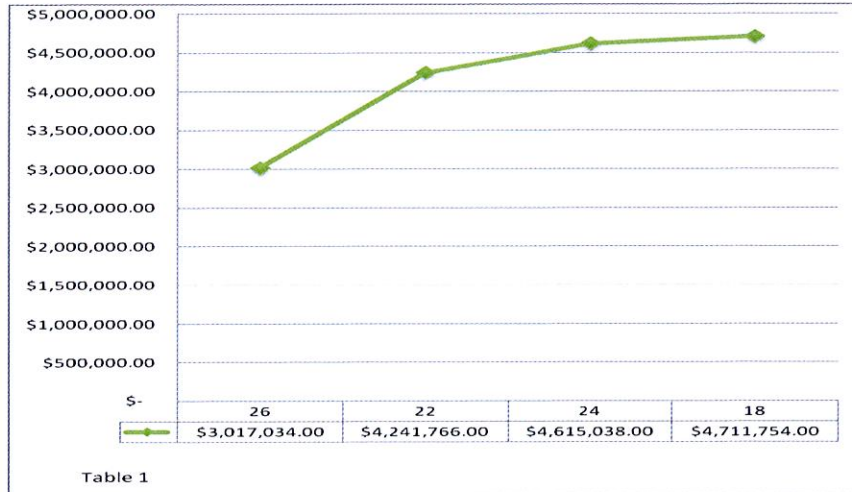
<sup>2</sup> Three Year Strategy & Annual Plan for 2009 – 2010 – ECS 25/2009 p.2

<sup>3</sup> Three Year Strategy & Annual Plan for 2010 – 2011 – ECS 26/2010 p.2

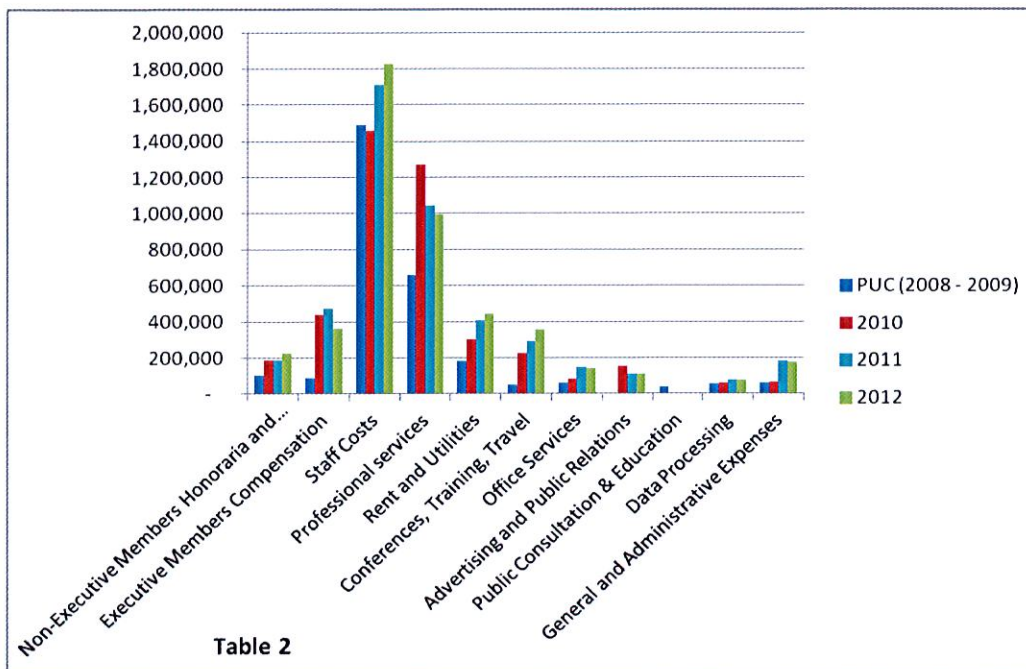
<sup>4</sup> Three Year Strategy & Annual Plan for 2011 – 2012 – ECS 24/2011 p.4



Table 1 shows that between 2009 and 2012 the staff complement of the URCA has generally been in decline while the budget continues to grow. Between 2009 and 2011 staff complement has decreased 31%. It is difficult to reconcile the 7% increase in staff costs being due to an increase in staff complement and cost associated with various HR initiatives /programmes.



The budget for 2012 represents a 2.10% increase over the budget for 2011 and an 11% increase over 2010 and 69% over the PUC's 2008 – 2009 budget. Table 2 depicts the categories costs and relative allocations by year.



In order to support the budget, URCA is proposing an increase in the URCA fee for 2012. While URCA is intent on supporting the socio-economic well-being of the residents of the Bahamas and become the harbinger for ICT, its increasing budget puts economic pressure on the





operators in the sector to finance these endeavours. The result of these pressures is felt in increase cost to the consumer. It is therefore incumbent on URCA to manage its internal costs so as to reduce the economic pressure. We point to non-executive members' honoria and expenses along with Conference travel and training which represent approximately a 21% increase respectively over 2011. We suggest that the budget in these categories be scaled back to at the minimum the 2011 levels. Travel costs be managed more efficiently through conference calls, webinars and the like.

It is not apparent whether the deferral of 9 of the proposed consultations from 2011 to 2012 resulted in a surplus of URCA's 2011 budget.

URCA mentions the introduction of a pay for performance management system (P4PMS) and implementing a variable incentive plan which in an integral part of the P4PMS. There is no description of how this work and the affect it has on salaries.

