INFRASTRUCTURE SHARING REGULATIONS

STATEMENT OF RESULTS

ECS 05/2015

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1. Introduction

The Utilities Regulation and Competition Authority (URCA) issues this Statement of Results on its Infrastructure Sharing Regulations Consultation Document (ECS 17/2014). URCA has concurrently published the final Infrastructure Sharing Regulations as a separate document (ECS 04/2015).

On December 8, 2014 URCA published the Consultation Document on its draft Regulations for Infrastructure Sharing in The Bahamas. The closing date for responses was January 30, 2015 and this deadline was subsequently extended to February 13, 2015.

URCA received written responses from the following companies:

1) The Bahamas Telecommunications Company Limited (BTC);
2) Cable Bahamas Limited, together with its affiliates Caribbean Crossings Limited and Systems Resource Group Limited, (collectively, CBL); and
3) JazzTell Bahamas Limited (JazzTell).

URCA commenced a second round of consultation on March 2, 2015 and the closing date for submission of responses was March 11, 2015. During the second round of consultation, CBL and Digicel Group Limited submitted comments on the first round responses received on the Draft Regulations.

This Statement of Results document sets out a summary of the general comments made by the respondents, responses to each of the questions posed in the consultation document, comments to responses received during the second round of consultation and URCA's analysis and responses to all comments received during the entire consultation period.

URCA thanks all respondents for their participation in this public consultation process. The full text of the responses received to the consultation can be found at **www.urcabahamas.bs** in the Publications section of URCA's website.

The lack of response to a comment or to any issue raised does not signify URCA's agreement in whole or in part with the comment nor should it be taken to mean that URCA has not considered the comment.

Structure of the remainder of this Document

The remainder of this document is structured as follows:

Section 2: Summary of General Comments to the Public Consultation – This Section contains a summary of the general comments to the consultation received by URCA and URCA's responses to the comments.

Section 3: Summary of Specific Responses to the Public Consultation and URCA's Comments – This Section summarises the responses received to each consultation question, comments received during the second round of consultation and URCA's responses and decisions made in respect of the comments to the consultation questions.

Section 4: Revised Regulations – This Section contains the final Infrastructure Sharing Regulations with all amendments, deletions and insertions as a result of changes arising from responses to the consultation questions and changes that URCA considered were necessary after reviewing the revised document. Amendments and insertions are denoted by underlining the relevant text (e.g., **Passive Infrastructure Sharing**) while deletions are denoted using strikethrough (e.g., ~~**Passive Infrastructure Sharing**~~).

Section 5: Conclusion and Next Steps

2. Summary of General Comments to the Public Consultation

All of the respondents to this consultation submitted general comments on the proposed Infrastructure Sharing Regulations ("the Regulations") and this Section contains a summary of their comments as well as URCA's response thereto.

CBL's General Comments – First Round of Consultation

CBL commented that it appreciates URCA's efforts in addressing pertinent issues relating to Infrastructure Sharing considering the pending selection by the Government of The Bahamas of the second cellular mobile operator. CBL noted that securing reasonable, efficient and non-discriminatory access to facilities owned by the incumbent mobile operator will be critical to the new operator's ability to deliver high quality, competitive mobile services in The Bahamas. CBL confirmed that as a participant in the selection process for the second mobile operator, it has a significant interest in ensuring that the Regulations adopted by URCA represent an efficient and effective framework to govern passive mobile network sharing where necessary.

CBL recommended that the Regulations address passive RAN infrastructure (i.e., radio access network) sharing only and that there should be limited or in some cases no restrictions on the new entrant's ability to construct new infrastructure to establish a high quality mobile network, particularly on the four larger islands (i.e., New Providence, Grand Bahama, Abaco and Eleuthera). CBL commented that the new market entrant would need to share passive radio access network infrastructure with the incumbent operator, particularly in areas where it may not be feasible for the new entrant to construct its own towers such as on the Family Islands.

While URCA expressed its preliminary view in the Infrastructure Sharing Regulations Consultation Document that it believed that market forces are unlikely to achieve the ECS policy objectives with regard to infrastructure sharing, CBL disagreed and commented that URCA has not provided any evidentiary basis for its assertion and that URCA did not offer any evidence in the Consultation Document to support the statement that competitors will not willingly share infrastructure. CBL argued that URCA overlooked the current mobile sharing arrangements between competitors in other countries around the world. CBL is of the view that requiring the new entrant to share infrastructure with BTC would limit the new entrant's ability to build its own network.

On the other hand, CBL agreed that there is an urgent need for URCA to define, implement and enforce a new access remedy which would apply to BTC and would require the incumbent operator to provide reasonable, cost-oriented and non-discriminatory access to its infrastructure upon request by the new mobile operator. CBL, however, considers that it would be "discriminatory, disproportionate and anti-competitive" for the Regulations to mandate the new

operator to co-locate its network on BTC's facilities where it could build its own network. It is CBL's view that the Regulations operate asymmetrically against the new mobile entrant since the Regulations prevents Licensees from installing equipment to be used for wireless electronic communication on any towers not owned or controlled by an URCA Licensee. CBL argued that this provision would adversely affect the new entrant if it is only able to co-locate on a tower owned by a Licensee in a particular area. CBL commented that URCA did not provide a rationale for this restriction, including clarification on the type of harm it proposed to address as a result. CBL further argued that there appears to be no statutory basis for such a measure imposed on the new mobile operator in line with URCA's powers under the Comms Act. CBL also argued that the effect of the Regulations and the Tower Construction Guidelines would be incompatible with URCA's duty under section 5 of the Act to ensure that all regulatory and other measures are non-discriminatory and proportionate.

CBL considered that the Regulations are predicated on an incorrect assumption that the new operator would prefer to share infrastructure in all instances. CBL is of the view that the Regulations propose to remove the new operator's commercial independence and choice, which are critical to fair competition. CBL also commented that the approach to mandating sharing restricts the ability of the new entrant to deploy its network infrastructure of its own design, increase its network roll out costs and unfairly impede its ability to differentiate its service offerings to customers. Moreover, CBL pointed out that it was not aware of precedents of any other jurisdictions that mandated infrastructure sharing on a new entrant at the onset of mobile liberalisation and where infrastructure sharing has been imposed, they have been establish to grant a right to operators to co-locate with existing tower owners.

CBL further disagreed that the Regulations should also apply to fixed network infrastructure and suggested that the sharing of mobile only infrastructure should be the focus of the Regulations since URCA did not assess the market prior to introducing the proposed Regulations. CBL pointed out that rules mandating the sharing of symmetrical infrastructure should be based solely on evidence of market failure and should be targeted to address the immediate needs of the market. CBL also suggested that there is no evidence of the need for such regulation at this time. CBL also stated that URCA does not have a clear understanding of the Regulations' potential impact on competition, investment and service quality in the sector. CBL is also of the view that the existing regulatory framework applicable to fixed line access services is adequate for the time being and that there is no evidence to suggest that the existing SMP rules are inadequate to ensure that the new mobile entrant has access to wholesale fixed network services to enable it to comply with its network roll-out requirements. Therefore, in CBL's view, the obligation to provide access to infrastructure should be limited to BTC as the mobile operator designated with significant market power (SMP) in accordance with sections 39, 116 and Schedule 4 of the Comms Act.

CBL also suggested that the adoption and development of the Regulations should occur in stages and that as a first step, URCA should focus on remedying the consequences of BTC's monopoly in the mobile market.

CBL noted URCA's involvement in the tower construction approval process and argued that URCA's proposed Certificate of Non-Objection represents an unnecessary extension of URCA's powers into areas beyond its expertise and would create an additional layer of bureaucracy that could further lengthen the permit application process. CBL suggested that URCA refrain from adding an additional layer of regulation on the application process for tower construction which is already a lengthy one. CBL suggested that URCA should instead work along with the Ministry of Works and Urban Development and any other relevant permitting authorities to establish a streamlined and "early warning" system for all passive RAN infrastructure applications in order to expedite the processing of the new mobile operator's applications to construct new towers. CBL averred that the Tower Construction Guidelines are also discriminatory and disproportionate as applied to the new mobile entrant in that the Guidelines establish a set of procedures that will deter operators from constructing towers. CBL recommended that URCA avoid the duplication of duties with Government stakeholders by clarifying its role with respect to the information it will share with other Government agencies, what stage in the process it will interact with other Government agencies and the timescales that will apply to URCA's interaction with other Government agencies or third parties. CBL further recommended that URCA sign a Memorandum of Understanding with the Ministry of Works to ensure that no-build areas are promptly identified and to enable URCA to expedite building permits to allow the new entrant to meet its licence obligations regarding network build out and coverage. CBL urged URCA to commence communications with the Ministry of Works posthaste to ensure that appropriate measures are put in place in time for the entrance of the new mobile operator.

CBL suggested that URCA commence its own investigation on BTC's towers and other structures and complete an inventory without delay to determine whether they are fit for sharing. Another argument put forward by CBL in its comments related to interim measures to be applied by URCA in the event that the parties fail to reach an agreement on infrastructure sharing. CBL recommended that URCA specify in the Regulations an interim wholesale capacity or roaming obligation that will apply to BTC as an appropriate remedy in the event that such situations arise.

CBL's General Comments - Second Round of Consultation

CBL commented that BTC's response failed to acknowledge whether BTC's existing towers are suitable or not to accommodate an additional cellular mobile operator. CBL commented that BTC's silence on the suitability of its towers for sharing strongly suggests that this will be a "fundamental problem" for the implementation of the proposed Regulations. CBL also acknowledged that it shared a number of concerns with both JazzTell and BTC, including the view that the new mobile

operator should not be deterred from constructing its own infrastructure where it is feasible to do so.

CBL averred that there has not been sufficient time in the consultation process for URCA or interested parties to give adequate attention to the issues raised by the proposed introduction of passive fixed infrastructure sharing. CBL argued that such issues can only be addressed reasonably and fairly in a separate more focused consultation, and it recommended that URCA should now focus on dealing with more pressing issues relating to passive mobile infrastructure sharing and should be resolved as soon as possible considering the pending introduction of the second mobile operator.

CBL reiterated that it would be "discriminatory, disproportionate and anticompetitive" to require the new mobile entrant to immediately grant access to its facilities to BTC since BTC currently has 100% market share and it benefits from an existing mobile network which it deployed over the years under a legally granted monopoly.

URCA's Response

CBL's general comments on the Infrastructure Sharing Regulations Consultation Document are noted by URCA. In response to CBL's comment that the Regulations should be focused on passive RAN infrastructure sharing only at this time, URCA disagrees with this approach. The term "passive RAN infrastructure sharing" as used by CBL includes national roaming which is beyond the scope of this consultation document. To be clear, the Draft Infrastructure Sharing Regulations covers passive infrastructure sharing as understood and defined in the Consultation Document as "the sharing of space or physical supporting infrastructure which does not require active operational co-ordination between network operators".[1] For the avoidance of doubt, URCA has amended the definition of passive infrastructure sharing in Part 1 of the final Regulations to reflect the GSMA's[2] definition as referred to in the Consultation Document.

URCA notes CBL's disagreement with URCA's position that market forces are unlikely to achieve the ECS policy objectives with regard to infrastructure sharing and CBL's assertion that URCA did not provide any evidence to suggest that competitors will not willingly share infrastructure. It is URCA's position that under the Comms Act, URCA is required to form a view as to the likelihood of market forces not achieving the policy objectives in section 4 of the Act when introducing regulatory measures. URCA stresses that it gave due consideration to section 5 of the Comms Act in framing the Draft Infrastructure Sharing Regulations for public consultation. Additionally, URCA affirms that the Regulations are efficient and proportionate having regard to the objectives of the

[1] See page 10 of Infrastructure Sharing Regulations: Consultation Document [ECS 17/2014] published on December 8, 2014.
[2] Groupe Speciale Mobile Association (GSMA).

Comms Act, and the purpose of infrastructure sharing, as discussed at Section 1 of the Consultation Document. URCA confirms that it will implement the Regulations in a non-discriminatory manner, noting that the Regulations would be applicable to all licensees granted an IOL and/orISL by URCA as specified in Part 1.2 of the Regulation. Regarding the cost implications of the sharing requirements on affected parties, as discussed on page 4 of the Consultation Document, URCA concluded that no additional significant costs will be incurred by operators as a result of the introduction of the Regulations. URCA considered that both the infrastructure provider and the infrastructure seeker would benefit financially from infrastructure sharing as the infrastructure provider will derive revenue from leasing its facilities to the infrastructure seeker and the infrastructure seeker will benefit from the substantial cost savings associated with deploying a network. Further, it is URCA's intention to implement the Regulations in a fair and transparent manner as required by statute and in keeping with URCA's approach when implementing regulatory and other measures that are of public significance.

Furthermore, CBL by virtue of its own comments submitted to URCA during the second round of consultation acknowledged that "BTC's views reflect those of an incumbent operator that has no incentive to assist its competitor to achieve a speedy network rollout, and every incentive to delay that inevitability". URCA, in its Consultation Document, outlined that significant infrastructure sharing is unlikely to occur immediately after the entry of a new mobile competitor because the incumbent operator has significant incentive to retain control of its market share for as long as possible. Therefore, URCA sees the introduction of the Infrastructure Sharing Regulations as an immediate means to implementing infrastructure sharing in The Bahamas where feasible. Moreover, URCA unequivocally denies CBL's assertion that it overlooked the current mobile sharing arrangements between competitors in other countries around the world. On page 6 of its Consultation Document, URCA extensively highlighted international best practice on infrastructure sharing and noted that in most instances, regulatory involvement was a common theme.

URCA also disagrees with CBL that it would be discriminatory, disproportionate and anti-competitive for the Regulations to mandate the new operator to co-locate with the incumbent operator where it could build its own network. The Infrastructure Regulations will not prevent the new mobile entrant from building its own network. URCA is cognizant of the new entrant's roll out obligations under its licence and where it is not technically and/or economically feasible for it to co-locate on existing facilities, the entrant will not be prohibited from applying to URCA and other relevant authorities to construct its own towers. Moreover, URCA clarifies that the reason for the restriction of co-location on towers owned or controlled by other licensees is to ensure that URCA maintains regulatory oversight over tower sharing throughout The Bahamas. URCA reiterates that regulatory involvement in infrastructure sharing is required to encourage sustained growth and development of the market and to ensure that the benefit of facilities sharing is accrued to all involved parties.

URCA also disagrees with CBL's views that only mobile infrastructure should be the focus of the Regulations and that the obligation to provide access to infrastructure should be limited to BTC only as the mobile operator designated with SMP. In URCA's estimation CBL's response is self-serving considering CBL's own strong market position as a fixed network operator, and no account has been taken of local concerns about tower proliferation. URCA notes that The Bahamas, particularly New Providence, is a small geographic space with a high population and many sites would be required to serve the entire population. Therefore, minimisation through sharing, where possible, is necessary to avoid the proliferation of towers throughout the country. Furthermore, URCA considers that CBL's approach would be discriminatory and disproportionate and opposes URCA's obligation under section 5 of the Comms Act to introduce regulatory measures that are fair, proportionate and non-discriminatory. Moreover, URCA considers it proportionate and efficient to address both fixed and mobile infrastructure sharing in the same consultation paper. Currently, URCA is aware of one or more existing licensees seeking infrastructure sharing arrangements with operators of fixed networks and the absence of a framework for fixed infrastructure sharing has made this difficult. Additionally, the new mobile entrant may decide to offer fixed services upon entry into the market and would find it feasible to take advantage of existing fixed infrastructure beyond what is available through the interconnection process, i.e. BTC's RAIO. Furthermore, a new operator with no infrastructure would require access to fixed infrastructure to carry traffic between cellular towers and to international destinations.

Further, URCA does not share CBL's views on URCA's involvement in the tower construction approval process. As a matter of course, URCA will work with the Ministry of Works and Urban Development and other relevant permitting authorities to ensure that all tower construction applications are considered and processed in a timely and efficient manner. Coordination between URCA and the other relevant agencies has already commenced. Furthermore, URCA disagrees with CBL that a Memorandum of Understanding should be signed with the Ministry of Works and Urban Development for the purpose of expediting building permits and identifying no-build areas. URCA does not see the need for a Memorandum of Understanding at this time since in its view, the Regulations and the Government's framework for the erection of buildings and structures are sufficient to address the needs of operators in a timely and expeditious manner. Therefore, CBL's proposal is rejected.

Lastly, URCA confirms for CBL that it has already taken steps to compile an inventory on all towers owned and controlled by all Individual Spectrum Licensees and Individual Operating Licensees. As per CBL's comments that URCA specify in the Regulations that an interim wholesale capacity or roaming obligation will apply to BTC as a remedy for the failure of the parties to reach an infrastructure sharing agreement, URCA clarifies that wholesale capacity arrangements (or roaming) are beyond the scope of this consultation document. URCA understands that in other jurisdictions consultations on infrastructure sharing may include national roaming as a component

of passive infrastructure sharing. However, URCA's research indicates that this practice is not universal. URCA's position is that national roaming raises issues which are quite different from those being considered in respect of passive infrastructure sharing, and URCA therefore considers it appropriate to treat national roaming as a separate consultation from this process. URCA considers that in the Bahamian context, any regulatory requirement for national roaming would be better achieved through the access and interconnection regime rather than infrastructure sharing.

Furthermore, URCA notes that at this stage, it would be premature to specify the interim measure that would apply (as proposed by CBL) as URCA would need to assess each particular dispute separately to determine the appropriate interim measure to order.

BTC's General Comments

BTC welcomed the opportunity to comment on URCA's Infrastructure Sharing Regulations Consultation Document and highlighted its general support for the infrastructure sharing proposals aimed at the development of the Electronic Communications Sector (ECS) in The Bahamas by encouraging operators to manage the cost of development. BTC also noted that the consultation is a timely one considering that the Government's selection process to operate a second cellular mobile network and provide cellular mobile services to the public in The Bahamas is ongoing. BTC further expressed the view that access to facilities is equally important to an incumbent operator as it is to a new mobile operator and that the Infrastructure Seeker, Infrastructure Provider and consumers must benefit from the introduction of the Regulations.

BTC strongly encouraged URCA to ensure that the Regulations do not result in creating a situation where the new cellular mobile entrant is solely reliant on the infrastructure developed by another operator. The incumbent operator argued that such a situation would not serve the interests of the Bahamian public and would ultimately undermine the intent behind liberalisation of the cellular mobile sector. BTC further commented that despite the introduction of the Regulations, the new mobile operator should still be required to build out their network within the timeframes established by the Government in the RFP process. BTC stressed the importance of the development of the ECS in The Bahamas through significant investment by all operators to provide the systems and construction of infrastructure to deliver robust and reliable services. BTC further highlighted the importance of infrastructure sharing to the development of the ECS as in its opinion one operator would not be able to recover the cost of infrastructure upkeep and maintenance through charging appropriate mobile termination rates. Despite its overall support of the Regulations, BTC commented that certain facilities should be exempt from infrastructure sharing, such as critical core systems and sites, since access to such facilities may negatively impact the quality of service of the Infrastructure Provider.

