



# **STATEMENT OF RESULTS**

## ***CONSULTATION ON A NEW PRICE REGULATION REGIME FOR THE COMMUNICATIONS SECTOR***

**ECS 16/2009**

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**UTILITIES REGULATION & COMPETITION AUTHORITY**

Fourth Terrace, Collins Avenue | P.O. Box N-4860 Nassau, Bahamas | T 242.322.4437 | F 242.323.7288

**[www.urbahamas.bs](http://www.urbahamas.bs)**

## Table of Contents

1. INTRODUCTION.....	1
2. OVERVIEW.....	2
3. SUMMARY OF RESPONSES RECEIVED .....	3
4. OTHER ISSUES .....	29
5. CONCLUSION.....	34

## 1. INTRODUCTION

The Government of the Commonwealth of The Bahamas issued a public consultation on 17 June 2009 on the proposed new Retail Pricing Regulation for the communications sector ("the consultation"). The initial deadline for submission of responses was 17 July 2009. Based on a request for an extension for the submission of responses, the consultation closed on 3 August 2009.

The Utilities Regulation & Competition Authority (URCA) Act came into force on 1 August 2009 and the Communications Act, 2009 ("Comms Act") came into force on 1 September 2009.

Under section 9 of the URCA Act, URCA is required to "allow persons with sufficient interest a reasonable opportunity to comment" on proposed regulatory measures. To ensure that interested parties would have a sufficient opportunity to comment on retail pricing regulation, the consultation was published by the Bahamas Telecommunications Company Ltd. Privatisation Committee on behalf of the Government of The Bahamas in the interim period after the Comms Act and the URCA Act had been passed by Parliament but before they came into force.

This is a summary of responses to the consultation. The full text of the submissions can be found at [www.urbahamas.bs](http://www.urbahamas.bs).

The Retail Pricing Regulation Consultation set out the possible options for retail price regulation in the electronic communications sector. Emphasis was placed on proposing retail price regulation that would be suitable for use in a modern, competitive electronic communications market. Amongst other things, the consultation considered the relative merits of rate of return versus price caps (incentive based) retail price regulation and set out the principal differences between these systems.

As indicated in the consultation, any implementation of the proposals for retail price regulation - rate of return, price cap or others - in the near future is not possible due to the high data and information requirements. Therefore, any proposed forms of retail price regulation would apply in the medium to long term and URCA will consult further on the form of retail price regulation to be adopted before implementation.

Therefore, as indicated in the consultation an interim arrangement is necessary until such time as URCA determines that one of the proposed forms of retail price regulation may be implemented. In formulating the interim price regulation framework which will form part of URCA's Preliminary Determination on the types of obligations to be imposed on the operators with presumed SMP, URCA has taken into account all the comments received on the proposed interim framework set out in the consultation.

## 2. OVERVIEW

The participation by the respondents was invaluable in this consultation process. The responses were insightful and answers to the specific questions posed in the consultation document were well reasoned. The depth of the responses has provided much for URCA to consider.

The responses were broadly in favour of the proposed retail pricing regulation regime over the current discretionary ad hoc approval regime. In response to the specific questions posed in the consultation most respondents expressed further support and approval.

In some areas, respondents expressed specific concerns and asked questions. In general these related to policies for which URCA has not yet published any details or where there will be further engagement with industry before the detail of the policies is determined. In these cases further consultation and engagement with industry is planned.

URCA has a duty to consult on any measures it will propose that could have a significant impact on the electronic communications sector. This will afford interested parties additional opportunities to provide comments and participate in developing the regulatory framework.

URCA has considered all comments and where it has decided to pursue the original policy this is because it is not persuaded by the respondents' arguments on these points and believes its chosen course of action to be the best for the sector, consumers, other stakeholders and the country.

Responses were received from four companies. The companies which responded are:

- The Bahamas Telecommunications Company Limited (“BTC”);
- Cable Bahamas Ltd. (“CBL”);
- Systems Resource Group Limited (“SRG”);<sup>1</sup> and
- Digicel.<sup>2</sup>

Section 3 of this document sets out each question asked in the consultation along with a summary of the respondents' comments and URCA's proposed action and comments.

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<sup>1</sup> SRG trades as “IndiGo”.

<sup>2</sup> Digicel is a mobile phone network provider with approximately six million customers covering parts of the Caribbean, Oceania and Latin America. The company is incorporated in Bermuda and based in Jamaica.