## 2. WORK PLAN

URCA has proposed 7 consultations to commence January 2012. Most of these are carry-overs from 2011. There are an additional 3 ongoing consultations commenced late in 2011 to be responded to or to be concluded by URCA by February 2012 and there is the ongoing Number Portability Working Group which was established in December 2011. It is evident that the programme is not realistic given that at least 3 of the proposed consultations for January have not commenced. In setting its agenda, URCA should give due consideration to the cost burden on those industry participants that are responsible for URCA's funding. This is particularly important in 2012 as the sector continues to cope with the severe effects of the global recession. It is our suggestion that priority is given to completing number portability and the publication of the consultation for recommendations to the Electronic Communications Sector Policy, the efficiency study of BTC and the market review<sup>5</sup>.

(a) **Number Portability.** The Companies were pleased that some steps were taken to make number portability a reality. The delay of 5 months between the close of the consultation and the publication of the statement of results hopefully was an anomaly, and every advantage will be taken to expedite the prompt implementation of number portability. Implementation of number portability is key to promoting competition, eliminating entry barriers and thereby offering customers a choice. Establishing an effective and efficient number portability system and process is as important to competition in the fixed voice market as establishing the Reference Access and Interconnection Offer. (We commend URCA on the thorough job it did on the RAIO.) The Companies believe that progress on this critical issue must be given URCA's full attention in 2012. There is no need to reinvent the wheel as the relevant models are well understood, tested and tried.

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<sup>5</sup> As a follow-on from Methodology for Assessment of Significant Market Power (SMP) under Section 39(2) of the Communications Act, 2009 Statement of Results ECS 19/2011





2012. There is no need to reinvent the wheel as the relevant models are well understood, tested and tried.

(b) **Study on BTC's Efficiency.** The Companies strongly endorse URCA's proposal to initiate a study of BTC's efficiency in the first quarter of 2012. The Companies believe that the charges in the RAIO actually reflect a high degree of inefficiency. The costs that form the basis of any pricing of BTC's SMP services going forward should be the costs of a reasonably efficient operator. The results of the study are likely to translate into benefits for competition (lowering barrier to entry through lower access and interconnection charges) and to consumers (lower prices and more choices).

(c) **Recommendations for the ECS Policy for 2012 – 2015.** The Companies believe this has to be given early priority as there are a number of concerns which only the Government of the Bahamas can address. These concerns are inter alia: the payment and level of fees being levied on operators.

(d) **SMP in Call Termination.** The Companies believe that this consultation should be given a very low priority. The Companies submit that this is a matter that requires no immediate attention. It need only be addressed if and when problems arise in respect of the pricing of fixed termination by operators other than BTC. For the time being, the relatively small shares of BTC's competitors, their consequently higher unit costs, and BTC's considerable degree of countervailing buyer power make the need for a market review in this area a matter of third-order importance, which can be postponed unless any issues develop.

(e) **Market Review.** Having conducted the methodology for assessment of SMP, the next step should be to focus on whether the markets in which Cable Bahamas has been deemed to have SMP as a transitional matter were properly defined and assessed in line with the approved methodology. In particular, the full market reviews should consider whether there is indeed a need for the onerous obligations that have been imposed on Cable Bahamas. Furthermore, consistent with the licensing of satellite operators and the other unlicensed providers of PayTV, the market for PayTV should promptly be revisited.

(f) **Retail Pricing.** It is our general observation that URCA's efficiency may be hampered because it has to be involved in management issues of operators. One such instance is the implementation of the retail pricing rules. This process requires URCA to involve itself in an operator's decision to change prices whether it is through a promotion, permanent price change or introduction of new services. The process is invasive, time consuming, arbitrary and expensive. In 2009 The Committee for the Privatisation of the Bahamas Telecommunications Company ("Committee") reported:

*The present regime for retail price regulation and its discretionary nature is unsuitable for use in modern, competitive communications market. The implementation of a new regulatory regime for*



*communications in The Bahamas provides an opportunity to introduce new policies for the regulation of retail prices.<sup>6</sup>*

The regime at that time required both CBL and BTC to seek permission for any price change. Applications were reviewed on a case by case basis and it involved a high level of discretion<sup>7</sup>. The current regime still requires permission for any price change or introduction of new service and has set out rules and timelines. However, these rules are beset by uncertainty given the opportunity for the introduction of exogenous matters. The Committee noted that:

*International best practice is to move away from this sort of discretionary price setting to a more transparent process that provides a balance between consumer protection, flexibility and incentives for operators to be innovative whilst promoting efficiency.<sup>8</sup>*

The Committee recommended 'price cap regulation' as the way forward. The retail price rules currently in place were intended to be so for six to twelve months<sup>9</sup>. It is our strong recommendation that URCA progress towards a more transparent process such as price caps so that it can be implemented by end of 2012.

### **3. Chief Executive Officer**

We noted that URCA made no mention of its plan to fill the post of Chief Executive Officer. The post has been vacant since August, 2011.

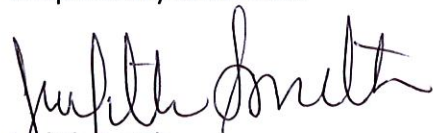
### **4. Assessment**

The Companies maintain that industry should have an opportunity to provide an appraisal of its general interaction with URCA outside of the cut and thrust of the day-to-day regulatory process. A similar suggestion has been made by Bahamas Telecommunications Company Ltd. We look forward to URCA implementing the suggestion.

## **CONCLUSIONS AND NEXT STEPS**

The Companies hopes the suggestions on priority will be received favourably and look forward to working with URCA and other industry stakeholders in this continuing process.

Respectfully submitted



Judith Smith  
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<sup>6</sup> Public Consultation on Retail Pricing Regulation in the Communications Sector ('Retail Pricing Consultation') – publication date 17 June, 2009.

<sup>7</sup> Ibid p.10

<sup>8</sup> Ibid p. 10

<sup>9</sup> Ibid p. 15