URCA's Response

URCA particularly notes BTC's concern that the implementation of the Regulations does not create a situation where the new mobile operator is solely reliant on the infrastructure developed by another operator and that the new operator should still be required to build its own network. URCA notes that infrastructure sharing is not intended to replace the new entrant's obligations to build out its own network in accordance with its roll out obligations under its licence. URCA notes that the applicability of the Regulations is limited to facilities in close proximity to each other and is therefore unlikely to enable a new entrant to avoid construction of its own infrastructure. Regarding BTC's comments on the exemption of certain facilities from infrastructure sharing, URCA has provided its response in Section 3 of this document.

JazzTell's General Comments

JazzTell commented that it welcomes and supports URCA's consultation on the Infrastructure Sharing Regulations. JazzTell averred that infrastructure sharing has a number of benefits for the public of The Bahamas as it will increase the availability of telecommunications services, accelerate network rollout, provide consumers with more choice, reduce the cost of civil works and reduce the cost of services. JazzTell also expressed the view that Infrastructure Sharing would stimulate competition by reducing the barrier of entry for new market players through the reduction of costs associated with constructing a network. JazzTell concluded its general comments by expressing its full support for the implementation of the Infrastructure Sharing Regulations.

URCA's Response

URCA notes JazzTell's general comments on the Regulations and thanks JazzTell's for its overall support of the implementation of the Infrastructure Sharing Regulations.

Digicel's General Comments

Digicel commented that it was grateful for the opportunity to respond to the first round comments made on the draft Regulations and expressed its concern to ensure that the legislative framework with respect to infrastructure sharing provides a level playing field to enable new entrants to develop sustainable businesses. Digicel noted that tower sharing will be a key element in ensuring that the second mobile operator minimises the environmental impact of its network on The Bahamas while delivering value, services and coverage to all of the people of The Bahamas.

Digicel highlighted that the roll out schedule for a new mobile operator in The Bahamas will require it to provide coverage to a significantly larger area of The Bahamas than BTC and in a very

short timeframe. Digicel acknowledged that tower sharing will enable greater coverage to be provided economically.

Digicel noted that while the Regulations require infrastructure sharing where feasible, the new operator faces economic sanctions if it fails to adhere to its "ambitious" roll out targets which, in its view are dependent on obtaining infrastructure sharing quickly. Digicel commented that this places the new mobile entrant in an extremely risky position unless there is a very active regulatory policy along with detailed procedures to ensure that infrastructure sharing happens as quickly as possible without delay.

Digicel recommended that URCA include a template tower sharing agreement in the Regulations, after consultation with all stakeholders, which would automatically apply as an interim agreement in the event that operators are unable to conclude a tower sharing agreement within the forty-two (42) days of receipt of an Access Request by an Infrastructure Seeker.

URCA's Response

URCA notes Digicel's comments on the proposed Regulations. URCA reiterates that it is cognizant of the new operator's roll out obligations under its licence as well as the economic sanctions it will face if these obligations are not met. URCA therefore considers it imperative for the Regulations to be implemented to ensure that infrastructure sharing occurs as quickly as possible, and where sharing is not feasible that the operator's application to construct its towers are considered without delay. URCA has, in Section 3 of this document, addressed Digicel's recommendation that an interim agreement should automatically apply in the event that the parties are unable to conclude a tower sharing agreement.

3. Summary of Specific Responses to the Public Consultation and URCA's Comments

In the Consultation Document, URCA posed a series of questions after each Part of the draft Regulations in order to gain specific feedback from stakeholders on the issues raised therein. In this Section URCA summarises the comments received from respondents and provides responses thereto. URCA has carefully analysed and considered all of the views expressed by the respondents and these views have assisted URCA in establishing the final Infrastructure Sharing Regulations.

Part 2: Infrastructure Sharing Obligations

Question 1

a) Do you agree with the list at Part 2.3 of the types of facilities that may be shared? If not, please give reasons for your position.

CBL

CBL reiterated its view that the types of facilities that should be shared should be limited to passive mobile radio access network infrastructure rather than fixed network infrastructure since access to BTC's regulated wholesale fixed access services will continue to be made available subject to its RAIO. CBL further recommended that URCA require BTC to make access to its passive RAN infrastructure available upon request by the new mobile entrant. CBL also recommended that antennas be excluded from the list of facilities that may be shared at Part 2.3 of the Regulations. Lastly, CBL commented that the current SMP framework is capable of ensuring access to wholesale fixed network access services by the new mobile entrant for the immediate deployment of its network.

BTC

The following represent a list of facilities that BTC considers should be excluded from sharing:

1. Rooftop space, ground space and building risers (limited to sharing based on mutual agreement and/or lease agreement);
2. Antennae;
3. Poles;

4. Trenches and ducts; and
5. Power and air conditions.

BTC also noted that Part 2.3 (viii) through (ix) appear to be "catch all" provisions and requested further details on these provisions in order to create certainty of scope and impact of the Regulations.

JazzTell

While JazzTell agrees with the types of facilities proposed for sharing, it suggested that other facilities should be included at Part 2.3 of the Regulations including the following:

1. Joint boxes and manholes;
2. Rights of way;
3. Backhaul;
4. Submarine cable landing stations; and
5. Dark Fiber.

Digicel's Response

Digicel noted CBL's comments that URCA should limit the applicability of the Regulations to the cellular market. Digicel disagreed with this approach and it stated that while this may be preferable for CBL, it would not be desirable for a new mobile operator with no infrastructure. Digicel noted that in addition to infrastructure sharing, the new mobile operator would require infrastructure to carry traffic between cell towers and to international destinations. Access to cell sites, cable landing stations, trenches, ducts and pole access to lay fibre have been stated as requirements by Digicel in order to ensure network quality, cost effectiveness and to allow the new mobile operator to compete in the market.

Digicel noted BTC's suggestion that certain infrastructure should be exempt from infrastructure sharing. Digicel commented that it does not see a basis for restricting access to poles, trenches or ducts as recommended by BTC. Digicel stated that trenching and ducting can be very expensive as well as difficult to achieve in urban areas that are already crowded with other infrastructure. Digicel also noted that the new mobile operator would be forced to compete with a much higher cost base than BTC as BTC's initial infrastructure installation costs would have depreciated over the many years it has been in operation and BTC would now be faced primarily with maintenance

costs. Digicel referred to the CSMG[3] Report (also referred to by BTC in its response) entitled "Economics of Shared Infrastructure Access", which confirmed that shared access to infrastructure would allow operators to avoid the high upfront cost of duct construction. The report also confirmed that the markets that it surveyed had some form of regulatory requirement for duct sharing.

Digicel agreed with JazzTell's recommendation that the list of facilities that may be shared in Part 2.3 of the Regulations be extended to include joint boxes and manholes, rights of way, backhaul, submarine cable landing stations and dark fiber. Digicel commented that the new mobile operator may require these facilities in order to build a competing network and provide competing services. Digicel further noted that in a fully competitive market, access to such services would generally be provided by operators.

CBL's Response

CBL expressed agreement with BTC that access to rooftop space and poles should be excluded from the scope of infrastructure sharing, unless they are subject to an exclusive infrastructure sharing arrangement. CBL suggested that this should also apply to antennae. CBL also agreed with BTC that trenches, ducts, rooftop space, power and air conditioning should be excluded from the scope of the Regulations. CBL also agreed with BTC that the wording used in Parts 2.3(vii) and (ix) are unclear and that the scope of these provisions should be clarified in order to ensure certainty in its application.

In response to JazzTell's recommendation that backhaul services, submarine cable landing stations and dark fiber be included in Part 2.3 of the Regulations, CBL commented that it does not currently see any evidentiary basis for the inclusion of these facilities in the Regulations.

URCA's Response

URCA notes CBL's comments that the types of facilities that should be shared should be limited to passive mobile radio access network infrastructure rather than fixed network infrastructure, and URCA directs CBL to URCA's previous response thereon in Section 2 of this document. URCA also notes CBL's and BTC's recommendation that antennas be excluded from the list of facilities that may be shared at Part 2.3 of the Regulations. URCA acknowledges that antennas may be either active or passive. Passive antennas are antennas that do not amplify signals in any way, whereas active antennas are passive antennas with amplifiers built in. URCA notes that for the purposes of electronic communications, antennas are used to receive and transmit signals, thereby making

[3] Cartesian (formerly CSMG).

them active. Since the Regulations will apply to passive infrastructure sharing only, URCA has removed antennas from the list of facilities to be shared.

In addition to antennas, URCA notes BTC's suggestion that rooftop and ground space, building risers, poles, trenches, ducts, power and air conditions be excluded from sharing under Part 2.3. URCA notes that while CBL agreed with BTC's recommendation, Digicel on the other hand disagreed and commented that it sees no basis for restricting access to poles, trenches or ducts. While BTC and CBL did not include reasons for their positions, Digicel highlighted the cost saving benefits of sharing these facilities, particularly duct access and supported its argument with reference to the CSMG Report. The ease of network roll out and reduction of infrastructure investment costs for operators have already been highlighted in the Consultation Document as some of the main benefits of infrastructure sharing that would increase the attractiveness of the market to new market players, thereby promoting competition in the sector.[4] Having considered these benefits, the CSMG Report and international precedent[5], URCA has determined that these facilities will remain at Part 2.3 of the Regulations.

URCA notes BTC's and CBL's concern that Part 2.3 (vii) through (ix) appear to be "catch all" provisions and that this should be clarified to ensure certainty of scope. URCA disagrees with BTC and CBL and notes that Part 2.3 (vii) through (ix) are not "catch all" provisions and are clear in scope since examples for the type of facilities to be shared in each instance is clearly outlined. Therefore, URCA concludes that Parts 2.3 (vii) through (ix) shall remain as is.

URCA notes JazzTell's and Digicel's suggestion that other facilities, namely joint boxes and manholes, rights of way, backhaul, submarine cable landing stations and dark fiber, should be included in the list of facilities that may be shared at Part 2.3 of the Regulations. URCA also notes CBL's disagreement on this point due to a lack of evidence on the need for their inclusion in the Regulations. URCA agrees with the inclusion of joint boxes, manholes and rights of way at Part 2.3 since these are also common aspects of passive infrastructure sharing.[6] URCA also agrees with the inclusion of submarine cable landing stations and dark fiber at Part 2.3 since these are also common forms of passive facilities that may be shared. However, URCA notes that while sharing physical aspects of their infrastructure, the common approach is for operators to install separate backhaul.[7] Moreover, backhaul has been identified as a separate form of telecommunications

[4] See Consultation Document, page 6.
[5] See in particular the Nigerian Communications Commission "*Guidelines on Collocation and Infrastructure Sharing*" which mandates the Commission to encourage and promote the sharing of *inter alia*, space in buildings, poles, trenches, ducts and electric power.
[6] See Nigerian Communications Commission "*Guidelines on Collocation and Infrastructure Sharing*"; International Telecommunications Union (ITU) "*Trends in Telecommunication Reform 2008 - Six Degrees of Sharing Summary*".
[7] See GSMA Report "*Mobile Infrastructure Sharing*" at section 3.1.

infrastructure altogether.[8] As backhaul involves core network elements and is not part of passive infrastructure, it does not fall under the remit of the Regulations. Therefore, URCA has not included backhaul in the list of facilities that may be shared under Part 2.3 of the Regulations.

(b) Do you agree with the proposed factors to be taken into account by URCA at Part 2.7 in considering to issue a direction for a licensee to share facilities with other licensees? Should you disagree, kindly provide a detailed explanation for your views and suggest additional or alternative factors.

CBL

CBL commented that it was not clear when and in what context the power to issue a direction to share facilities would apply and how the power interacts with other powers granted to URCA under the Regulations. CBL further commented that while it agrees with the proposed criteria in Part 2.7, it recommended that URCA consider whether the non-replicability of the passive infrastructure in question is a result of anti-competitive conduct on the part of BTC.

CBL proposed that URCA modify Part 2 of the Regulations in its entirety to impose a general obligation on BTC as the SMP provider in mobile services to provide reasonable, cost based access to its infrastructure upon request by the second mobile operator. CBL also suggested that URCA clarify that the criteria outlined in Part 2.7 would only apply to the obligation imposed on BTC, and not to any other provider, to provide access to its infrastructure. CBL further urged URCA to clarify that if BTC did not provide reasonable access to its infrastructure expeditiously, then an interim arrangement requiring BTC to provide a wholesale roaming agreement based on LRIC pricing will be the default interim arrangement, pending the resolution of any disputes over pricing or other issues. Lastly, CBL recommended that URCA clarify the timing of the issuance of any direction it mandates pursuant to Part 2.5 through Part 2.6 since it considers it unclear whether the direction would be issued by URCA before or after the close of the negotiation process or alternatively, at the conclusion of a dispute resolution proceeding.

BTC

BTC expressed its support of the proposed factors to be taken into account by URCA at Part 2.7. However, BTC proposed that URCA take into consideration excluding private contracts and equipment for the provision of services. BTC argued that such arrangements should be considered as private networks and should not form part of BTC's infrastructure for the purposes of infrastructure sharing. BTC also suggested that URCA consider the time, cost and inconvenience to the Infrastructure Provider regarding any work required to the infrastructure to be shared.

[8] KPMG Report, "*Passive Infrastructure Sharing in Telecommunications*", page 1.

JazzTell

JazzTell did not provide comments to Question 1(b).

Digicel's Response

Digicel noted BTC's comments that its existing infrastructure sharing agreements with third parties should not be subject to any changes pursuant to the Regulations. Digicel commented that it would be greatly concerned if this was the regulatory approach adopted as it could mean that access could be blocked to large numbers of existing sites which are leased by BTC from another party. Digicel therefore urged URCA to consider what additional provisions might be necessary to mandate the amendment to existing contracts under Part 2.5 of the Regulations and to require changes to be made by lessees which are not subject to the Regulations.

CBL's Response

CBL stated that it disagreed with BTC's proposal that "special contractual arrangements" with customers who require specialised contracts and equipment for the provision of services should be exempt from the Regulations. CBL considers that in order to ensure effective competition such arrangements should not be exempted from the application of the infrastructure sharing requirements.

In response to BTC's argument that cost, time and inconvenience to the Infrastructure Provider should be taken into account in respect of any work required to the infrastructure, CBL noted that Part 4.1(ii) of the Regulations require that the Access Charge reflect a "reasonable return on capital employed and take into account the investment made by the Infrastructure Provider."

URCA's Response

URCA clarifies for CBL that the power granted to URCA pursuant to Part 2.5 to issue a direction to share facilities applies only to specific identified facilities that are essential to other competitors.

In response to CBL's recommendation that URCA consider whether the non-replicability of BTC's passive infrastructure is a result of anti-competitive conduct on the part of BTC, URCA notes that such consideration does not fall within the scope of the Regulations and will not be addressed at this time, but will be addressed in the context of URCA's ex post competition powers.

URCA further notes CBL's assertion that Part 2.7 should only be applied to BTC as an SMP operator and not to any other operator, or alternatively, that Part 2 of the Regulations be modified in its entirety to impose a general obligation on BTC to provide access to its infrastructure upon

request. URCA reiterates that the Regulations in its entirety, for reasons outlined in Section 2 above, will apply to all licensees having been issued an Individual Operating Licence and/or an Individual Spectrum Licence by URCA. For the avoidance of doubt, licensees include CBL and any affiliated and/or subsidiary undertaking of CBL listed in the application for a licence or notified to URCA from time to time in accordance with section 21(2) of the Act. URCA, also in Section 2 above, has addressed CBL's suggestion that the Infrastructure Seeker enter into an interim arrangement with BTC to provide wholesale roaming pending the resolution of any disputes.

URCA notes BTC's support of the factors to be taken into account by URCA at Part 2.7 of the Regulations in considering whether to issue a direction in the public interest to share a facility. URCA also notes BTC's contention that its contractual arrangements should be considered as private networks and not form part of its infrastructure for the purposes of infrastructure sharing. In response, URCA notes Digicel's concern that if BTC's suggestion was adopted by URCA, it would result in access being blocked to a large number of its existing sites. URCA also notes CBL's disagreement with BTC's position. URCA notes that the Regulations will not apply retroactively but will apply to all infrastructure sharing arrangements entered into between Licensees on or after the effective date of the Regulations. URCA is not satisfied based on the comments provided that BTC's existing private contracts will result in access being blocked to existing sites currently leased by BTC, but considers that the processes in Parts 2.5 through 2.7 of the Regulations are sufficient to address such concerns should they arise in the future.

URCA also notes BTC's suggestion that URCA consider the time, cost and inconvenience to the Infrastructure Provider regarding any work required to the infrastructure to be shared, and agrees with CBL's response that Part 4.1 (ii) of the Regulations allow for the Infrastructure Provider to take into account its investment made to the infrastructure to be shared when setting its charges for access to the Infrastructure Seeker. Therefore, URCA does not deem it appropriate to consider the time, cost and inconvenience to the Infrastructure Provider regarding any work required to the infrastructure to be shared when considering whether to issue a direction in the public interest to share a facility under Part 2.5.

(c) Do you agree with the timeline at Part 2.11 for a Licensee that owns or controls any electronic communications tower to submit a complete inventory of its facilities to URCA?

CBL

Part 2.11 of the Regulations propose that any Licensee that owns or controls any electronic communications tower must submit to URCA a complete inventory of all of its towers within three (3) months of the effective date of the Regulations. CBL commented that BTC should not be given three (3) months from the effective date of the Regulations to submit its tower inventory to URCA.

It suggested that the process should be commenced without delay as a matter of urgency. CBL suggested that URCA urgently commence its own investigation of the suitability of BTC's towers for sharing so as to minimise the amount of time it will take to identify whether or not BTC's facilities are capable of being shared and to identify the sites where there is a legal or other impediment to the construction of a new tower.

BTC

While BTC acknowledged that Licensees would already maintain information on their facilities in the ordinary course of business, it disagreed with the proposed three (3) month timeline. BTC suggested that Licensees should be allowed between six (6) to nine (9) months to submit the completed tower inventory to URCA given the complexity, large number of sites and geographical distribution of BTC's infrastructure throughout the islands.

JazzTell

JazzTell commented that while it believed that the timeline at Part 2.11 is more than sufficient, it suggested that it should be reduced to two (2) months rather than three (3) months. JazzTell suggested this shorter timeframe because it considered that the requested information is standard information and most operators already have this information at hand.