### 3. SUMMARY OF RESPONSES RECEIVED

**Question 1:** Is there a need for further tariff rebalancing in The Bahamas?

#### **BTC**

- (1) BTC generally supports the need for further tariff rebalancing in The Bahamas. BTC notes that, traditionally, Domestic Long Distance (DLD) and International Long Distance (ILD) revenue were used to subsidise the intra island (local) calls and the provision of access lines. BTC argues that with declining ILD and DLD rates and the need for accounting separation for business units requiring greater transparency, it will be more difficult to subsidise the intra island (local) calls and the provision of access lines.
- (2) BTC expressed concerns about the socio-political effects of tariff rebalancing. BTC suggests a phased approach to tariff rebalancing so as to obtain “buy in”, i.e. the general support of consumers for the policy. BTC acknowledges that this approach may impact its profits as it would only be able to increase prices gradually for services priced below cost while decreasing the price of those services priced above cost.

#### **CBL**

- (3) CBL is of the view that further tariff rebalancing is warranted. CBL comments that the monthly access price for a residential fixed line (\$15) appears to be below cost.

#### **SRG**

- (4) SRG expresses its view that BTC reduced its DLD and ILD prices without obtaining the proper approval from the Public Utilities Commission (PUC), after IndiGo launched its competing service in October 2004,. As such SRG argues that BTC did not rebalance its prices as such, but that it engaged in a deliberate business strategy to lower retail prices so close to their corresponding wholesale (interconnection) prices that IndiGo’s entry into the market would be hampered and competition distorted.

- (5) SRG notes that in 2006 BTC increased the prices for its monthly access service and slightly decreased ILD prices. SRG argues that because it does not have access to any analysis of BTC's costs it cannot say whether BTC's tariffs are now balanced and whether any further rebalancing is necessary. SRG suggests that URCA will need to assess the situation based on accurate cost information. SRG recognises that establishing cost information is a complex exercise. SRG further notes that the consultation is silent on who will be responsible for presenting cost information, how URCA will independently audit the cost information and what would be the timeframe for the process.

### **Digicel**

- (6) Digicel agrees that some tariff rebalancing is required to remove the need for subsidies. Digicel states that economic studies have shown that tariff rebalancing is in the public interest even if certain interest groups (e.g. low volume users) may not benefit. Digicel further proposes URCA working with BTC to provide one or more packages for low demand subscribers.

### Proposed Further Action/Comments

- (7) There is broad support from the respondents for tariff rebalancing. The main obstacle is a lack of costing data for BTC's services, as noted by SRG. URCA believes that the process for determining the need for tariff rebalancing should be as follows:
- URCA would first obtain costing information from BTC to determine if an Access Deficit exists;
  - Based on this information URCA would assess the degree of tariff rebalancing necessary, if any;
  - URCA would consider the need to conduct a public consultation on proposed rebalancing, in conjunction with town hall meetings.
- (8) URCA believes that a public consultation would likely be necessary as tariff rebalancing would be a matter of public significance. Additionally, due to the public significance, any final determination issued should be accompanied by a consumer education campaign and public awareness of the changes.
- (9) SRG also mentioned that the consultation was silent on who calculates the cost, how costs are verified and the timeframe for the process. URCA intends to issue guidelines on Accounting Separation and Cost Accounting in the near future, which will address these concerns.
- (10) Following the process set out above, BTC will be able to submit a tariff rebalancing proposal to URCA as long as its submission is supported by the necessary costing information and prepared in accordance with URCA's guidelines on Accounting Separation and Cost Accounting. URCA will then review the need for tariff rebalancing.

**Question 2:** Do you agree that the regulator should design a price regulation framework that enables tariff rebalancing? If you disagree, please state your reasons.

**BTC**

- (11) BTC agrees that a price regulation framework that enables tariff rebalancing should be designed. BTC states that not to do so would disadvantage the company.
- (12) BTC is concerned of the potential loss of goodwill from consumers resulting from a tariff rebalancing exercise.

**CBL**

- (13) CBL suggests that URCA first determine the degree to which tariff rebalancing is necessary and, if it is, approve specific increases to BTC's residential fixed line prices along with offsetting reductions in other services prices (such as DLD and/or ILD). CBL considers fixed line telephony to be an essential service for most residential customers and that price changes for this service should therefore be carefully considered by URCA.