Digicel's Response

Digicel agreed with CBL that an inventory of available tower space should be made available sooner than three (3) months after the effective date of the Regulations. Digicel stated that this would be preferable since there is currently an unknown resource requirement regarding the number of towers that will be made available for co-location through modification or the number of towers that will have to be built. Digicel asserted that where the new mobile operator has no choice but to build its own towers, the decision will lie in the hands of the Infrastructure Providers in terms of when the necessary infrastructure can be provided and installed. Digicel encouraged URCA to require BTC to produce its tower inventory at an earlier stage.

CBL's Response

CBL commented that it strongly disagreed with BTC's recommendation that it be allowed six (6) to nine (9) months to submit its inventory of its passive RAN infrastructure. CBL reiterated that the three (3) month timeframe commencing from the effective date of the Regulations is sufficient since the Regulations is likely to take effect after the second cellular licence is awarded and negotiations on infrastructure sharing commence.

CBL noted that it agreed with JazzTell that the three (3) month timeframe proposed under Part 2.11 is inappropriate and fails to guarantee the new licensee with swift access to BTC's infrastructure. CBL also agreed with JazzTell that the information required for the tower inventory should be readily available to the Infrastructure Provider. CBL contended that for this reason, a maximum period of one (1) month would be sufficient for the Infrastructure Provider to make its tower inventory available.

URCA's Response

URCA notes and disagrees with BTC that a Licensee should be allowed six (6) to nine (9) months to submit to URCA a complete inventory of all towers it owns or controls. URCA particularly notes BTC's acknowledgement that Licensees would already maintain information on its facilities in the ordinary course of business. Therefore, since such information is readily available, URCA agrees with JazzTell's, CBL's and Digicel's suggestion that a tower inventory should be made available sooner than three (3) months. URCA notes that it has already taken steps to ascertain from relevant Licensees minimum information regarding all towers owned and controlled by them for the purposes of establishing and maintaining a tower database. Therefore, URCA expects to be provided with the minimum information at Part 2.11 relevant to all towers owned or controlled by Licensees prior to the commencement of the Regulations or soon thereafter. However, URCA has amended Part 2.11 of the Regulations to reflect that any Licensee that owns or controls any electronic communications tower shall, within fourteen (14) calendar days of the coming into effect of the Regulations, submit to URCA a complete inventory of all towers owned or controlled by the Licensee.

(d) Should any other provisions be included in Part 2 of the draft Regulations or any removed?

CBL

CBL reiterated that the Regulations be amended to mandate that BTC provide access to its passive RAN infrastructure as an SMP obligation upon request by the new mobile operator and under reasonable and non-discriminatory terms and conditions. CBL also commented that it "makes little sense" to impose infrastructure sharing on the new mobile provider. CBL repeated its assertion that the imposition of a mandatory co-location obligation on the new mobile provider would be discriminatory and disproportionate, and that there appears to be no basis under the Comms Act for URCA to impose this "restrictive, blanket obligation".

BTC

BTC stated that while infrastructure sharing should generally be mandated, core locations, backbone sites and sensitive sites should be exempt from sharing. BTC further commented that

core systems rooms should not be shared and should be exclusive to the Infrastructure Provider. It also commented that the Infrastructure Seeker should be in a position to provide its own solutions for sharing with the Infrastructure Provider.

JazzTell

JazzTell did not provide any comments in response to Question 1(d) of the Consultation Document.

CBL's Response

CBL commented that BTC did not define or explain what it meant by "core locations", "backbone sites" and "sensitive sites" and it did not indicate whether it referred to mobile network infrastructure sharing or both mobile and fixed network sharing. CBL stated that depending on how these concepts are to be understood, any part of a mobile network can be construed as a "core location", "backbone site" or "sensitive site". CBL urged URCA to ignore BTC's submission in this regard so as to avoid the inclusion of ambiguous definitions that would give BTC the opportunity to delay or frustrate the process of granting the new mobile operator access to its infrastructure, which would in turn lead to serious competitive harm.

CBL stated that it agreed with BTC that passive infrastructure sharing should not lead to any adverse effects on the operation of an Infrastructure Provider's existing site and supporting network equipment and systems. CBL also noted that Part 5.1 (ii) of the Regulations provide for the possibility of access being denied on the basis that, if granted, it would compromise the "safety, security or reliability of the facility or the Infrastructure Provider's network". CBL recommended that URCA establish an evidence-based minimum threshold to prevent the unfair application of this provision.

CBL agreed with BTC that access to critical core systems and sites which may cause intrusive or disruptive implications for the Infrastructure Provider should be exempted from the scope of the Regulations. However, CBL noted that if the Regulations would be limited to mobile infrastructure only then it is difficult to envisage how access to passive RAN infrastructure, including access to roof or tower space, could have "intrusive and disruptive implications" for the Infrastructure Provider or otherwise negatively impact on the quality of service that it provides. CBL therefore argued that URCA ensures that the concept of "intrusive and disruptive implications" is clearly defined in order to deprive BTC of the opportunity to use any definitional or conceptual ambiguity to its anti-competitive advantage when granting access to its passive RAN infrastructure.

Digicel's Response

Digicel noted BTC's suggestion that "core system rooms" should not be subject to infrastructure sharing. Digicel asserted that it was not clear as to what BTC was referring to. Digicel commented that it would normally expect that it should be possible to provide private access to caged areas of a building for the purposes of co-location. Digicel recommended that URCA applies its discretion in determining the requirements for access to sensitive equipment and spaces for the purposes of sharing.

URCA's Response

URCA notes CBL's proposal that the Regulations be amended to mandate the BTC provide access to its passive RAN infrastructure as an SMP obligation upon request by the new mobile operator. URCA directs CBL to Section 2 above for URCA's response to this proposal.

URCA notes BTC's concern that core locations, backbone and sensitive sites should be excluded from sharing under the Regulations and that core system rooms should not be shared and should remain exclusive to the Infrastructure Provider. URCA agrees with Digicel's observations that it is not clear what BTC regards as core system rooms and also agrees with CBL's comments that BTC has not defined or explained what it considers core locations, backbones and sensitive sites to be. URCA is satisfied that it has sufficiently addressed the types of facilities that an Infrastructure Provider must provide access to for the purposes of infrastructure sharing and does not consider it necessary to include such exclusions in an effort to avoid ambiguous terms in the Regulations.

URCA also notes CBL's agreement with BTC that passive infrastructure sharing should not lead to any adverse effects on the operation of an Infrastructure Provider's existing site and supporting network equipment and systems. URCA agrees that passive infrastructure sharing should not lead to any adverse effects on the operation of an operator's existing site and network, and URCA notes that passive infrastructure sharing has been identified as the easiest and most commonly form of infrastructure sharing[9] as operators are able to keep their respective networks separate, thus minimising interruption or negative impacts on each other's networks.

Regarding CBL's recommendation that URCA establish an evidence-based minimum threshold to prevent the unfair application of Part 5.1(ii) of the Regulations, URCA notes that where an Access Request is denied pursuant to Part 5.1(ii), URCA has the power under Part 5.3 of the Regulations to require the Infrastructure Provider to produce evidence or inspect the relevant facility to determine the reasonableness of the refusal of access. URCA therefore considers this measure sufficient to prevent the unfair application of Part 5.1(ii) of the Regulations by the Infrastructure Provider.

[9] GSMA Report "*Mobile Infrastructure Sharing*"

Part 3: Procedure for Negotiating Infrastructure Sharing

Question 2

(a) Do you agree with the information at Part 3.2 that must be included in an Access Request? If not, kindly explain.

CBL

While CBL generally agreed with the proposed minimum information to be included at Part 3.2 of the Regulations, it stated that a number of concerns should be addressed including:

a) The Regulations should clearly state that BTC may only require the new mobile provider to submit the minimum information at Part 3.2 that is essential to BTC's ability to respond to the Access Request;

b) Revision of Part 3.5 of the Regulations to mandate that BTC may only be able to request additional information from the Infrastructure Seeker that is essential to its ability to respond to an Access Request, and that such request should be submitted to URCA simultaneously. CBL also suggested that URCA should clarify that it would intervene if the requested information is considered to be beyond the minimum necessary.

c) BTC should be mandated to notify the Infrastructure Seeker if it has no available space at the height capable of supporting the new mobile provider's radio frequency design within five (5) business days of receipt of an Access Request. BTC should also be required to provide the Infrastructure Seeker with an explanation on the lack of available, suitable space rather than in the 14 days as provided under the Regulations.

CBL further recommended that the Regulations should specify when an Access Request can be considered to be a complete request with sufficient information for the Infrastructure Provider to act on an Access Request. Further, CBL commented that the Regulations should require that the information provided by the Infrastructure Seeker to the Infrastructure Provider should be kept confidential and used only for the purpose of delivering access.

BTC

BTC also agreed with the proposed minimum information to be included at Part 3.2 of the Regulations. BTC, however commented that the Infrastructure Seeker should also be required to specify the purpose for which the access is required in order to engender transparency and assist in the preliminary assessment of the Access Request. BTC further stated that the power supply requirement, general technical specifications and the name of the individuals to work on the site should be added to the list of minimum information required at Part 3.2.

JazzTell

JazzTell expressed agreement and support for the proposed minimum information at Part 3.2 of the Regulations to be included in an Access Request.

Digicel's Response

Digicel commented that it supports CBL's recommendation that a denial of an Access Request should be given within five (5) business days of receipt of the Access Request.

CBL's Response

CBL commented that it disagreed with BTC's recommendation that the Infrastructure Seeker should be required to clarify the purpose for which access is required. CBL contended that the list of information at Part 3.2 is sufficient to allow the Infrastructure Provider to undertake the technical, commercial or other analysis required when responding to an Access Request. CBL also commented that it would be "unnecessary and inappropriate" to require the Access Seeker to divulge sensitive information regarding its commercial plans to its competitor in circumstances where the Regulations do not provide for confidentiality safeguards in respect to the treatment of any information received by the Infrastructure Provider and the Infrastructure Seeker in the course of the negotiation or the performance of an Access Agreement. CBL noted that BTC failed to justify or provide credible grounds as to why the Infrastructure Provider would require access to such sensitive and proprietary information prior to the processing of an Access Request.

CBL also noted that it does not object to the inclusion of the power supply requirement and general technical specifications under Part 3.2 of the Regulations if the information is genuinely necessary to the Infrastructure Provider when processing an Access Request.

URCA's Response

JazzTell's agreement and support for the proposed minimum information to be included in an Access Agreement at Part 3.2 of the Regulations is noted by URCA.

URCA notes CBL's concerns regarding Part 3.2 of the Regulations and responds as follows:

a) URCA is sympathetic towards CBL's proposal that the Regulations should stipulate that BTC may only require the new mobile operator to submit the minimum information at Part 3.2 that is essential to BTC's ability to respond to the Access Request. URCA considers that the information at Part 3.2 represents the minimum information that an Infrastructure Provider should need to respond to an Access Request. URCA considers that it is imperative to set a clear minimum requirement for consistency in application of an Access Request. Therefore, Part 3.2 of the Regulations shall remain as is.

b) URCA notes CBL's recommendation that Part 3.5 of the Regulations mandate that BTC may only be able to request additional information from the Infrastructure Seeker that is essential to its ability to respond to an Access Request, and that such request should be submitted to URCA simultaneously. Moreover, that URCA should clarify that it would intervene if the requested information is considered to be beyond the minimum necessary. In an effort to ensure that infrastructure sharing arrangements are concluded as quickly as possible, URCA agrees with CBL's position and has amended the Regulations accordingly.

c) URCA notes CBL's suggestion that the Infrastructure Seeker should be notified within five (5) business days of receipt of an Access Request that the Infrastructure Provider has no available space at the height capable of supporting the Infrastructure Seeker's radio frequency design. URCA also notes Digicel's support of this recommendation. In an effort to ensure that infrastructure arrangements are concluded as quickly as possible, URCA does not object to decreasing the timeframe for an Infrastructure Provider to notify the Infrastructure Seeker and URCA of a denial of an Access Request from fourteen (14) calendar days to five (5) business days. URCA has therefore amended Part 5.2 of the Regulations accordingly.

URCA further notes CBL's recommendation that the Regulations should specify when an Access Request may be considered to be a complete request with sufficient information for the Infrastructure Provider to act on an Access Request. URCA however considers that the amendments to Parts 3.5 and 3.6 of the Regulations are sufficient to address CBL's concerns on the completeness of an Access Request and the Infrastructure Provider's ability to process the Access Request.

Regarding CBL's concern that the Regulations should mandate that information provided to the Infrastructure Provider by the Infrastructure Seeker be kept confidential and used only for the purpose of delivering access, URCA expects that a clause on confidentiality would form part of the Access Agreement negotiated between the Infrastructure Provider and the Infrastructure Seeker due to the commercial nature of infrastructure sharing and therefore will not form part of the Regulations.

URCA notes that while BTC agreed with the minimum information at Part 3.2 to be included in an Access Request, it suggested that the Infrastructure Seeker should be required to specify the purpose for which the access is required as well as indicate the power supply requirement, general technical specifications and the name of the proposed individuals to work on the site.

Further, URCA notes CBL's disagreement with BTC's recommendation that the Infrastructure Seeker be required to provide information on the purpose for which access is required as it would be unnecessary and inappropriate for the Access Seeker to divulge its sensitive information to the Infrastructure Provider, and that BTC failed to justify why the Infrastructure Provider would require such information prior to processing an Access Request. URCA also notes CBL's statement that it does not object to the inclusion of the supply requirement and general technical specification at Part 3.2 of the Regulations as suggested by BTC, if the information is genuinely necessary to the Infrastructure Provider when processing an Access Request. URCA also does not object to the inclusion of the power supply requirement and general technical specifications at Part 3.2 of the Regulations and has amended the Regulations accordingly.

However, URCA does not consider that, at this stage of the negotiations, the Infrastructure Provider would need to know the name of the Infrastructure Seeker's proposed representatives to work on the site. Moreover, URCA considers that this information would become necessary at the point at which the Infrastructure Provider and the Infrastructure Seeker negotiate the terms of an Access Agreement, and the names of the Infrastructure Seeker's representatives can be included in the Access Agreement. Therefore, URCA has not included this suggestion at Part 3.2 of the Regulations. URCA agrees with CBL that it is not necessary for the Infrastructure Seeker to disclose to the Infrastructure Provider sensitive information regarding the purpose for which access is required and considers that the information at Part 3.2 is sufficient for the Infrastructure Provider to process an Access Request. URCA also notes that BTC has not provided reasons for its proposal and as such, URCA has not included this recommendation in the Regulations.

(b) Do you agree with the timeline at Part 3.7 for an Infrastructure Provider to conclude an Access Agreement? If you disagree, please give reasons for your position.

CBL

CBL expressed its agreement with the proposed forty-two (42) day timeline for negotiating and concluding an Access Agreement. However, CBL stated that a fourteen (14) day timeline, commencing from receipt of an Access Request should be imposed on BTC to disclose when it does not have adequate space on the infrastructure to which access is requested by the Infrastructure Seeker. CBL however goes on to state that this information should be made available within five (5) days of the Access Request, and that the information should be cross referenced to the results of the emergency investigation of BTC's existing infrastructure conducted by URCA.

CBL further elaborated that it considered Part 3.7 to be a complex set of procedures which could potentially result in an elapsed time of more than fourteen (14) months from the date of receipt of an Access Request to approval of an application to construct a tower. CBL suggested that URCA should adopt a more streamlined and expedited process rather than that proposed at Part 3.7 of the Regulations. CBL recommended that the Regulations, including the Tower Construction Guidelines facilitate the commercial negotiation of access to BTC's RAN infrastructure.

BTC

BTC commented that it does not agree with the proposed timeline at Part 3.7 of the Regulations and recommended that a sixty (60) day timeline to conclude an Access Agreement is more achievable due to the required technical processes and analysis and consolidation of the relevant data.

JazzTell

JazzTell stated that it agrees with the timeline at Part 3.7 of the Regulations for an Access Agreement to be concluded by an Infrastructure Provider. JazzTell recommended that the Infrastructure Provider should face penalties if it is discovered that the Infrastructure Provider intentionally failed to adhere to the forty-two (42) day timeframe to conclude an Access Agreement.

Digicel's Response

Digicel stated that it disagreed with BTC's argument that an Access Agreement should be concluded within sixty (60) days rather than forty-two (42) days because it would affect the new mobile operator's efforts to comply with "ambitious" network rollout targets. Digicel expressed that it will already be "extremely challenging" to adhere to the targets within a 42 day deadline for reaching agreement.

CBL's Response

CBL noted that it strongly disagreed with BTC that the timeline applicable under Part 3.7 of the Regulations for the conclusion of an Access Agreement should be extended to sixty (60) days. CBL commented that a possible delay or refusal by BTC to grant access to its infrastructure would be accentuated by the fact the mobile operator would be prohibited from deploying its own mobile infrastructure under the current forty-two (42) day timeframe. It is for this reason that CBL contended that the forty-two (42) day timeline is the "absolute maximum" that should be allowed for the conclusion of an Access Agreement. CBL commented that BTC has not provided any convincing grounds as to why this, and other timeframes in the Regulations, should be extended and it argued that this raises serious concerns as to its motives. CBL also noted that there is also a risk that the Infrastructure Provider can also take advantage of the possibility to request additional information under Part 3.5 of the Regulations to "seriously delay or drag out" the forty-two (42) day negotiation period to the detriment of the Infrastructure Seeker.

CBL agreed with JazzTell that the Regulations should provide for the imposition of a penalty on the Infrastructure Provider in the event that it unduly delays the process for the granting of infrastructure access. CBL commented that these penalties should be substantial in order to prevent BTC from concluding that it would be more efficient for it to breach the Regulations than to adhere to them. In its view, by imposing a penalty in such instances, URCA would deter BTC from engaging in dilatory or delay tactics.

URCA's Response

URCA is sympathetic towards CBL's position that Part 3.7 of the Regulations is complex and could lead to the approval of an application to construct a tower fourteen (14) months from the date of receipt of an Access Request. However, URCA does not agree with CBL's speculation and does not share CBL's views that Part 3.7 would lead to this delayed timeframe for the construction of a tower. In an effort to simplify Part 3.7 (now Part 3.8), URCA has made the following amendment:

"*An Infrastructure Provider shall use all reasonable endeavours to conclude an Access Agreement within forty-two (42) calendar days of receipt of an Access Request or where additional information is requested, the date of receipt of all additional information requested of the Infrastructure Seeker, unless such period has been expressly extended by URCA in writing.* ~~*Where the Infrastructure Provider has made a request for further information under Part 3.5, the request shall be deemed to have been received by the Infrastructure Seeker on the date of receipt of the additional information from the Infrastructure Seeker*~~."

URCA notes that while CBL agrees with the proposed forty-two (42) day timeline to conclude an Access Agreement at Part 3.7 of the Regulations, it stated that a fourteen (14) day timeline, commencing from receipt of an Access Request should be imposed on BTC to disclose when it

does not have adequate space on the facility to which access is requested by the Infrastructure Seeker. URCA also notes CBL's suggestion that this information should be made available within five (5) days of the Access Request and checked against the results of URCA's 'emergency investigation' of BTC's existing RAN infrastructure. URCA notes that it has addressed CBL's concerns by amending Part 5.2 of the Regulations, which now provides that where an Infrastructure Provider denies an Access Request (either because it does not have available capacity or because if access is granted, it will compromise the safety, security or reliability of the facility), the Infrastructure Provider must notify the Infrastructure Seeker and URCA of the refusal within five (5) business days of receipt of the Access Request. URCA further notes that in addition to the requirement for the Infrastructure Provider to provide reasons for its refusal of an Access Request, Part 5.3 of the Regulations provides URCA with the power to inspect the relevant facility to determine whether the refusal of access was reasonable. URCA considers that this addresses CBL's concern that the Regulations should clarify and confirm that the Infrastructure Provider should be responsible for proving that its rejection of an Access Request is reasonable.

URCA notes that while JazzTell's agreed with the forty-two (42) day timeframe to conclude an Access Agreement, it recommended that the Infrastructure Provider should face penalties if it is discovered that the Infrastructure Provider failed to adhere to this timeframe to conclude an Access Agreement. URCA notes that this proposal was supported by CBL. Regarding this point, URCA clarifies that where an Infrastructure Provider breaches a provision of the Regulations, URCA will determine whether such breaches constitute a breach of the Licensees applicable licence condition[10] thereby warranting regulatory action by URCA against the Licensee. The possible sanctions available to URCA are clearly outlined in the Comms Act, which may include a decision to:

a) issue an order under section 95 of the Comms Act;
b) issue a determination pursuant to section 99 of the Comms Act;
c) impose a financial penalty under section 109 of the Comms Act; and
d) suspend or revoke the Licensee's licence under section 109 of the Comms Act.

URCA also notes BTC's disagreement with the proposed timeline and its argument that the timeline should be changed to sixty (60) days to take into account the required technical processes and analysis and consolidation of 'relevant data'. URCA notes however that both Digicel and CBL disagreed with BTC's argument on the basis that the new mobile operator would be prohibited from deploying its own mobile infrastructure in a timely manner to satisfy its network rollout targets. URCA further notes CBL's comments that the forty-two (42) day timeframe should be the

[10] Under Condition 3.3 of the Individual Operating Licence and Condition 3.2 of the Individual Spectrum Licence, a Licensee, subject to all other applicable laws and regulations of The Bahamas at the time being in force, undertakes to comply with the conditions of its licence, regulatory and other measures and the provisions of the Comms Act.

absolute maximum time allowed to conclude an Access Agreement since BTC has not provided any convincing grounds for the extension of this timeframe. URCA also notes CBL's argument that the Infrastructure Provider would be able to abuse Part 3.5 to request additional information from the Infrastructure Seeker in order to drag out the negotiation period. URCA agrees with CBL and JazzTell that the forty-two (42) day timeframe should not be extended to sixty (60) days as proposed by BTC. URCA considers that BTC has not offered a convincing argument as to why the timeframe should be extended. Moreover, URCA is aware of the new mobile operator's rollout commitments under its licence and considers that extending the timeframe for negotiation of an Access Agreement may impede the new mobile operator's ability to comply with its targets. Moreover, URCA disagrees that the Infrastructure Provider would be able to drag out the negotiation period by abusing Part 3.5 of the Regulations, since URCA has included a provision at Part 3.6 of the Regulations to address unnecessary information requests made by the Infrastructure Provider.

(c) Should any other provisions be included in Part 3 of the Regulations or any removed?

CBL

CBL noted that it is not clear as to how Part 5.2 of the Regulations relates to Part 3.7, which in CBL's view, could result in a refusal to provide access by BTC at the end of the negotiation period. CBL further stated that it was not clear as to how Part 4.3 of the Regulations relate to the negotiation timeline for infrastructure sharing outlined in Part 3. CBL contended that Part 2.5 of the Regulations does not specify whether URCA would issue a direction after a refusal to provide access or simultaneously with a decision rendered following the conclusion of the ADR process.

CBL further noted that it is important for URCA to have the power to implement interim measures to enable facilities sharing by the new mobile provider as quickly as possible and to dissuade BTC from delaying the process. CBL reiterated that the Regulations should mandate a wholesale capacity or roaming obligation applicable to BTC using a LRIC cost model or benchmarks in areas where BTC refuses to provide access to infrastructure on reasonable terms and conditions. CBL also suggested that the Regulations should specify a mechanism for URCA to address any anti-competitive conduct by BTC during the course of the negotiation process.

Finally, CBL noted that Part 3.8 of the Regulations lists three (3) types of conduct by an Infrastructure Provider that are prohibited during infrastructure sharing negotiations. CBL further notes that the use of the word "and" implies that Part 3.8 (i), (ii) and (iii) are cumulative. CBL suggested that since any one of the types of conduct identified could negatively impact the negotiation of an access Agreement that URCA amend the regulations to clarify that any and all are prohibited.

BTC

BTC noted that while the provisions of Part 3 are acceptable for the most part, some provisions are of concern. More specifically, BTC stated that Part 3.6 of the Regulations only indicate that the Infrastructure Seeker should comply with a request for further information as soon as possible, which provides the Infrastructure Seeker with discretion on when to comply with a request. BTC contended therefore that the Regulations do not provide sufficient certainty to the timeframe for an Infrastructure Seeker to provide further information to the Infrastructure Provider upon request. BTC suggested that the Infrastructure Seeker should comply with the request for further information within five (5) business days of the Access Request.

JazzTell

JazzTell submitted that regulatory oversight by URCA is warranted initially in the infrastructure sharing process to safeguard competition in the market since big players often deny new entrants or smaller operators access to essential infrastructure, which would impede network deployment.

CBL's Response

CBL indicated that it does not agree with BTC that a timeframe of five (5) days needs to be established for the Infrastructure Seeker to respond to a request for additional information under Part 3.5 of the Regulations. CBL further stated that, contrary to BTC's assertions, it is the Infrastructure Provider and not the Infrastructure Seeker that could use Part 3.5 to its advantage to unduly prolong the access negotiation timetable by possibly months. CBL noted that BTC appeared to ignore the fact that the new mobile entrant would have no motivation in seeking to delay the negotiation process since any delay would be to its detriment considering its licence conditions for roll out and the associated performance bond. CBL further highlighted that the Infrastructure Provider could use the request for additional information to its advantage by unduly delaying the granting of access to infrastructure to its competitor.

CBL expressed its agreement with JazzTell on the "absolute importance" of adequate regulatory oversight by URCA in respect of the application of the infrastructure sharing framework in order to safeguard competition.

URCA's Response

URCA clarifies for CBL that even though Part 3.7 of the Regulations (now Part 3.8) allows the Infrastructure Provider forty-two (42) days to conclude an Access Agreement, Part 5.2 of the Regulations mandates that where an Infrastructure Provider intends to deny the Infrastructure Seeker access to its facility, it must not delay notifying this to the Infrastructure Seeker for this

entire forty-two (42) day period and must notify the Infrastructure Seeker of the denial within five (5) business days of receipt of the Access Request.

URCA also clarifies for CBL that Part 4.3 of the Regulations does not directly affect the negotiation timeline under Part 3 of the Regulations. Part 4.3 allows URCA to request from the Infrastructure Provider such data as URCA may require in order to determine whether or not its Access Charges are in accordance with the principles outlined in Part 4.1 and 4.2 of the Regulations, and the Infrastructure Provider must provide this information to URCA within fourteen (14) calendar days of the request.

URCA reiterates that URCA's power to issue a direction to share a specific facility under Part 2.5 of the Regulations applies only to specific identified facilities that are essential to other competitors. URCA clarifies for CBL that its power to issue a direction under this Part would be made where URCA considers it to be in the public interest to do so and would not be invoked consequential to a refusal to provide access or upon the conclusion of the ADR process.

URCA takes no issue with CBL's recommendation that Part 3.8 be clarified to provide that any and all of the identified types of conduct are prohibited during infrastructure sharing negotiations. Therefore, URCA has amended Part 3.8 as follows:

> "*All negotiations for infrastructure sharing must be done with the utmost good faith. The Infrastructure Provider must not:*
>
> *(i) obstruct or delay negotiations or resolution of disputes;*
> *(ii) refuse to provide information relevant to an agreement including information necessary to identify the facility needed and cost data; ~~and~~ <u>or</u>*
> (iii) *refuse to designate a representative to make binding commitments*."

URCA notes JazzTell's comments that regulatory oversight by URCA is warranted in the infrastructure sharing process to safeguard competition in the market. URCA also notes CBL's agreement with JazzTell's comments.

URCA notes BTC's suggestion that Part 3.6 of the Regulations should be amended to mandate that the Infrastructure Seeker comply with the Infrastructure Provider's request for further information within five (5) business days of request to allow for certainty. However, URCA notes that CBL disagreed with BTC's proposal on the basis that the Infrastructure Seeker would have no motivation in seeking to delay the negotiation process since it would be to its detriment to do so, considering its roll out obligations and the associated performance bond. URCA also notes CBL's assertion that the Infrastructure Provider and not the Infrastructure Seeker could use Part 3.5 to its advantage to unduly prolong the access negotiation timetable. URCA reiterates that appropriate measures have been put in place to dissuade the Infrastructure Provider from

requesting additional information from the Infrastructure Seeker for the sole purpose of attempting to delay or drag out the negotiation phase of access to infrastructure. Moreover, URCA agrees with CBL that the Infrastructure Seeker would not be inclined to delay the negotiation process and would have every incentive to comply with the Infrastructure Provider's reasonable request for additional information as quickly as possible so as to ensure the expedited rollout of its network to avoid a breach of its licence obligations. Therefore, URCA will not amend Part 3.6 of the Regulations as proposed by BTC.

URCA notes CBL's comment that it is important for URCA to have the power to implement interim measures that will allow the new mobile entrant to get its cellular business up and running as quickly as possible given the potential for substantial delays consequential to the failure to conclude an Access Agreement and that the Draft Regulations appear to provide for any dispute to be resolved in accordance with URCA's ADR Scheme.

URCA considers that under section 96 of the Comms Act it has powers to issue an interim order in cases of urgency due to the risk of serious or irreparable damage to a licensee to, *inter alia*, effectively address those acts or omissions that are likely to result in such serious and irreparable damage. In this regard, URCA will consider each case on its own merit but believe it is sufficient to say that any suspected unjustifiable refusal or inordinate delay by an Infrastructure Provider in providing the service requested by an Infrastructure Seeker would attract the exercise of URCA's powers under section 96 of the Comms Act.

URCA also clarifies and confirms that, under the Infrastructure Sharing Regulations, disputes will to the greatest extent possible be resolved in accordance with procedures set out under URCA's "*Alternative Dispute Resolution (ADR) Scheme for Disputes Between Licensees – ECS 20/2014"*. URCA believes that the procedures established under the ADR Scheme are sufficiently robust, flexible and effective to resolve such infrastructure sharing related disputes that are likely to arise.

Part 4: Price Setting for Passive Infrastructure Sharing

Question 3

(a) Do you agree with URCA's proposed costing principles at Part 4.1 for price setting for passive infrastructure sharing? If you disagree, please suggest alternative principles which URCA should consider.

CBL

CBL expressed that it generally agrees that the Consultation Document correctly identifies the range of standard costing principles that are typically applied, depending on a number of competitive factors, when setting regulated prices. However, CBL posits that the Draft Regulations offer no guidance on the criteria that will be applied in determining the circumstances under which the proposed costing principles will be applied. CBL asserted that it is important that URCA provide strong incentives to the SMP operator in order to cooperate fully in sharing access to its passive RAN infrastructure where a reasonable request is made by the new market entrant. CBL requested that at a minimum the Draft Regulations should make clear that the aforementioned incentives be built into any interim pricing measures that URCA finds necessary to impose in cases where access is refused by BTC. CBL also recommended that URCA clarify that "term and condition" as referred to in Part 2.14 is inclusive of pricing.

BTC

BTC noted that is has no objection to the principles that URCA has proposed for the purposes of guiding commercially negotiated access rates. However, BTC stated that it is of the view that the cost of foregoing or delaying its current expansion plans (opportunity costs) should be also be applied in determining charges for access. BTC then suggested that the following be included as an additional principle to Part 4.1 of the proposed regulations as principle (vi):

"The cost to the infrastructure provider of foregoing or delaying its expansion plans."

JazzTell

JazzTell indicated that it has no comment on Part 4 other than that prices for infrastructure sharing should be non-discriminatory, reasonable and based on the actual costs incurred by the owner of the facility. JazzTell further stated that the determination of the costs underlying prices should be transparent.

CBL's Response

Further to the second round of consultations, CBL strongly opposed BTC's proposal in response to Question 3(a) of the consultation document, particularly if the new entrant is forbidden from building its own towers. CBL contends that BTC's proposal would lead to the "perverse" situation whereby the new entrant would essentially be prohibited from investing in its own infrastructure, but would, at the same time, be required to compensate BTC for any costs incurred in accommodating the new entrant's active equipment on BTC's infrastructure. In addition, CBL is of the view that BTC does not provide any reference to Australian law or regulation in support of the allegation that the Australian Competition and Consumer Commission (ACCC) considers the cost to an Infrastructure Provider of foregoing or delaying current plans caused by the granting of infrastructure access to an Infrastructure Seeker. CBL contends that it has not found any reference under Australian law or regulation to the principle that the ACCC will consider the costs to the Infrastructure Provider of foregoing or delaying plans as a result of the granting of infrastructure access. As such, CBL disputes the appropriateness of BTC's comparison with the alleged regulatory framework in Australia and suggests that the comparison with Australia is not particularly appropriate.

URCA's Response

URCA has carefully taken into consideration the comments that were received on Question 3(a).

With respect to BTC's suggestion regarding the addition of an additional costing principle, URCA reminds BTC that any sharing agreement that is negotiated between an Infrastructure Provider and an Infrastructure Seeker does not prevent the Infrastructure Provider from continuing to invest in expansion of its network. In the event of tower renovation, costs are to be borne as per the cost recovery scheme agreed by the parties for their proposed usage of the infrastructure in question. URCA cannot reasonably expect for the Infrastructure Seeker to contribute to costs that are associated with infrastructure sharing on the grounds of opportunity cost for the Infrastructure Provider. Pursuant to the Draft Regulation, the Infrastructure Provider is entitled to recover a reasonable rate of return on capital efficiently employed and it is URCA's view that this principle ensures that the Provider is adequately compensated. URCA also notes that there is no evidence to suggest that BTC's proposal is International Best Practice for passive Infrastructure sharing. Furthermore, the document as referenced by BTC in support of their opinion that opportunity costs should factor into pricing does not in any way explicitly state that costing should be inclusive of opportunity costs for Infrastructure Providers. Moreover, URCA's research indicates that the suggestion put forward by BTC is not a principle that is widely accepted in the global market. URCA is not convinced of the merit of BTC's argument and will not amend the Regulations to reflect this principle.

In reply to CBL, URCA notes that the Infrastructure Provider and the Infrastructure Seeker can only use information that is available to them in order to help provide estimates for pricing during the course of commercial negotiation. Currently, only FAC based on historical cost accounting are made use of by SMP operators (BTC, CBL) in The Bahamas. CBL would know that LRIC is not presently available in The Bahamas and the establishment of LRIC models can be a lengthy and resource intensive exercise. It also requires consultation with major stakeholders and other market participants. As such, the use of LRIC, as suggested by CBL, is not feasible in the short to medium term and would delay competitive entry. Whilst URCA is not averse to LRIC, URCA is of the firm view that this approach should only be a consideration in the long-term. URCA, however, considers that in the absence of reliable and relevant FAC information charges can be set using appropriate benchmarks that reflect local circumstances and the relevant principles set out in Part 4 of the Final Regulations. URCA also refers to its comments at Question 3(b) below in reply to CBL's submission.

As mentioned in Section 2 above, the Draft Regulations are not written as obligations for the SMP Operator for mobile services only. As such, URCA is not in agreement with CBL's response that frames the need for incentives for the SMP Mobile Operator only. URCA's position is that any incentives that are introduced will be meant to apply equally to all SMP and non-SMP holders of Individual Operating Licences and/ or Individual Spectrum Licences that satisfy the criteria specified in Part 2 (paragraph 2.7) of the Final Regulations. This is very much in keeping with the principle of non-discrimination under Part 4 of the Final Regulations.

URCA reiterates that the Draft Infrastructure Sharing Regulations covers passive infrastructure sharing as understood and defined by the draft Regulations as "the sharing of space or physical supporting infrastructure which does not require active operational co-ordination between network operators". URCA also refers to its comments at Question 3(b) below in reply to CBL.

URCA agrees with JazzTell that prices for infrastructure sharing should be non-discriminatory, reasonable, and based on the *actual* costs incurred by the owner of the facility. URCA also agrees that the prices for the underlying infrastructure should be transparent. As the principles of transparency, reasonableness and non-discrimination are already included in the Regulations, the following revision has been made to Part 4.1 of the Regulations:

> "*An Infrastructure Provider shall set commercially negotiated access rates based on its <u>actual</u> costs and in accordance with the following principles*: …"

Furthermore, URCA concurs with CBL's comment that General Provision 2.14 in Part 2 of the Regulations also applies to pricing as a "term and condition". The Regulations have been revised to reflect this agreement.

(b) Do you agree with URCA's proposals at Part 4.2 on the price setting methodologies for determining Access Charges for infrastructure sharing? If you disagree, please suggest an alternative method of cost allocation along with evidence to support the same.

CBL

CBL is seeking guidance on how to determine the appropriate pricing criteria in specific circumstances with a focus on those situations that raise concerns about anticompetitive conduct or unnecessary delays that could impede the second cellular licensee's ability to meet its licence obligations and deliver good quality cellular services. CBL included three proposals in support of their query. The proposals were as follows:

1. A LRIC cost methodology should be applied in setting a charge for an interim wholesale capacity or roaming arrangements that would apply in any area where BTC refuses access to its passive RAN infrastructure.

2. A similar wholesale capacity arrangement should be made available to the new entrant where one of the Access Criteria are satisfied (and the infrastructure is therefore nonreplicable) and where BTC does not have available space at the optimal height on existing passive RAN infrastructure.

3. If URCA issues a "direction" that BTC must construct new passive RAN infrastructure (or modify existing structure) in order to provide suitable access to the new entrant, URCA should consider reasonable proposals from the Infrastructure Seeker for sharing the costs of reconstruction or modification. For example, the tower construction costs should be based on the actual replacement cost (LRIC), whereas ongoing OPEX costs would be based on LRAIC.