**SRG**

- (14) SRG states that if an analysis of BTC's costs demonstrates that tariff rebalancing is necessary, then SRG agrees that the proposed price regulation framework should enable tariff rebalancing. SRG argues that to do otherwise would unfairly distort the market and would penalise other operators because prices would be below cost.

**Digicel**

- (15) Digicel advocates that regulation that enables tariff rebalancing is clearly in the public interest and indeed is necessary if liberalisation is to proceed on its merits.
- (16) Digicel is of the view that the current tariff structure may enable cherry-picking of business customers by low cost providers. Digicel suggests that tariff rebalancing should involve the increase in the average revenues from access (residential and business customers) resulting in the reduction of access prices for businesses to avoid the cherry picking of business customers in the future.

Proposed Further Action/Comment

- (17) URCA will establish a regulatory framework that enables tariff rebalancing. As stated in paragraph 25 of the consultation, in the absence of updated costing information from BTC, URCA does not yet have sufficient information in order to assess whether an Access Deficit exists and therefore whether rebalancing is necessary.

- (18) Digicel and CBL each suggested specific services that they believe should be subject to tariff rebalancing. URCA's position on tariff rebalancing is articulated above, and therefore it is premature at this stage for URCA to determine which communications services would need tariff rebalancing, and if baskets of services or individual services would be used as the basis for retail price cap regulation in the future. Therefore, URCA will consult on the specific details of any proposed retail price cap regulation framework and tariff rebalancing plans before they are implemented.

**Question 3:** Are there benefits from introducing an option for monthly line rental at a lower price which excludes free local calls? If so, what type of plans for charged local calls would be most appropriate?

**BTC**

- (19) BTC agrees that there are benefits to the introduction of such a plan. BTC notes that fixed income earners (such as pensioners), low volume users, and second home owners may benefit from a lower monthly line rental which excludes free calls. BTC suggests that several options be made available for its customers including the proposed option and the current option of bundled free local calls with line rental.

**CBL**

- (20) CBL states that in accordance with section 5 of the Comms Act, market forces should be relied upon to provide consumers with different pricing options. There should be no need for regulation to stipulate pricing plans as long as competition is promoted.

**SRG**

- (21) SRG put forward that details of calling plans are a matter for the operator and not the regulator. However, SRG agrees that free local calls may result in higher levels of demand and network congestion. SRG notes that other operators will have to build sufficient network to accommodate the expected higher level of demand for free local calls. SRG is of the opinion that free local calls provide the potential for lower productivity in the business community.
- (22) SRG suggests a calling plan adopted in Bermuda as an option for The Bahamas. The fixed line operator charges BM\$26<sup>3</sup> for monthly access which includes 50 free local calls plus 20 cents for each additional call. SRG feels that such a plan does not require significant billing system upgrades by the operators and would help smooth the transition for consumers to the concept of paying for local calls.

**Digicel**

- (23) Digicel does not believe that it is efficient to bundle access (non traffic-sensitive costs) and unrestricted local calls (involving traffic-sensitive costs) in a liberalised market. It asserts that usage and access pricing should not be bundled by regulatory obligation where there is

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<sup>3</sup> Bermudian dollars



cross-subsidisation between access and usage services. Digicel strongly believes that bundling should be a business choice and not a matter for regulatory control.

- (24) Digicel is of the view that multiple bundles should be offered with specified limits on the number of local calls included in the bundle to facilitate universal service issues. The regulatory authorities should be consulted about the lowest call volume scheme to satisfy universal service concerns. Digicel suggests that some level of metering of local calls is in the public interest. It further claims that the pressures on universal service and the need for additional tariff rebalancing support its suggestion for metering of local calls.

#### Proposed Further Action/Comment

- (25) CBL, SRG and Digicel strongly feel that the practice of bundling and offering packages should be left to operators' discretion and not controlled by regulation. URCA does not seek to micro-manage any licensee by imposing specific bundling and packaging by regulatory measure. In general it has no objection to bundling or packaging as long as the individual services are available on a standalone basis on reasonable terms and conditions. There is broad agreement from BTC, SRG and Digicel that a variety of packages should be offered to consumers. There is general support for some type of metering of local calls. URCA notes these suggestions and finds them useful.
- (26) Digicel's argument that access should not be bundled with unrestricted local calls by regulatory obligation where there is cross-subsidisation is noted. URCA further notes that BTC, has bundled access with unrestricted local calls by choice and not by regulatory obligation.
- (27) URCA does not intend to prohibit SMP operators from packaging and bundling of price regulated services (services subject to retail price regulation) as long as the services are offered individually on reasonable terms and conditions. Furthermore, URCA is of the view that future tariff rebalancing proposals should be accompanied by options on bundles or packages which exclude free local calls.

**Question 4:** Should The Bahamas move to a caller-pays principle for all calls? If you disagree, please state your reasons.

#### **BTC**

- (28) BTC notes the Receiving Party Pays (RPP) principle with respect to fixed to mobile calls and accepts that the mobile user is subsidising the fixed line customer. However, BTC argues that removing this anomaly would have to be done in conjunction with policy decisions on local calls and tariff rebalancing.

**CBL**

- (29) CBL supports in principle the move to a Calling Party Pays (CPP) regime for all calls. However, CBL notes that there are various complex issues related to such a move in The Bahamas. CBL claims that these issues (including numbering, consumer education, revenue impacts) have not been included or considered in the consultation. CBL suggests that URCA consider these issues in a comprehensive manner in the future at which time CBL would comment further.

**SRG**

- (30) SRG agrees that The Bahamas should move to a CPP regime for all calls. However, SRG is concerned that the move to CPP cannot be properly implemented in isolation from the issue of free local calls.

**Digicel**

- (31) Digicel agrees that a conversion to the CPP model for calls to mobile phones is in the public interest. Digicel argues that especially in countries with significant low income earners the CPP model results in much higher penetration rates in mobile versus the RPP model.

Proposed Further Action/Comment

- (32) There is general support for a move to CPP. However, there is also concern that the move to CPP must not be done without taking into consideration the current situation of free local calls on fixed lines, tariff rebalancing and numbering among other issues. URCA is minded to carefully consider this matter further as a change to CPP requires complex policy design and debate, consumer education and changes in consumption behaviour.

**Question 5:** Do you agree that the historical approach to retail price regulation should be reformed in the newly liberalised environment? If you disagree, please state your reasons.

**BTC**

- (33) BTC supports the reform of retail price regulation in the newly liberalised market. BTC is of the view that a price cap plan will allow flexibility in pricing, something that is absent in the present regime. BTC opines that the present pricing regime's goal is to ensure that pricing is not anticompetitive.

**CBL**

- (34) CBL is of the view that the historical approach to price regulation for high speed data services has worked effectively to date and should remain in place. That is, no retail price

regulation but the regulator must be notified of changes to existing prices or the introduction of new service prices.

- (35) CBL notes that to date only its basic cable package has been subject to price regulation. CBL considers the current approach to price regulation for cable TV to be a failure as there is no established regulatory process in place for periodic reviews. CBL submits that while it does not believe that there are any compelling reasons for price regulation of any cable TV packages, that if the basic cable TV service has to be price regulated then a proper price review mechanism such as the Interim Pricing Framework should be put in place immediately.

#### **SRG**

- (36) SRG does not agree that the current framework of retail price regulation is necessarily flawed and in need of reform. SRG is of the opinion that the existing framework allows the dominant operator to seek approval for new tariffs at any time based on principles of transparency and objectivity that promote competition in the market. SRG feels that there is no problem with the existing process for seeking approval itself but the problem lies in how the dominant operator applied it in the past.

#### **Digicel**

- (37) Digicel agrees that a discretionary control of prices should not be a feature of a liberalised communications sector in The Bahamas. Digicel proposes that in markets where dominance is an enduring problem that can only be addressed by price control and that price cap is the preferred mechanism.

#### Proposed Further Action/Comment

- (38) There is some support from BTC for reform in the approach to retail price regulation in the new environment. URCA notes CBL's objection to the reform for broadband Internet and SRG's preference for the historical approach to retail price regulation.
- (39) It remains URCA's view, that the current discretionary processes are not sufficiently transparent and predictable for a liberalised sector and that, where considered proportionate and appropriate, continued retail price regulation will be applied within a standardised framework.
- (40) As stated in the Introduction (section 1) the specific obligations on the SMP operators relating to retail price regulation will be part of the overall SMP obligations. However, URCA will periodically review the retail price regulation framework and consult with the industry and other stakeholders before adopting and implementing another framework.

**Question 6:** Do you agree with the objectives proposed for price control regulation? If you disagree, please state your reasons.