In response to BTC's comment, CBL believes that where possible, access should be granted at commercially negotiated rates. In terms of fixed network sharing, CBL agrees with BTC's proposal to use FAC. However, in respect of mobile network sharing, CBL refers to its comments on the use of long range (average) incremental pricing ("LR(A)IC") as set out in Section 2(iv) of its Response to Consultation.

BTC

BTC is in agreement with URCA in that the Infrastructure Provider should provide access to its facilities at commercially negotiated rates based on its costs. BTC strongly holds the view that the charging principles for access should be based on Fully Allocated Costs (FAC) or the use of

benchmarks in the absence of FAC. BTC asserts that it should have the latitude to use benchmarking in instances where suitable comparators can be found.

JazzTell

JazzTell did not provide comments to Question 3(b) of the Consultation Document.

Digicel's Response

Digicial suggested that a template approach to Infrastructure Sharing agreements be used. Their proposed template included, among other things, the following requirements:

Rent

Digicel suggests a rental rate of $12,000-$15,000 BSD per tower using the benchmarking costing principle.

Cost of Upgrading Existing Towers

Digicel believes that the cost of upgrading existing towers should be paid by the Infrastructure Provider. Digicel proposes that the Infrastructure Seeker pay up to two years of agreed upon rent upfront in order to offset the cost that the Infrastructure Provider will have to pay to upgrade its existing towers.

Cost Basis

Digicel disagrees with BTC's strongly held view that the charging principles for access should be based on Fully Allocated Costs (FAC). Digicel holds that FAC would not be the correct pricing principle to use given that BTC does not operate its mobile operations in a competitive environment therefore potentially rendering its costs substantially higher than they need be. Digicel in its response has suggested a cost of tower co-location price range of $12,000-$15,000 BSD per tower per year.

Mobile Termination Rates

Digicel is in agreement with BTC that mobile termination rates should be instituted for domestic traffic and the rate should allow for the recovery of infrastructure costs.

URCA's Response

With respect to BTC's comment regarding benchmarking, URCA clarifies that any comparator market used as a benchmark must be reasonable, objectively justified, relevant and appropriate to the situation in The Bahamas and reflective of the costing principles specified in Part 4 of the Final

Regulations. As previously stated, URCA is not averse to the use of comparable benchmarks to set prices. However, benchmarks must also be adjusted according to local circumstances.

URCA reiterates that charging for infrastructure may be determined using either long run incremental costs (LRIC), fully allocated costs (FAC), or benchmarking. However, as noted above, URCA anticipates that in the short to medium term prices would be set using either FAC, benchmarks or any combination of the two. URCA does not make the distinction between fixed network sharing and mobile network sharing. The Regulations are technology neutral and apply to passive infrastructure sharing for the purposes of facilitating the roll-out of electronic communications networks, including the second cellular service network. In this regard, passive infrastructure could very well involve components typically thought of as fixed network infrastructure. Moreover, it is not URCA's intent to prescribe which costing principle is used by the Infrastructure Provider or the Infrastructure Seeker. The costing principles are only a guideline upon which to base commercial negotiations. However, if requested to arbitrate a dispute URCA will give utmost consideration to the costing principles identified in Part 4 of the Final Regulations.

As per CBL's comments on Question 3(b), URCA clarifies that any mention of wholesale capacity arrangements (or roaming) in the context of this consultation is out of scope. URCA has already given its reasons why URCA proposes to treat national roaming as a separate consultation from this process. In this regard, URCA reiterates that CBL's reference to LRIC and wholesale capacity arrangements is outside the remit of this present consultation.

URCA confirms that it will consult with all interested parties before making a "direction" to share a specific facility in the event that a commercial agreement cannot be negotiated.

URCA notes Digicel's comment on the efficiency of BTC's mobile cost structure. As previously stated where FAC is proven to be unreliable or irrelevant, charges could be set using appropriate benchmarks that reflect local conditions. At this point in time URCA is not arbitrating a dispute and is unable to comment on the validity of the rates put forward by Digicel.

URCA is supportive of Digicel's proposal for a template agreement and proposes to consult separately on a template Infrastructure Sharing Agreement. However, because the framework requires the parties to negotiate commercial terms, URCA considers that it would be premature and prejudicial for URCA to include Digicel's proposed terms in a template agreement. Digicel should know that URCA has no information on how the charges were derived and it is not apparent to URCA that the charges are reflective of the economic principles specified in Part 4 of the Final Regulations. Moreover, URCA has no data on the list of benchmarked countries considered by Digicel and the extent to which the rates have been adjusted to reflect local conditions.

URCA agrees with Digicel and BTC that Mobile Termination Rates (MTRs) should be instituted for domestic traffic. This is recognised in URCA's programme of work for 2015. URCA, however, disagrees with Digicel's proposal that MTRs should allow for the recovery of infrastructure costs. URCA reminds Digicel that at Part 4.1(iii) of the Final Regulations: *"An Infrastructure Provider must* ***unbundle*** *distinct facilities and corresponding charges sufficiently so that the Infrastructure Seeker need only pay for the specific elements required" [Emphasis added]*. This is also one of the core economic principles underpinning the access and interconnection regime for voice communication in The Bahamas.[11] URCA envisages that MTRs would be specified in the Interconnection Agreement between the parties while charging for Infrastructure Sharing would be included in a separate Sharing Agreement between the parties. In URCA's view this approach ensures transparency and non-discrimination and is consistent with the statutory framework for regulation and competition in The Bahamas.

(c) Should any other provisions be included in Part 4 of the draft Regulations or removed?

CBL

CBL indicated that it finds the interrelation of various Parts of the proposed regulations ambiguous, in particular the relation between URCA's power to issue a direction establishing Access Charges under Part 4.4, the procedures of Part 2 and the dispute resolution powers under Part 6.

BTC

BTC believes that URCA's intervention with respect to the provision of data in relation to infrastructure access should be limited to instances where there is a dispute.

JazzTell

JazzTell did not provide comments to Question 3(b) of the Consultation Document.

CBL's Response

In its second response, CBL expressed that it did not agree with BTC's comment that URCA's intervention with respect to the provision of data in relation to infrastructure access should be limited to instances where there is a dispute. CBL emphasised the importance of URCA's role in ensuring that there are no delays or difficulties in the process of the negotiation and granting of access to passive infrastructure. CBL supplemented its position by adding the following suggestions:

[11] ECS 14/2010 dated 22 April 2010 *"Final Guidelines - Access and Interconnection"* available at http://www.urcabahamas.bs/consultations.php?cmd=view&article=261.

- URCA should be as active as possible in the negotiation process to minimise any delays or the risk of a dispute if there is no agreement between the parties.
- URCA must therefore have access to whatever data it may consider necessary to assist the negotiating parties in seeking to resolve any commercial difficulties encountered in the negotiation process
- In the case of dispute resolution proceedings, URCA should be able to provide interim "guidance" on how it would seek to resolve the issues at stake in a dispute resolution capacity.

URCA's Response

The infrastructure sharing regulatory framework contemplates that operators would engage in good faith negotiations and only resort to URCA in the event of a dispute. URCA believes that the establishment of a template agreement, as suggested by Digicel, would go a far way in minimizing the scope for inter-operator disputes and expedite the process of negotiation. URCA agrees with CBL on the need for URCA to have access to information and to issue interim decisions or guidance. URCA has a monitoring function to ensure orderly development of the sector and that regulatory initiatives are implemented in a timely and expeditious manner as far as possible. Access to information is critical to URCA discharging its monitoring responsibilities. As such, URCA would not agree to any proposal that would restrict URCA's ability to request and obtain information as proposed in the draft Regulations.

Further, URCA clarifies for CBL that it would issue a direction establishing Access Charges pursuant to Part 4.4 of the Regulations following URCA's ADR scheme as provided under Part 6 of the Regulations.

URCA reminds Licensees about URCA's powers under sections 96 and 99 of the Comms Act to issue interim orders (in cases of urgency due to risk of serious and irreparable damage) and interim determination (if URCA is likely to find that a licensee has breached the Comms Act or a licence condition and irreparable harm would result if no interim determinations were made). URCA proposes to rely on these provisions in case it observes any behaviour that appears to be detrimental to the negotiation process. URCA further wishes to remind licensees that they have a duty to ensure, amongst others, that they do not engage in behaviour that is likely to result in the parties unable to conclude an agreement.

Part 5: Refusal of Access

Question 4

(a) What are your views on the proposed circumstances whereby an Infrastructure Provider may deny an Access Request by an Infrastructure Seeker?

CBL

CBL noted that Part 5.5 of the Regulations should require consideration of anti-competitive behaviour by BTC that amounts to an abuse of dominance in relation to restricting tower space suitable for sharing. CBL declared that URCA should provide clear guidance on how it would assess reasonable reservation of suitable sharing space on any new towers that are built.

CBL further recommended that URCA should establish a process for the reconstruction or modification of BTC's towers that are unable to accommodate the new mobile entrant's equipment and where the new entrant is willing to share the cost of replacing the tower. Lastly, CBL also suggested that Part 5.1(ii) of the Regulations be amended to establish an evidence-based minimum threshold to prevent the unfair application of this provision. CBL submitted that "reliability" should only be a valid reason for the denial of access to infrastructure where there is a risk of "serious interference or downtime of services".

BTC

BTC commented that the circumstances outlined in Part 5.1 of the Regulations whereby an Infrastructure Provider may deny an Access Request appear to be consistent with the approach adopted in Trinidad under the Trinidad and Tobago's Telecommunication (Access to Facilities) Regulations, 2006. BTC noted however that the archipelagic nature of The Bahamas and USO elements are factors that should be taken into account in the determination of granting access.

JazzTell

JazzTell commented that it agrees with Part 5.1 of the Regulations that outline the circumstances whereby an Infrastructure Provider may deny an Access Request made by an Infrastructure Seeker. Additionally, JazzTell noted that Infrastructure Providers should not be allowed to:

i) obstruct or delay dispute resolution negotiations;
ii) refuse to provide information relevant to an Access Agreement, including information necessary to identify the facility proposed for sharing;
iii) refuse to designate proper representatives to expedite negotiations.

JazzTell further recommended that URCA should be attentive in verifying the accuracy of the information provided to it by the Infrastructure Provider.

CBL's Response

In its response to BTC's comments, CBL reminded BTC that the USO elements address the provision of a minimum set of retail services to the consumer and does not concern the granting of access to passive infrastructure at the wholesale level. Therefore, CBL commented that it does not understand why BTC's USO should be taken into account for the purposes of Part 5.1 of the Regulations as a reason for refusal of access. CBL continued that in any event, the USO is limited to fixed line infrastructure only. CBL reiterated that the Infrastructure Sharing Regulations should be limited for the time being to mobile network infrastructure only, and CBL therefore does not consider that BTC's USO is relevant to the current proposals.

URCA's Response

URCA does not consider the Regulations as the appropriate medium to address consideration of anti-competitive behaviour by BTC in relation to tower access. URCA notes that any anti-competitive behaviour by any licensee will be considered by URCA under its current competition framework.

URCA agrees with CBL's recommendation that URCA should establish a process for the modification of existing towers that are currently unable to accommodate the equipment of another operator. Therefore, URCA has included specific provisions on modification of existing towers in Part 3 of the Regulations. URCA does not share CBL's views that Part 5.1(ii) of the Regulations should be amended as proposed. As previously indicated, URCA's power to direct the Infrastructure Provider to produce records in connection with its refusal of an Access Request along with URCA's powers of inspection pursuant to Part 5.3 of the Regulations should address CBL's concerns of the unfair application of Part 5.1(ii) by the Infrastructure Provider. Moreover, URCA does not propose at this time to restrict the application of "reliability" under Part 5.1(ii) to circumstances of a risk of serious interference or downtime of services. Where an Access Request is denied on the basis that reliability would be compromised, URCA will assess the Infrastructure Provider's records and any other evidence arising in the matter to determine the validity of the refusal.

In response to BTC's suggestion that the archipelagic nature of The Bahamas and USO elements be factored into a decision of granting access, URCA notes that BTC did not expand on or give reasons for its proposal. Therefore, URCA finds it challenging to consider how the archipelagic nature of The Bahamas and the USO framework would affect access to infrastructure.

JazzTell's comments are noted by URCA. URCA particularly notes that JazzTell's proposal on the behaviours that should be prohibited by an Infrastructure Provider are already included in the Regulations at Part 3.9.

(b) Do you agree with the timeframe in Part 5.2 for an Infrastructure Provider to notify an Infrastructure Sharer of a denial of an Access Request? If you disagree, kindly suggest an alternative timeframe.

CBL

CBL recommended that URCA revise Part 5.2 of the Regulations to mandate that BTC must inform the Infrastructure Seeker within five (5) business days of receipt of an Access Request that it has no available space on the requested infrastructure for sharing and that BTC must provide the Infrastructure Seeker with reasons why there is no such available space.

BTC

BTC averred that it disagreed with the proposed timeframe at Part 5.2 of the Regulations since, in its view, it is restrictive. BTC recommended that the timeline should be modified to twenty-one (21) working days in order to allow the Infrastructure Provider sufficient time to assess the capacity of the infrastructure to which access is requested.

JazzTell

JazzTell submitted that it agreed with the proposed timeframe of fourteen (14) days of an Access Request for an Infrastructure Provider to notify the Infrastructure Seeker and URCA in writing of its denial of the Access Request.

Digicel's Response

Digicel commented that it disagreed with BTC that a notice of a denial of access should take more than fourteen (14) days to provide since the mobile network rollout timeframes are already challenging and the large financial penalties the new operator faces if rollout does not occur within the timeframes.

CBL's Response

CBL noted its strong disagreement with BTC's suggestion that the timeframe outlined in Part 5.2 of the Regulations for the Infrastructure Provider to refuse an Access Request be extended from fourteen (14) to twenty-one (21) days. Again, CBL urged URCA to shorten the timeframe from fourteen (14) days to five (5) days considering the importance to the new mobile entrant of timely and unimpeded access to BTC's infrastructure. CBL also noted that BTC's reason for proposing to extend the timeframe under Part 5.2 to twenty-one (21) days is that this time is needed to assess

the capacity of the site for which access has been requested. CBL suggested that URCA conduct an investigation of BTC's towers prior to enacting the Regulations and to make public the conclusions of the investigation. CBL considers that this would ensure that the process for negotiating and granting access would be expedited as the Infrastructure Provider would already have the necessary information regarding specific infrastructure capacity and would not have to undertake a separate investigation.

URCA's Response

URCA notes the respondents' opposing comments on the timeframe for an Infrastructure Provider to notify the Infrastructure Seeker of a denial of an Access Request. URCA does not agree with BTC that this timeframe should be extended to twenty-one (21) working days. A key aim of the Regulations is ensuring that infrastructure agreements are concluded as quickly as possible. In its response to comments received to Question 2(a), URCA noted that it did not object to decreasing the timeframe for an Infrastructure Provider to notify the Infrastructure Seeker and URCA of a denial of an Access Request from fourteen (14) calendar days to five (5) business days.

(c) Should any other provisions be included in Part 5 of the draft Regulations or removed?

JazzTell

JazzTell offered no comment to Question 4(c) of the Consultation Document.

BTC

BTC stated that no other provision should be included in or removed from Part 5 of the draft Regulations.

CBL

CBL commented that it was not clear as to how URCA's power to impose an infrastructure sharing arrangement on the parties pursuant to Part 5.4(iii) of the Regulations inter-operates with URCA's dispute resolution powers under Part 6 of the Regulations and also with its power to issue a direction pursuant to Parts 2.5-2.7 of the Regulations. CBL presumed that URCA would only issue a direction once the procedures under the ADR scheme have been exhausted.

CBL suggested that URCA amend Part 5 of the Regulations to provide for an interim remedy that would apply where BTC refuses to grant access to its RAN infrastructure upon request and where the new mobile licensee is unable to deploy its own facilities. CBL restated that a site-specific wholesale network capacity or roaming arrangement should be made available to the new entrant as an interim measure so that the new entrant could continue with deployment of its services pending the resolution of a decision to refuse access by the Infrastructure Provider.

URCA's Response

As CBL's concerns were expressed in earlier parts of its response, URCA notes that it has already addressed CBL's comments in the above parts of this document.

Part 6: Dispute Resolution and Compliance with Regulations

Question 5

(a) Do you agree with URCA's proposals for dispute resolution and compliance with the Regulations? If not, kindly give reasons for your position.

JazzTell

JazzTell did not provide any comments to Question 5 of the Consultation Document.

CBL

CBL commented that it considered URCA's ADR Scheme a "lengthy process" and that it does not believe that it is necessary or proportionate to adhere to the timescales outlined in URCA's ADR process for matters relating to infrastructure sharing, particularly where such issues should be "straightforward". CBL noted that section 3.2 of URCA's ADR Scheme[12] allows URCA to depart from the procedures set out therein and establish separate dispute resolution procedures in "warranted circumstances". CBL therefore proposed alternative ADR procedures to address infrastructure sharing related disputes within seventy (70) business days and removes the mediation and arbitration provisions from the dispute resolution procedure. CBL further commented that the Regulations should clarify what interim arrangements would be put in place pending dispute resolution and appeal. CBL suggested that a wholesale capacity/roaming arrangement be included in the Regulations as a possible interim arrangement.

BTC

BTC stated that it agrees in principal with URCA's proposal for dispute resolution arising under the Regulations regarding access to infrastructure should be addressed in accordance with URCA's ADR Scheme.

CBL's Response

CBL reiterated its comments and proposal for a separate ADR process to specifically address infrastructure sharing disputes. It noted that it is not necessary or proportionate to follow the timescales laid out in URCA's ADR Scheme for infrastructure sharing disputes where such issues

[12] The Utilities Regulation and Competition Authority Alternative Dispute Resolution (ADR) Scheme for Disputes Between Licensees [*ECS 20/2014*] December 31, 2014.

should be “relatively narrow and straightforward”. CBL commented that the Regulations do not provide for effective and timely dispute resolution procedures in situations where the Access Seeker is unable to replicate essential infrastructure and where the Access Provider has refused to provide access.

URCA’s Response

URCA notes CBL’s general comment that URCA’s generic ADR Scheme is a lengthy process designed to cover disputes of varying complexities and not necessary or proportionate for cases involving access to RAN infrastructure to follow the timescales set out in the general ADR process where the issues are relatively narrow and straightforward. URCA also notes CBL’s proposal for a streamlined dispute resolution timetable specifically in relation to infrastructure sharing related disputes and that the Regulations should make clear what interim arrangements will be put in place pending dispute resolution (and appeal) such as wholesale capacity/roaming arrangements.

URCA further notes CBL’s specific issue that while CBL is aware that the ADR Scheme allows URCA to depart from the procedures set out therein and establish separate dispute resolution procedures in “*warranted circumstances*”, that CBL recommends the removal of the mediation and arbitration provisions from the dispute resolution procedure in line with CBL’s proposed streamlined process of 70 business days for resolution of RAN access disputes between an Infrastructure Seeker and an Infrastructure Provider.

URCA considers the processes and procedures as set out under the ADR Scheme for Disputes Between Licensees to be fit for purpose to handle infrastructure sharing related disputes. URCA is fully cognisant of the potential adverse impact on competition consequential to any undue delay in resolving disputes anent infrastructure sharing. URCA has stated in its ADR Scheme document as a general high level proposition that the procedures established thereunder are for the timely and effective resolution of disputes and that should URCA decide to depart from any of the procedures, it will inform the parties of its reasons for doing so. URCA believe it is important to further state that the resolution of infrastructure sharing disputes may reasonably attract such departure by URCA, determined on a case-by-case basis.

While URCA is sympathetic to the streamlined process proffered by CBL, URCA believes it is important to emphasise that the timescales established under the ADR Scheme for Disputes Between Licensees set maximum thresholds that are not monolithic. Where URCA determines it expedient, reasonable and appropriate to impose accelerated timelines on parties to an infrastructure sharing dispute in order to expedite resolution of the same, it will do so in a manner that is efficient, proportionate, fair, non-discriminatory and transparent.

Regarding CBL's concern that the Regulations should make clear what interim arrangements will be put in place pending dispute resolution (and appeal) such as wholesale capacity/roaming arrangements, URCA considers section 96 of the Comms Act is of general application and gives URCA power to issue an interim order that sets out remedies to effectively minimise or avert the risk of serious or irreparable damage to a party to a dispute. In this regard, URCA will make a decision on a case-by-case basis as appropriate.

URCA notes CBL's recommendation for the removal of the mediation and arbitration provisions from the dispute resolution procedure for infrastructure sharing disputes. URCA considers mediation and arbitration to be integral to the ADR Scheme and should be available to parties to such disputes. URCA reminds CBL that the mediation process is not mandatory and thereby imposed on the parties to a dispute by URCA.

Mediation, under the ADR Scheme, is predicated on the recommendation by URCA or through an agreement between the parties that the issues under dispute may be effectively resolved through that process. Where a party to an infrastructure sharing dispute considers the mediation process to likely cause an inordinate delay in the resolution of such dispute, which appears to be the substratum of CBL's concern in this regard, that party is at liberty not to agree to the mediation process and request that URCA move to resolve the dispute in a manner it considers appropriate.

The arbitration provisions of the ADR Scheme clearly provides for URCA to resolve a dispute either through regulatory determination or refer it to a Dispute Resolution Panel (the Panel) for resolution. URCA believes it is the latter process with which CBL may be concerned and the potential timeline such process is likely to take to resolve an infrastructure sharing dispute. While URCA is sympathetic to this concern, URCA considers it important to emphasize that a referral of an infrastructure sharing dispute to the Panel will be consequential to a detailed analysis of all submissions by the parties to a dispute when deciding whether the issues for determination are complex and/or highly specialized. URCA, however, is also fully appreciative of the potential adverse impact of a refusal to provide access to infrastructure on competition in the sector and the need for an infrastructure sharing dispute to be resolved with the greatest alacrity. URCA therefore believes it is sufficient to say that it would take a pragmatic approach to its decision to either resolving such dispute by way of regulatory determination or to refer it to a Panel.

Table 1: CBL's suggested timescales for dispute resolution procedure compared to timescales under the ADR Scheme.

URCA has given special consideration to CBL's "Suggested Timeline" as contained in Table 1 of its response in conjunction with Annex 2 of the response and believes it is important to comment thereon. While URCA notes the significant disparity in the timeline suggested by CBL of 70 business days and 6 months under the ADR Scheme for the overall resolution of dispute, CBL may

not have considered certain key factors that informed URCA's determination of the timelines set out under the ADR Scheme. URCA has reproduced the CBL Table 1 below and provided comments thereto for clarification:

Action	**Timeline in ADR Scheme**	**CBL's Suggested Timeline**	**URCA's Comments**
Notice of Dispute submitted to URCA (including minimum required information.	Within 90 calendar days after occurrence of an unresolved matter in contention between the parties where legal proceedings are not in progress.	Within 5 business days after occurrence of an unresolved matter in contention between the parties where legal proceedings are not in progress.	The imposition of the 90 calendar days timeframe seeks to guard against the potential prejudicial effect of an unresolved dispute not being pursued by an aggrieved party in a timely manner. An aggrieved Infrastructure Seeker is especially encouraged to submit a Notice of Dispute to URCA immediately after it becomes aware that an infrastructure sharing dispute cannot be resolved with the Infrastructure Provider.
URCA acknowledges receipt of Notice of Dispute.	Within 2 business days of receiving Notice of Dispute.	Within 1 business days of receiving Notice of Dispute.	URCA is sympathetic to CBL's position and would give due consideration to the proposed time taken to acknowledge receipt of such

			Notice.
URCA expects to complete initial assessment.	Within 5 business days of receiving the Notice of Dispute.	Within 5 business days of receiving the Notice of Dispute.	Agreed.
Applicant must respond to any request for Information (RFI) of clarification request by URCA.	Within 7 business days of receiving RFI.	Within 5 business days of receiving RFI.	URCA is sympathetic to CBL's position and would give due consideration to the timeframe for response by an Applicant to a RFI.
URCA shall notify the Applicant in writing of its proposed course of action which may include directing further negotiation between the parties or notifying Respondent that a dispute has been filed and requesting initial comments.	Within 10 business days of receiving Notice of Dispute or receiving all required information in response to RFI.	Within 7 business days of receiving Notice of Dispute or receiving all required information in response to RFI.	URCA is sympathetic to CBL's position and would give due consideration to the timeframe for notifying the Applicant of its proposed course of action.
Respondent must submit comments in response to URCA's notification of a dispute.	Within 14 business days of URCA's notification of a dispute.	Within 7 business days of URCA's notification of a dispute.	While URCA is sympathetic to CBL's position, this timeline would depend heavily on the nature and scope of the RFI.
URCA issues Preliminary Determination	No timeframe specified as from URC's receipt of comments from Respondent in response to URCA's notification of dispute.	Within 15 business days of receipt of comments from Respondent in response to URCA's notification of dispute.	URCA cannot set timeframes for its investigation as this is an iterative process that may involve multiple rounds of interactions with the parties to a dispute.

Respondent makes representations about matters in Preliminary Determination	Within 30 calendar days of receiving Preliminary Determination (or as otherwise specified in Preliminary Determination).	Within 10 business days of receiving Preliminary Determination (or as otherwise specified in Preliminary Determination).	Statutory timeframe established under section 100 of the Comms Act from which URCA is unable to deviate.
URCA issues its Final Determination and Order to the Dispute.	Within 30 calendar days of receiving representations from the Respondent and any interested party.	Within 15 calendar days of receiving representations from the Respondent and any interested party.	The 30 calendar day period is a maximum threshold which may be lessened depending on the complexity of the issues and the representations the parties.
Overall resolution of dispute by URCA.	Within **6 months** of referral.	Within **70 business days** of referral.	**Non-monolithic 6 month period**.

URCA notes the corresponding timelines as set out in the Annex 2 of CBL's Response regarding URCA's proposed end-to-end process for granting of access. As discussed above, the timeframes established by URCA are the maximum thresholds. URCA shall decide to impose timeframes that are efficient, proportionate, fair, reasonable and non-discriminatory on a case-by-case basis.

(b) Should any other provisions be included in Part 6 of the draft Regulations or removed?

CBL

CBL directed URCA's attention to its comments made in response to Question 5(a) as outlined above.

BTC

BTC noted that Part 6.2 provides for an interim access arrangement to be implemented by the parties at URCA's direction while a dispute is being considered. BTC stated that the interim access arrangement should not be an absolute rule and that each dispute should be assessed on its merits to determine the practicability of such arrangement in the circumstances. BTC argued that where URCA has determined that an interim access arrangement be established, URCA must consider the resulting cost of sharing and the cost of removal in the event that it is determined by

ADR that the Infrastructure Seeker's request has been denied. BTC also argued that the issue of damages sustained by the Infrastructure Provider during the period of "forced" sharing must also be considered.

BTC further urged URCA to consider the Infrastructure Provider's reasons for refusal and to consult with the Infrastructure Provider prior to setting out the terms and conditions since they will remain in force until the dispute is resolved.

CBL's Response

CBL commented that it is likely that BTC will have no incentive to expedite, and every incentive to delay for as long as possible the conclusion of an infrastructure sharing agreement with the new mobile operator. CBL therefore considers it critical to the new entrant for URCA to impose interim arrangements in order to ensure the success of the new operator's commercial venture and its ability to comply with its roll out obligations. CBL reiterated its concern regarding a general lack of clarity in the Regulations on the type of interim measures that URCA will apply in the event that the parties fail to reach agreement or if there is no space on BTC's towers in an area where the new entrant cannot replicate BTC's infrastructure. CBL repeated its recommendation that a wholesale capacity/roaming arrangement be included in the Regulations as a possible interim arrangement.

URCA's Response

URCA notes BTC's specific concern that each dispute should be assessed on its merits and that the interim access arrangement should not be the absolute rule. While URCA agrees that it will consider each case dispute on its own merit, it agrees with CBL that URCA's ability to impose interim arrangements on the parties would minimise risk of delay in the infrastructure sharing process.

URCA also considers it important to emphasise the potential effect of its interim order in this process. URCA may issue an interim order either at the time of its acknowledgment of Notice of Dispute (within 2 days) or upon completion of initial assessment of dispute (within 5 days). Such interim order may contain directions to the suspected offending party to refrain from doing an act that may cause risk of serious or irreparable damage to another party to a dispute. Inherent thereto is the power for URCA to make an interim order the effect of which would compel a suspected offending party to do an act that will not cause risk of serious or irreparable damage to another party to a dispute until such dispute has been fully determined and resolved. URCA will treat with urgency infrastructure sharing disputes and issue the appropriate regulatory and other measures, including an interim order, to either minimise the risk of serious and irreparable damage to a party or to effectively resolve an infrastructure sharing dispute.

Schedule: Guidelines for the Construction of Communications Towers

While URCA did not pose specific questions to respondents on the Schedule to the Regulations, BTC and CBL nonetheless provided comments to this part of the Consultation Document. The following section summarises CBL's and BTC's comments and URCA's responses thereto. URCA notes that many of CBL's concerns raised in this part of their response have already been addressed throughout this document. The below summary of comments by CBL represent those which have not yet been addressed by URCA.

CBL

CBL commented that the Regulations and the Schedule contain a number of material inconsistencies and ambiguities. CBL also alleged that URCA overlooked important considerations that it believes may negatively impact the practical application of the provisions of the Regulations. CBL recommended that URCA narrow the focus of the Regulations and simplify its approach as recommended in earlier comments made by CBL.

1. Examples of Ambiguities, Inconsistencies and Oversights in the Draft Regulations

CBL noted that while URCA has defined both "Infrastructure" and "Passive Infrastructure Sharing", URCA has only made reference throughout the Regulations to Infrastructure, with the exception of Part 4 of the Regulations on "Price Setting for Passive Infrastructure". CBL stated that it was not clear whether the single reference to passive infrastructure sharing in Part 4 was a drafting error or whether it suggests that the pricing related requirements under Part 4 apply only in respect of sharing of passive infrastructure. CBL further stated that it was not clear whether the terms "Infrastructure sharing" and "Passive Infrastructure Sharing" are used interchangeably. CBL recommended that the requirement to grant access to passive RAN infrastructure under the Regulations should be limited to passive network infrastructure only and should not be extended to active network elements. CBL declared that URCA revise the definition accordingly.

URCA's Response

URCA clarifies for CBL that its use of the term "passive infrastructure sharing" in Part 4 was not a drafting error. URCA has stated from the onset that it proposed for the Regulations to apply exclusively to the sharing of passive infrastructure sharing for the time being and that URCA might consider active infrastructure sharing among operators later on.[13] However, for the avoidance of doubt URCA has inserted the word "passive" throughout the Regulations where the term "infrastructure sharing" has been used.

[13] See page 10 of Consultation Document.

2. Definition of "Control"

CBL alleged that the definition of "control" at Part 1.3 of the Regulations is ambiguous. CBL stated that it is further unclear whether an operator would have "control" of Infrastructure by way of a network sharing agreement or via a buy and lease back agreement with a third party vendor company. CBL opined that multiple layers of access arrangements for the same infrastructure is not favourable and could lead to the degradation of access, technical interference and administrative/legal complexity that could be avoided. CBL also noted that Part 1.3 of the Regulations does not explicitly state the situation where both the owner and the party "in control" of the Infrastructure can comply with the requirements of the Draft Regulations.

URCA's Response

URCA notes CBL's comments and considers that the definition of control is sufficiently clear to give effect to its ordinary meaning for the purposes of infrastructure sharing.

3. Scope of URCA's Power to Issue Directions

CBL reiterated its sentiments that it was not clear when URCA would issue a direction under Parts 2.5-2.7 to share specific facilities. CBL also reiterated its sentiments regarding the interaction of URCA's powers to issue a direction setting out Access Charges and a direction to grant access to infrastructure to URCA's dispute resolution powers under Part 6.

URCA's Response

URCA notes that it has addressed CBL's comments above.

4. Factors to Be Taken into Consideration by URCA when Evaluating Infrastructure Sharing

CBL noted that the Regulations establish various factors to be taken into account by URCA when issuing a direction to share a specified facility, considering a request to construct a new tower and reviewing a refusal of an Access Request. CBL included a table in its response that attempted to demonstrate potential inconsistencies between these factors. CBL contended that a lack of consistency between the factors is likely to contribute to disputes and litigation among operators.

URCA's Response

URCA does not share CBL's views that there are inconsistencies between the factors identified by CBL. URCA considers that it is not necessary or a requirement to consider the same factors when issuing a direction to share a specified facility, considering a request to construct a new tower and reviewing a refusal of an Access Request since these matters are not alike and the objectives for each are all different.

5. URCA's "restrictive" approach and lack of reference to international guidelines

CBL repeated that it has not discovered any precedent available in another jurisdiction that applies a similarly restrictive approach to infrastructure sharing. CBL argued that in the United Kingdom, tower construction policy falls under the remit of the local planning authorities and not the telecommunications regulator. CBL referred to the Planning Policy Guidance Note 8 which states that tower sharing is "strongly encouraged" and applicants should explore tower sharing prior to applying for a permit to construct a new tower. CBL also noted the Federal Communications Commission's (FCC) acknowledgement of the risks of cumulative exposure from tower sharing. CBL also stated that the FCC has recognized the danger on tower-exposure (due to the presence of nearby co-located equipment) and that this may be significant when work is undertaken on a tower subject to collocated transmitters. Power adjustment agreements may be signed to ensure that all tower licensees jointly comply with FCC guidelines for exposure levels.

CBL argued that the factors that URCA will consider when assessing a request to construct a new electronic communications tower (Part 2.8) and the criteria for the evaluation of applications to construct a new tower (section 3 of the Guidelines) are broad and contain undefined terms. Examples of the terms include references to "health and safety considerations (Part 2.8 (vi) and Section 3(k) of the Guidelines), "any likely adverse impact on the environment in the area surrounding the proposed tower" (Part 2.8 (vii) and Section 3(g) of the Guidelines) and "tower saturation in the area" (Part 2.8(ii) and Section 3(c) of the Guidelines). CBL argued that this allows URCA significant discretion when assessing such applications. CBL further contended that URCA has not connected these factors to international guidelines. CBL also argued that the factors are difficult to apply in practice and that it is difficult for the stakeholder to appreciate or understand with any degree of certainty how the Guidelines in the Schedule would apply in practice.

URCA's Response

Regarding CBL's concerns on the proposed criteria for the evaluation of applications to construct a new tower, URCA disagrees with CBL that it has not connected the criteria to international guidelines. In its consultation document, URCA outlined at pages 5 and 6 under the rubric "Market Considerations" and "International Best Practice", respectively that infrastructure sharing had been globally recognised as a means to address environmental and public health and safety concerns as well as address the deterioration of the skyline due to the proliferation of towers.

6. Lack of acceptable criteria when considering a request for tower construction

CBL noted the Guidelines do not include criteria for what URCA would consider acceptable when assessing the design of the proposed tower and the proposed transmitter specifications.

URCA's Response

URCA clarifies that the permitted tower design include stealth, monopole, roof-mounted and lattice towers and approval of each design would be based upon the land use area determined by the Government of The Bahamas in accordance with its Building Regulation (Electronic Communications Tower) Rules.

7. Inconsistency between lists of factors

CBL noted that the criteria at Part 2.8 and Section 3 of the Guidelines are different and that most of the criteria relate to technical feasibility rather than economic feasibility.

URCA's Response

URCA notes CBL's comments and has modified Part 2.8 of the Regulations to include the remaining criteria at section 3 of the Guidelines. While URCA acknowledges that the evaluation criteria is made up of more criteria relating to technical feasibility than to economic feasibility, URCA does not consider this to be problematic as no one factor outweighs the other. URCA assures CBL that all of the criteria outlined will be considered by URCA in its evaluation of all tower construction applications. Moreover, URCA clarifies for CBL that the technical feasibility of sharing on any nearby existing towers may include the consideration of any potential or actual adverse impact of sharing on the operation of an existing site and supporting network equipment.

8. Demonstrating to URCA's "satisfaction" is too broad

CBL claimed that URCA's discretion in determining whether an applicant has demonstrated to its satisfaction that it is not economically/technically feasible to co-locate is very broad and is not tied to any clear criteria or qualification.

URCA's Response

URCA disagrees with CBL's assertion that URCA's discretion is very broad and considers that clear criteria have been provided at Part 2.8 as to how URCA will assess an application for the construction of a new tower.

9. General lack of clarity in the application process

CBL stated that the application process outlined in the Regulations is confusing and inconsistent. CBL noted for example that Section 1 of the Guidelines requires that an applicant must first demonstrate to URCA's satisfaction that co-location on an existing tower is neither economically and/or technically feasible prior to submitting an application to construct a new tower. CBL noted

that the procedure for the submission of the application also requires evidence of co-location feasibility and that the criteria for the evaluation of the application under Section 3 of the Guidelines includes both the technical feasibility of sharing on any nearby existing towers and the feasibility analysis for co-location.

CBL argued that it is unclear at which stage the economic/technical feasibility assessments are undertaken by URCA. CBL argued that if the assessment it is undertaken at multiple stages then it would be unnecessary and excessively burdensome on the applicant. CBL also noted that it was unclear as to how both references to feasibility under Section 3 of the Guidelines differ from each other. Lastly, CBL noted that there is a shift from reference to co-location not being both economically and technically feasible under Part 2.8 of the Regulations and section 1(i) of the Guidelines to simply 'not feasible' under section 1(iii).

URCA's Response

URCA advises that the requirement for co-location to be economically and/or technically feasible remains throughout the Regulations. Therefore, for consistency URCA has amended section 1(iii) of the Guidelines accordingly.

URCA does not share CBL's views that the application process to construct a new tower is confusing and/or inconsistent. URCA considers it sufficiently clear that prior to submitting an application to the relevant permitting agencies to construct a new tower, an applicant is required to demonstrate to URCA's satisfaction that co-location on an existing tower is neither economically and/or technically feasible. For clarification, submission of the results of a feasibility analysis would demonstrate to URCA whether co-location is economically and/or technically feasible.

10. Timing

CBL pointed out that many parts of the Regulations do not include clear timeframes that may apply during the application process. More specifically, CBL highlighted that while Section 1(iv) of the Guidelines states that URCA will inform the applicant of its decision within 3 weeks of the submission of the application for a certificate of non-objection, the provision allows for the extension of the timeline but does not include a time limit for the extension. Further, that section 2(iii) of the Guidelines provides for a verification audit to be undertaken by URCA depending on the feasibility for co-location, but does not provide a timeframe for the carrying out of the audit. CBL also noted that Section 2(iv) of the Guidelines does not set a time limit on how long negotiations can continue for and what would happen where the parties failed to reach a commercial agreement. CBL also noted that Section 2(v) provides for possible field investigations of a proposed tower by URCA however that there is no provision for notifying the applicant of

such an investigation. Finally, CBL argued that the one week timeframe for the applicant to resolve any inconsistencies between the information provided in the application and the information gathered during the field inspection may be insufficient.

URCA's Response

URCA notes that while CBL has highlighted the absence of such timelines, it has not proffered any suggested timeframes in relation to the above for URCA's consideration. Regarding section 1(iv) of the Guidelines, URCA does not consider it necessary at this time to indicate a timeframe for the extension of notification to the applicant on its decision of a Certificate of Non-Objection. Further, it is URCA's position that since the extension at section 1(iv) will be based upon whether additional information is required from the applicant and whether URCA is required to conduct a detailed investigation of possible co-location sites, it will not be possible to determine in advance how long the applicant will take to provide the additional information and how long URCA's investigation will take. Therefore, the timeframe for each extension will need to be determined on a case by case basis. Similarly, it is not possible to determine upfront how long it would take to complete an audit and the exact duration of URCA's discussions with the applicant as provided for in Section 2(iii) of the Guidelines.

Moreover, URCA clarifies for CBL that where the parties enter into negotiations for co-location, Part 3 of the Regulations on Procedure for Negotiating Passive Infrastructure Sharing will be followed and in the event of the parties failing to reach a commercial agreement, the dispute resolution procedures under Part 6 of the Regulations will take effect. URCA does not object to including a timeframe for it to notify the applicant of the need to conduct a field inspection and has therefore amended Section 2(v) of the Guidelines to allow five (5) business days to do so from receipt of the application. Lastly, URCA does not object to allowing for additional time for the applicant to resolve any inconsistencies between the information provided in the application and the information gathered during the field inspection to address CBL's concern that this timeframe may be insufficient. However, as it will be in the applicant's best interest to construct its towers in the quickest timeframe possible, URCA is of the view that it will not take the applicant more than two (2) weeks to comply with this requirement so that it could receive a decision on its application immediately. Moreover, in the absence of a proposed alternative timeframe, URCA has amended the timeframe at section 2(v) of the Guidelines to reflect a period of two (2) weeks. As this timeframe has been increased, URCA considers that it would need additional time to inform the applicant of its decision on an application, and has therefore increased this timeframe from three (3) weeks to four (4) weeks.

11. Period of Validity of Certificate of Non-objection

CBL noted that any Certificate of Non-Objection granted by URCA is valid for a period of six (6) months only and that this assumes that all other necessary permits required for the construction of a new tower under the tower construction Guidelines can be obtained within this timeframe. CBL argued however that URCA's approach does not take into consideration the possibility that the process for the granting of such permits could be delayed beyond this timeframe. Should this be the case, CBL argued that the current proposal would require that the applicant go through the entire process once again.

URCA's Response

URCA does not foresee that the tower construction application process will take longer than six (6) months. However, in the event that a Certificate of Non-Objection has expired and the relevant information has not changed, URCA will undertake to renew the Certificate of Non-Objection as soon as possible.

12. Incomplete vs. Complete Application

CBL noted that while section 2(i) of the Guidelines refers to an "incomplete application" it does not confirm that an application that includes all of the components set out between subsections 2(i)(a)-(j) of that provision constitutes a "complete application". CBL contends that there is no requirement that URCA inform an applicant within a specified time period that the application is "complete" or "incomplete".

URCA's Response

URCA notes CBL's comments and has amended section 2(i) of the Guidelines to clearly indicate that submission of the identified information set out in 2(i)(a)-(j) constitutes a complete application. URCA does not consider it necessary to notify the applicant that its application is complete or incomplete since section 2(i) provides URCA with the discretion to either return the incomplete application to the applicant or to consider the information as submitted in order to make a decision on the application.

13. Consideration by URCA of "any other relevant information"

CBL commented that section 2(i) of the Guidelines provides that URCA may consider the information provided as part of the application together with "any other relevant information in its possession" when making a decision whether or not to grant the applicant a Certificate of Non-Objection. CBL opined that URCA is under no obligation to make known such information to the

applicant and CBL stated that it does not consider this to be in the interests of transparent and reasoned decision making.

URCA's Response

URCA disagrees with CBL's comment that URCA's discretion to consider "any other relevant information in its possession in order to make a decision" is not in the interests of transparency and reasoned decision making. URCA considers that the "other relevant information in its possession" may relate to information attained during a field inspection. However, to address CBL's concerns regarding transparency, URCA has amended section 2(vi) of the Guidelines to indicate that URCA will inform the applicant of its decision as well as the reasons for its decision, which would include any information attained during a field inspection.

14. Status of URCA's "recommendation" under section 2(iv)

CBL commented that it was not clear as to how the "recommendation" issued by URCA to the applicant pursuant to section 2(iv) of the Guidelines to enter into co-location negotiations fits into the overall decision making process. CBL stated that it is not clear whether the "recommendation" may constitute a rejection of the application within the meaning of section 5(i) of the Guidelines or be another form of decision.

URCA's Response

URCA confirms and clarifies for CBL that where it has determined that co-location on an existing tower in the area is feasible, it will object to the application to construct a new tower. URCA has amended section 2 (iv) of the Guidelines accordingly.

15. Requirement for a Feasibility Analysis for Co-location

CBL commented that while section 2(iii) of the Guidelines requires the undertaking of a Feasibility Analysis where there are existing structures in the area, it noted that this requirement is not tied to section 4 of the Guidelines which outline the radii for search areas for co-location. CBL argued that reference under section 2(iii) to instances where there are "existing structures in the area" is too broad and is not defined. CBL also noted that it was not clear whether URCA's reference to "existing structures" is a reference to existing towers and it was not clear as to whether the assessment under section 2(iii) of the Guidelines is to be made by reference to the tower database to be created by URCA pursuant to Part 2.13 of the Draft Regulations.

URCA's Response

URCA notes CBL's concern on the relationship between the reference to a Feasibility Analysis at section 2(iii) and also at section 4 of the Guidelines. URCA has therefore clarified at section 2(iii) of the Guidelines that the Feasibility Analysis must be conducted in accordance with section 4 of the Guidelines. Further, for clarification URCA has amended the reference to "existing structures" to "existing towers" at section 2(iii) of the Guidelines. Finally, URCA clarifies that its assessment or audit at section 2(iii) of the Guidelines will be conducted in accordance with the tower database that it has complied based upon the tower information received from its licensees.

16. Replacement of an Existing Tower

CBL noted that Part 3.10 of the Regulations states that "the replacement of a shared facility, or its modification, may only be undertaken upon written approval of URCA". CBL noted that this provision does not apply to towers that are not being shared, particularly in the case of towers that need to be replaced due to damage, destruction, old age or poor condition. CBL questioned whether in the case of replacement, a new permit is required for the construction of the replacement tower.

CBL further commented that it was not clear as to whether the general reference to the "prior written approval of URCA" could be understood to also include the specific approval process established under the Guidelines. CBL also noted that Part 3.10 does not provide for a timeframe within which URCA will grant written approval.

URCA's Response

URCA notes CBL's comments and clarifies that the replacement or modification of any electronic communications tower, whether shared or not, must first receive written approval by URCA and has amended Part 3.10 (now Part 3.11) accordingly. URCA further clarifies that it will consider all applications for the replacement or modification of existing electronic communications towers in accordance with the procedure outlined in section 2 of the Guidelines.

17. Importance of Issuing a Reasoned Decision in Writing

CBL noted that section 1(iv) of the Guidelines does not specify what form the decision that is to be taken by URCA in response to an application for a Certificate of Non-objection should be in.

URCA's Response

URCA notes CBL's comments and clarifies that URCA shall inform the applicant in writing of its decision made on its application to construct a new tower. URCA has therefore amended section 1(iv) of the Guidelines accordingly.

BTC

BTC recommended that URCA should amend the list at section 2 of the Guidelines to include that the Licensee applying to URCA for construction of a new electronic communications tower must also submit details of specification for linking or merging the remainder of their network. BTC suggested that the specifications should reflect, but not be limited to following:

i) frequency link;
ii) microwave;
iii) link transmit power;
iv) link polarization; and
v) microwave plan.

Further, regarding the Feasibility Analysis for Co-location at section 4 of the Guidelines, BTC proposed that the radius of search ring for co-locatable towers should be increased to 500m.

CBL's Response

CBL disagreed with BTC's suggestion that the Licensee should provide details of specifications for linking or merging the remainder of their network to URCA. CBL argued that it would be unnecessary and inappropriate to require the Access Seeker to divulge such proprietary information to a competitor, particularly in the absence of confidentiality safeguards under the Regulations.

CBL also made reference to the Government's Draft Building Regulations and the correlation between URCA's Regulations. CBL also included specific comments to the Draft Building Regulations which it noted that it would discuss in further detail in comments to be submitted to the Ministry of Works.

URCA's Response

URCA notes that BTC did not include any reason or justification for the inclusion of the proposed details of specifications for linking or merging the remainder of the applicant's network. URCA also notes CBL's concerns that it is not necessary for the applicant to disclose such information. While URCA notes that the information at section 2 of the Guidelines would only be submitted to

URCA and not disclosed to any third party, URCA does not object to the inclusion of this information to be submitted to URCA for its consideration. URCA has therefore included this information at section 2(i) of the Guidelines.

URCA also notes BTC's suggestion for the radius of search rings for co-locatable towers should be increased to 500m. URCA considers that the current radii of search ring for co-locatable towers as outlines in section 4 of the Guidelines is appropriate and does not consider it necessary to increase the radius as proposed by BTC. URCA particularly notes that BTC did not include any reason or justification for its proposal.

Lastly, URCA notes CBL's specific comments regarding the Government's Draft Building Regulations and its intention to submit those comments to the Ministry of Works. URCA notes that the Ministry of Works is the appropriate agency to respond to and address CBL's comments.

4. Revised Regulations

This Section contains the final version of the Infrastructure Sharing Regulations showing all revisions arising out of responses received during the public consultation process.

INFRASTRUCTURE SHARING REGULATIONS

Citation

These Regulations may be cited as the Infrastructure Sharing Regulations.

PART 1: INTRODUCTION

Scope of Regulations

1.1 The Utilities Regulation and Competition Authority (URCA) hereby issues the following Regulations in exercise of the powers conferred on it by section 8(1)(d) of the Communications Act, 2009 (Comms Act) to issue regulations.

Application

1.2 These Regulations shall be applicable to all licensees having been issued an Individual Operating Licence and/or an Individual Spectrum Licence by URCA in accordance with the Comms Act and, depending on the context, hereinafter described as either an "Infrastructure Provider" or as an "Infrastructure Seeker".

Definitions

1.3 In these Regulations, any word or expression to which a meaning has been assigned in the Interpretation and General Clauses Act [Ch. 2] or the Comms Act has the meaning so assigned and, unless the context otherwise requires, the following terms will have the following meanings:

"Access" means to obtain the right to use or make use of an electronic communications facility belonging to or controlled by an Infrastructure Provider for the purpose of installing electronic communications equipment.

"Access Agreement" means a binding agreement between an Infrastructure Provider and Infrastructure Seeker permitting access by an Infrastructure Seeker to the facilities of an Infrastructure Provider.

"Access Charge" means any fees charged for access to any facility of an electronic communications network belonging to or controlled by an Infrastructure Provider.

"Access Request" means a request made pursuant to Part 3.1 for access to the facilities of an Infrastructure Provider.

"**Co-location**" means the provision of space on the premises of an Infrastructure Provider for the use of an Infrastructure Seeker for the purpose of installing equipment in connection with the latter's public communications network or broadcasting services.

"Control" by a Licensee of a facility, means the Licensee having the legal right either by virtue of an agreement with the owner or otherwise, to procure the full compliance by the owner of that facility with these regulations, as if that owner were a licensee bound by these regulations.

"Electronic Communications Equipment" or "Equipment" means any type of device or instrument that is capable of transmitting, acquiring, encrypting, decrypting or receiving any signals of any nature by wire, radio or other electromagnetic systems.

"Electronic Communications Facility" or "Facility" means any structure or equipment and which makes up an electronic communications network.

"Electronic Communications Tower" or "Tower" means any structure that is designed and constructed for the purpose of supporting one or more antennas for electronic communication purposes.

"Infrastructure" is used interchangeably with the term "facility" and shall bear the meaning set out in the Comms Act.

"Infrastructure Provider" means a holder of an Individual Operating Licence or an Individual Spectrum Licence who owns or is in control of infrastructure amenable to sharing.

"Infrastructure Seeker" means any Licensee desirous of entering into an agreement with an Infrastructure Provider for the purpose of sharing infrastructure.

"Passive Infrastructure Sharing" means the sharing of space or physical supporting infrastructure which does not require active operational co-ordination between network operators.

Part 2: PASSIVE INFRASTRUCTURE SHARING OBLIGATIONS

General Obligation to Share Facilities

2.1 Upon written request made to an Infrastructure Provider by an Infrastructure Seeker, an Infrastructure Provider shall provide access to its facilities and the Infrastructure Provider shall not unreasonably withhold or delay such access.

2.2 An Infrastructure Provider shall negotiate with an Infrastructure Seeker in good faith on matters concerning access to facilities and once already granted, shall neither withdraw nor impair such agreed access except in the following circumstances:

(i) where authorized by URCA; or
(ii) in accordance with-
    a. a dispute resolution process under Part 6 of these Regulations; or
    b. an order made by the Utilities Appeals Tribunal or by a court of law.

2.3 An Infrastructure Provider shall provide access and sharing of the following facilities:

(i) masts and pylons;
(ii) ~~antennas~~;
(iii) electronic communications towers;
(iv) poles;
(v) trenches;
(vi) ducts;
(vii) physical space on towers, roof tops and other premises;
(viii) other physical installations used for the support or accommodation of electronic communications equipment, including but not limited to in-building risers, cable trays and cable entry points into buildings and shelter, and support cabinets; ~~and~~
(ix) any services necessary and incidental to the building, place and premises in which electronic communications equipment is situated that are reasonably necessary or incidental to the sharing of any physical facility, including but not limited to electrical power supply, alarm systems and other equipment, air conditioning and other services;
(x) joint boxes;
(xi) manholes;
(xii) rights of way;
(xiii) submarine cable landing stations; and
(xiv) dark fiber.

2.4 Where the sharing of a facility is dependent upon the obtaining of any legal right, licence or approval (including but not limited to rights of way, easements or contractual approval), the Infrastructure Provider shall use its best efforts to obtain such rights or approvals as soon as possible following its receipt of the request for access.

Direction to Share a Specific Facility

2.5 Notwithstanding and without prejudice to any other requirement of these ~~r~~Regulations, where URCA considers it to be in the public interest to do so it may direct an Infrastructure Provider in

writing under these ~~r~~Regulations to provide ~~to~~ an Infrastructure Seeker with access to a specific, identified facility which the Infrastructure Provider owns or controls.

2.6 Prior to issuing a direction in the public interest under Part 2.5, URCA shall provide a reasonable opportunity for the Infrastructure Provider that owns or controls the facility, and any other interested party, to make written representations on the matter and shall give consideration to all representations made before deciding whether or not to issue the direction.

2.7 In considering whether to issue a direction in the public interest to share a facility under Part 2.5, URCA shall take into account relevant matters including, but not limited to the following:

(i) whether the facility can be reasonably duplicated or substituted;
(ii) the existence of technical alternatives;
(iii) whether the facility is critical to the supply of services by the licensees;
(iv) whether the facility has available capacity. URCA shall have regard to the current and reasonable future needs of the Infrastructure Provider;
(v) whether joint use of the facility encourages the effective and efficient use of facilities; and
(vi) the cost, time and inconvenience to the licensees and the public of the alternatives to shared provision and use of the facility.

Special Provisions for Construction, Use and Sharing of Towers

2.8 The holder of an Individual Operating Licence and/or Individual Spectrum Licence must, prior to constructing a new electronic communications tower within The Bahamas, demonstrate to URCA's satisfaction that it is not economically and/or technically feasible to co-locate on an existing tower the electronic communications equipment which it intends to install on ~~that~~ a new tower. ~~on an existing tower.~~ In considering a request to construct a new tower URCA shall consider the following factors:

(i) the proximity of the proposed new tower to any existing towers;
(ii) tower saturation in the area;
(iii) the impact that sharing on any existing tower would have on the desired coverage area of the electronic communications equipment to be placed on the proposed new tower and the overall coverage of the Licensee's network;
(iv) the technical feasibility of sharing on any nearby existing towers;
(v) the cost of any necessary modifications to existing towers that would be necessary to enable sharing;
(vi) health and safety considerations;
(vii) any likely adverse impact of the new tower upon the environment in the area surrounding the proposed new tower; and
(viii) the design of the proposed new tower.

2.9 A request for URCA's approval of the construction of a new tower shall be made in accordance with the guidelines set out in the Schedule to these Regulations. Upon approval of a request to construct a new tower, URCA shall issue a Certificate of Non-objection to the construction of an Electronic Communications Tower.

2.10 A holder of an Individual Spectrum Licence and/or an Individual Operating Licence shall not install electronic communications equipment used or intended to be used for the purpose of wireless electronic communications on any electronic communications tower which is not owned or controlled by itself or another Licensee.

2.11 Any Licensee that owns or controls any electronic communications tower shall, within ~~three (3) months~~ fourteen (14) calendar days ~~of~~ following the coming into effect of these Regulations, submit to URCA a complete inventory of all towers owned or controlled by the Licensee which inventory shall include, at a minimum, the following information regarding each tower:

(i) location of the tower (address, GPS co-ordinates, and elevation above sea level);
(ii) mechanical/structural tower specifications:
    a. type (i.e. lattice, monopole and stealth characteristics if applicable;
    b. type; and
    c. maximum load;
(iii) site specification (size of site in square feet, characteristics such as fencing, and/or gates, shelters, equipment room, etc.);
(iv) specification of electricity access (grid access, generator rating, etc.);
(v) current usage (tower load, number of antennas, square meters occupied by equipment, current electricity rating); and
(vi) current design spare capacity.

2.12 Prior to ~~the commencement~~ commencing of construction of any new tower, a Licensee shall submit to URCA the information set out in Part 2.11 in respect of the proposed tower, and shall within fourteen (14) days of the completion of construction notify URCA of same, confirming that the information remains accurate.

2.13 URCA will establish and maintain a database containing details of all towers (both existing towers and newly-constructed towers) notified to URCA in accordance with Part 2.11 above (the "tower database"), and shall provide a copy of the tower database to any Licensee within fourteen (14) calendar days of URCA's receipt of a written request for same. URCA may require a Licensee to enter into a suitable confidentiality agreement prior to the release of the tower database by URCA.

General Provisions for **Passive** Infrastructure Sharing

2.14 An Infrastructure Provider shall provide access to its facilities to an Infrastructure Seeker under terms and conditions, inclusive of pricing, which are equivalent to and of the same quality as the terms and conditions under which it provides access to its own networks and services, and the networks and services of its subsidiaries, affiliates, partners or any other licensee to which it provides access.

2.15 Where an Infrastructure Provider fails or refuses to comply with Part 2.14, it shall upon request from URCA, prove to URCA's satisfaction that it is not technically feasible to replicate the level of quality of access or to provide access under the same terms and conditions as it provides for its own use, its subsidiaries, affiliates and partners or for other licensees.

2.16 Previous successful access to a facility by an Infrastructure Seeker shall constitute evidence for the purposes of Part 2.15 of technically feasible access to that facility or any similar facility.

Part 3: PROCEDURE FOR NEGOTIATING PASSIVE INFRASTRUCTURE SHARING

3.1 An Infrastructure Seeker may make an Access Request to an Infrastructure Provider at any time.

3.2 An Access Request must be in writing and shall include, at a minimum, the following information:

(i) the facility or facilities to which access is required;
(ii) details of the access required;
(iii) the date by which access is required;
(iv) the period for which access is required;
(v) details of any equipment to be installed at the facility, together with details of the security, safety, environmental, loading and spatial requirements of such equipment;
(vi) the extent to which access is required by the Infrastructure Seeker's personnel to the facility to install, maintain or use the equipment to be installed;
(vii) contact details for the Infrastructure Seeker; ~~and~~
(viii) power supply requirement;
(ix) general technical specifications; and
(x) any other requirement which URCA may from time to time prescribe.

3.3 The Infrastructure Seeker shall within two (2) business days of submitting the Access Request to the Infrastructure Provider forward a copy of the Access Request to URCA.

3.4 The Infrastructure Provider shall within five (5) business days of its receipt of the Access Request acknowledge receipt of the Access Request and shall at the same time copy its acknowledgement to URCA.

3.5 Upon receipt of the Access Request, the Infrastructure Provider may only request further information that ~~it may reasonably require in order to process~~ is essential to its ability to respond to the Access Request. Such request shall be made within five (5) business days of receipt of the Access Request, must be sent to the Infrastructure Seeker in writing, and must at the same time be copied to URCA.

3.6 Where URCA considers that the requested information made by the Infrastructure Provider pursuant to Part 3.5 of the Regulations is beyond the minimum necessary to respond to the Access Request, URCA will direct the Infrastructure Provider to process the Access Request in its current form and will at the same time notify the Infrastructure Seeker in writing that the Access Request will be processed by the Infrastructure Provider.

3.~~6~~7 The Infrastructure Seeker shall as soon as possible comply with a request under Part 3.5 from the Infrastructure Provider for further information.

3.~~7~~8 An Infrastructure Provider shall use all reasonable endeavours to conclude an Access Agreement within forty-two (42) calendar days of receipt of an Access Request or where additional information is requested, the date of receipt of all additional information requested of the Infrastructure Seeker, unless URCA ~~such period~~ has ~~been~~ expressly extended such period ~~by URCA~~ in writing. ~~Where the Infrastructure Provider has made a request for further information under Part 3.5, the~~

~~request shall be deemed to have been received by the Infrastructure Seeker on the date of receipt of the additional information from the Infrastructure Seeker~~.

3.~~8~~9 All negotiations for passive infrastructure sharing must be done with the utmost good faith. The Infrastructure Provider must not:

(iv) obstruct or delay negotiations or resolution of disputes;
(v) refuse to provide information relevant to an agreement including information necessary to identify the facility needed and cost data; ~~and~~ or
(vi) refuse to designate a representative to make binding commitments.

3.~~9~~10 The Access Agreement shall include prices for access to facilities as well as specify the technical, operational, billing and planning conditions for access.

~~3.10 The replacement of a shared facility, or its modification, may only be undertaken upon written approval by URCA.~~

3.11 Where an Infrastructure Provider and an Infrastructure Seeker agree to conduct meetings for the purpose of negotiating access, the Infrastructure Seeker shall notify URCA at least three (3) calendar days in advance of every scheduled meeting, or as soon as possible where meetings are scheduled with less than three (3) calendar days' advance notice.

3.12 URCA may, upon the giving of prior written notice to the parties, attend any meeting referred to in Part 3.11, in the capacity of observer only.

3.13 Every Access Agreement or modification thereto shall be submitted to URCA by the Infrastructure Seeker within fourteen (14) calendar days of signature or amendment by the parties.

Modification of Existing Electronic Communications Towers

3.14 Where an Infrastructure Seeker submits an Access Request to the Infrastructure Provider to share a facility that is fully utilised, the Infrastructure Provider shall modify the facility to allow for sharing upon notification to modify the facility by URCA.

3.15 The Infrastructure Provider must remove from any space or facility that can be shared any unnecessary, abandoned or obsolete equipment or facilities which is or will be no longer necessary for the business of the Infrastructure Provider.

3.16 The Infrastructure Seeker shall pay the Infrastructure Provider a one-time payment to compensate for the proportion of costs efficiently incurred by the Infrastructure Provider in carrying out the modification works to the infrastructure requested for sharing.

3.1~~0~~7 The replacement ~~of a shared facility, or its modification,~~ or modification of an existing electronic communications tower may only be undertaken upon written approval by URCA.

3.18 A licensee must submit a request to URCA in writing to replace or modify an existing electronic communications tower and must at the same time submit the supporting information and documentation to URCA as outlined in section 2(i) of the Schedule.

Part 4: PRICE SETTING FOR PASSIVE INFRASTRUCTURE SHARING

4.1 An Infrastructure Provider shall set commercially negotiated access rates based on its actual costs and in accordance with the following principles:

(i) Charging should serve to promote the efficient use of assets and sustainable competition and maximize benefits for customers;

(ii) Access Charges must reflect a reasonable rate of return on capital employed and take into account the investment made by the Infrastructure Provider;

(iii) Access Charges must only reflect the unbundled components that the Infrastructure Seeker wishes to use. An Infrastructure Provider must unbundle distinct facilities and corresponding charges sufficiently so that the Infrastructure Seeker need only pay for the specific elements required;

(iv) Access Charges must be transparent; and

(v) Access Charges must be impartial, non-discriminatory and must be no less favourable than those the Infrastructure Provider offers its subsidiaries, affiliates partners or any other licensee.

4.2 Charging for infrastructure may be determined using either long run incremental costs (LRIC), fully allocated costs (FAC), or benchmarking.

4.3 An Infrastructure Provider shall, within fourteen (14) calendar days of a written request from URCA, supply URCA with such data as URCA may require, for the purpose of determining that the Infrastructure Provider's proposed Access Charges are in accordance with Parts 4.1 and 4.2, unless URCA expressly extends this period in writing.

4.4 Where the parties are unable to come to an agreement on Access Charges, URCA will issue a direction setting Access Charges based on the aforementioned principles at Part 4.1. URCA will duly consult with all interested parties in advance of making a direction to share a specific facility.

Part 5: REFUSAL OF ACCESS

5.1 An Infrastructure Provider shall not deny an Access Request made by an Infrastructure Seeker except in the following circumstances:

(i) Where, notwithstanding the procedures in Part 3.14 to 3.17, the Infrastructure Provider does not have available capacity; or
(ii) where the Access Request, if granted, will compromise the safety, security or reliability of the facility or the Infrastructure Provider's network.

5.2 Where the Infrastructure Provider denies an Access Request, it shall notify the Infrastructure Seeker and URCA in writing within ~~fourteen (14) calendar~~ five (5) business days of receipt of the Access Request providing its reason for the refusal in accordance with Parts 5.2, unless such period has been expressly extended by URCA in writing.

5.3 URCA may direct the Infrastructure Provider to produce any records and documents in connection with its refusal of an Access Request and URCA or any person acting on URCA's behalf may enter the premises to inspect the relevant facilities to determine the reasonableness of the refusal of access.

5.4 URCA may upon due consideration:

(i) uphold the Infrastructure Provider's decision refusing access;
(ii) direct the Infrastructure Provider under these ~~r~~Regulations to reconsider its decision refusing access; or
(iii) impose a~~n~~ passive infrastructure sharing arrangement on the parties under these ~~r~~Regulations.

5.5 In making a decision pursuant to Part 5.4, URCA may take into account relevant factors which may include but are not limited to the following:

(i) the extent to which the access requested impacts on the networks or services of the Infrastructure Provider;
(ii) the availability and cost of alternatives available to the Infrastructure Seeker; or
(iii) the cost of any required modifications; or
(iv) the reasonableness of the refusal.

PART 6: DISPUTE RESOLUTION AND COMPLIANCE WITH REGULATIONS

6.1 Where a dispute arises under these ~~r~~Regulations with respect to any matter involving access to infrastructure, the matter may be referred by either party to URCA for resolution in accordance with the Alternative Dispute Resolution process established by URCA under section 15 of the Communications Act.

6.2 URCA may, in relation to any dispute referred to it under these Regulations, direct that the parties implement an interim arrangement for access as URCA considers appropriate having regard to the nature of the dispute.

6.3 An interim arrangement may include such terms and conditions for access as URCA deems appropriate and will remain in force until such time as the dispute has been resolved.

6.4 URCA will monitor and enforce compliance with these Regulations in accordance with Part XVII of the Communications Act.

SCHEDULE

GUIDELINES FOR THE CONSTRUCTION OF ELECTRONIC COMMUNICATIONS TOWERS

1. General Provisions

i. A Licensee who intends to construct a tower anywhere in The Bahamas must demonstrate that it has taken all reasonable steps have been taken to investigate tower sharing before applying to the relevant permitting agencies to construct a new tower ~~in The Bahamas~~.

ii. Where a Licensee has demonstrated to URCA's satisfaction that it is not economically and/or technically feasible to co-locate on an existing tower the electronic communications equipment which it intends to install on a new tower ~~on an existing tower~~, prior to applying to the relevant permitting agencies to construct a new tower, the Licensee must submit an application to URCA for non-objection to construct a new tower. *See Application Form For Approval To Construct or Modify Communications Towers at Annex A*.

iii. Where URCA is satisfied that co-location is not economically and/or technically feasible, URCA shall issue the Licensee a Certificate of Non-Objection which indicates that co-location on an existing structure is not economically and/or technically feasible and that the application for a new tower should be processed by the relevant permitting agencies. The Licensee shall submit the Certificate of Non-Objection to the relevant permitting agencies on application for construction of a new tower.

iv. Upon submission of an application for a Certificate of Non-Objection, the applicant will be informed by URCA in writing as to the decision made on the application within three (3) weeks of receipt of the application. Where URCA objects to the construction of the tower, URCA will inform the applicant of the reasons for the decision in writing. The timeframe for the decision may be extended depending on whether additional information is required from the applicant, and whether URCA is required to conduct a detailed investigation of possible co-location sites.

2. Submission of Application

i. The following information and accompanying documentation must be submitted to URCA as a complete application for construction of a new electronic communications tower:

a) A completed application form;
b) Evidence of co-location feasibility where appropriate (*See Section 4 of these Guidelines*);
c) Location and a site plan;
d) A survey drawing of the site;

e) ~~Geographic latitude and longitude coordinates of the tower using WGS 84 datum in both "dd.mm.ss.s" and UTM (Universal Transverse Mercator – International Zone 20P) formats~~;
f) ~~Location plan clearly showing the proposed site location in relation to major roads~~;
g) The architectural drawings of the tower, authenticated by a local registered architect;
h) The structural drawings of the tower, authenticated by a local registered structural engineer;
i) The mechanical and electrical drawings of the tower, authenticated by a local registered mechanical or electrical engineer;
j) If the tower is located on private property, ~~T~~the name and telephone number of the landowner that resides on the property or is responsible for site access ~~if the tower is located on private property~~;
k) Height of the proposed tower above ground and above sea level;
l) Height of platforms for placement of equipment;
m) Type and quantity of equipment to be placed on the proposed tower including timeframes for construction;
n) Capacity of proposed tower~~,~~, weight and quantity of equipment; ~~and~~
o) Radio Frequency (RF) Coverage Plan~~.~~; and
p) Details of specification for linking or merging the network, including but not limited to:
    a. frequency link;
    b. microwave;
    c. link transmit power;
    d. link polarization; and
    e. microwave plan.

URCA may return incomplete applications or may consider the information submitted and any other relevant information in its possession in order to make a decision.

ii. Where there are existing ~~structures~~ towers in the area, a Feasibility Analysis for Co-location pursuant to section 4 of these Guidelines must be submitted. URCA's decision to approve an application in such a case shall be subject to the application meeting URCA's criteria in these Guidelines and dependent upon the feasibility for co-location which may involve an audit for verification of the evidence submitted and discussions with the applicant.

iii. Upon receipt of a completed application, URCA shall evaluate the application based on the criteria established by URCA. *See Section 3 of these Guidelines*.

iv. Processing of an application may necessitate a field inspection of the location for the proposed tower by URCA. Where a field inspection is deemed necessary by URCA, URCA shall notify the applicant within five (5) business days of receipt of its application. In the event that information gathered during the field inspection is not consistent with information given on the application, URCA shall so inform the applicant and the applicant shall be required to resolve the

differences within ~~one (1) week~~ two (2) weeks. In the event that the applicant has not resolved the differences within the timeframe specified, URCA will use the information gathered during the field inspection to process the application.

v. Where URCA has determined that co-location on an existing tower in the area is feasible, URCA shall submit this recommendation to the applicant and object to the application in accordance with section 5(i) of these Guidelines. The applicant shall be required to enter into discussions on co-location with the owner of the existing tower in accordance with the Infrastructure Sharing Regulations. URCA is available to facilitate discussions between the parties.

vi. When URCA has made a decision on an application, the applicant shall ordinarily be informed in writing of the decision and reasons for the decision within ~~three (3)~~ four (4) weeks of the application and all supporting and relevant documents being received by URCA. URCA's timeframe for deciding an application will commence when all relevant and supporting documentation is received by URCA.

3. Criteria for Evaluation of Applications

The evaluation criteria are as follows:

a) completeness of the application;
b) the proximity of the proposed tower to any existing towers;
c) tower saturation in the area;
d) the impact that sharing on any existing tower would have on the desired coverage area of the electronic communications equipment to be placed on the proposed tower and the overall coverage of the Licensee's network;
e) the technical feasibility of sharing on any nearby existing towers;
f) the cost of any necessary modifications to existing towers that would be necessary to enable sharing;
g) any likely adverse impact of the new tower upon the environment in the area surrounding the proposed new tower;
h) the design of the proposed new tower;
i) feasibility analysis for co-location;
j) proposed transmitter specifications;
k) health and safety considerations;
l) interference analysis; and
m) appropriate authorisation for use of telecommunications or broadcasting equipment.

4. Feasibility Analysis for Co-location

i. URCA considers that the following radii for search areas are appropriate for the applicant's determination of possible co-location opportunities:

Height of Tower for which approval is being sought	Radius of Search Ring for Co-locatable Towers
>45 m	450 m
18-45 m	400 m
<18 m	300 m

ii. The feasibility evidence relating to co-location must be submitted with the application for tower approval and shall comply with URCA's ~~i~~Infrastructure ~~s~~Sharing ~~r~~Regulations in force at the time of the application.

iii. Where the applicant ~~is making~~ claims that co-location is not feasible due to technical reasons including those related to RF planning, traffic patterns and interference, the applicant must present this evidence clearly, using RF patterns and maps where necessary to justify their claim. The evidence must cover scenarios whereby modification to existing towers may be able to accommodate the applicant's equipment.

5. URCA's Objection to Application

i. When ~~it is determined that~~ URCA <u>has concluded that it</u> objects to the construction of a new tower, URCA will inform the applicant of the decision in writing stating the reasons for the objection.

6. URCA's Non-Objection to Application

i. If URCA does not object to the erection of a new tower, then a letter of non-objection will be sent to the applicant and copied to the relevant Ministry responsible for buildings regulation in accordance with the Buildings Regulation Act~~, 1971~~ [Ch. 200] <u>and any Rules made by the Minister responsible for Building Regulation in exercise of the powers conferred by section 19 of the Buildings Regulation Act~~, 1971 (Ch. 200)~~.</u> A <u>Certificate of</u> Non-Objection granted by URCA shall expire within six (6) months of the date it was granted and will thereafter no longer be valid <u>unless extended by URCA in writing</u>.

ANNEX A

APPLICATION FORM FOR APPROVAL TO CONSTRUCT OR MODIFY COMMUNICATIONS TOWERS

Name of Entity Wishing to construct/modify (*circle as appropriate*) tower:

Type(s) of Licence held:

Type of Facility to be constructed/modified (*circle as appropriate*):

Details of modification:

CONTACT INFORMATION

Name:

Position in Organization:

Address:

Postal Address:

Telephone/Fax Number:

Email Address:

COMPANY PROFILE

Registered Company Name:

Date of Incorporation:

(If different from above)

Address:

Postal Address:

INFORMATION ABOUT THE PROPERTY ON WHICH THE FACILITY IS TO BE CONSTRUCTED

Name of property owner:

Current address (of property owner):

Address:

Postal address:

Telephone Number:

Email:

Coordinates of tower:

Designation of area in which property is located:

Size of property:

OFFICIAL USE ONLY

Receiving Officer's Name:	
Signature:	
Date Received:	

5. Conclusion and Next Steps

The publication of this Statement of Results document formally concludes the public consultation on URCA's Infrastructure Regulations. Having considered the responses to the Consultation Document as expressed within this Statement of Results, URCA has published its Infrastructure Sharing Regulations (ECS 04/2015) on 3 September 2015. URCA once again thanks the respondents for their feedback and participation in the public consultation exercise.