**BTC**

- (41) BTC agrees in principle with the proposed objectives. However, BTC argues that price cap regulation alone does not control quality of service provided by SMP operators. BTC advocates that more consumer education on quality of service is needed. BTC further argues that while the implementation of the price cap should achieve its stated objectives, it should not be so onerous that SMP operators cannot earn a fair return on capital employed.

**CBL**

- (42) CBL generally agrees with the objectives proposed for retail price regulation. However, CBL questions whether retail price regulation is necessary at all for any individual or set of communications services. CBL refers to section 5 of the Comms Act which includes the principles of relying on market forces as much as possible and where regulatory measures are deemed necessary, that said measures are efficient and proportionate to their purpose.
- (43) CBL believes that while measures to protect against anti-competitive pricing are necessary in the communications sector, imposing unnecessary and restrictive retail price regulation on pay TV and/or high speed data services and connectivity would undermine the objectives of fostering reliable and high quality services and encouraging investment and innovation.

**SRG**

- (44) SRG believes that the objectives proposed for price control regulation should also accommodate the principle of encouraging and promoting sustainable competition in accordance with section 4 (a) (iii) of the Comms Act.
- (45) SRG notes that the consultation did not consider circumstances where an SMP operator sets prices so low that the prices are anticompetitive or predatory in nature. SRG further notes the provisions in section 69 of the Comms Act for an abuse of a dominant position but feels strongly that ex post action by URCA does not provide sufficient competitive protection in an immature sector.

**Digicel**

- (46) Digicel agrees with the objectives proposed. However, Digicel feels that the objectives for the provision of private investment and the competitive process to prevent inefficient prices before using regulatory measures were omitted.

Proposed Further Action/Comment

- (47) Most respondents have agreed with the objectives proposed for retail price regulation. URCA is mindful that in fulfilling these objectives it must meet not just section 5 of the Comms Act, but also section 4 of the Comms Act.
- (48) URCA believes the obligations to be imposed on SMP operators pursuant to section 116 of the Comms Act, will provide the regulatory tools to address the prevention of anticompetitive and predatory pricing, which were raised by some respondents.

**Questions 7:** Do you agree with the Government's view that wholesale price regulation alone may not be sufficient to protect consumer interests in the present and near future?

**BTC**

- (49) BTC agrees with the view expressed but stresses the need for consumer protection and advocacy legislation.

**CBL**

- (50) CBL acknowledges that wholesale price regulation can be effective when there are well developed wholesale and retail service markets. However, CBL notes that this is not the case in The Bahamas at the present time, nor likely to develop in the near future. CBL argues that there are competing facilities in both the cable TV and high speed data services markets, making retail price regulation unwarranted and unnecessary. CBL submits that market forces in the two markets are sufficient to protect consumers.

**SRG**

- (51) SRG agrees with the view that wholesale price regulation alone may not be sufficient to protect consumer interests in the present and near future.

**Digicel**

- (52) Digicel agrees that some level of retail price regulation in The Bahamas is likely to be in the public interest. Further, Digicel believes that because of new technologies and lower access costs retail price controls should be very limited. Digicel states that aggressive price regulation is not only a proxy for competition but is also a substitute for competition that discourages private investment by competitors.

### Proposed Further Action/Comment

- (53) The consultation identified the reasons why wholesale regulation alone may not be the best way to protect consumer interests at this time. Comments from all respondents supported this view.
- (54) URCA agrees with the points made by respondents that retail price regulation should be applied proportionately to avoid deterring competitive market entry and that, where considered conducive to sustainable and effective competition, wholesale competition and access is preferable to retail regulation.
- (55) URCA therefore proposes to impose retail price regulation where, in URCA's view, existing or potential competition at the wholesale level will not deliver benefits of effective competition within the timeframe being considered by URCA.

**Question 8:** Do you agree with the proposal to adopt price cap regulation? If you disagree, please state your reasons.

#### **BTC**

- (56) BTC supports price cap regulation. However, BTC argues that outgoing ILD services should be excluded from any regulated basket of services as there is a proliferation of competition in that market.

#### **CBL**

- (57) CBL submits that price cap regulation is best practice and should be adopted where it is found that the service is an essential one and the provider is found to have SMP. However, CBL prefers to allow market forces to be relied upon as much as possible in accordance with section 5 of the Comms Act and if price regulation is still necessary then it should be focused and light-handed in nature.

#### **SRG**

- (58) SRG agrees with the proposal to adopt price cap regulation. SRG further suggests that until such time as the market has matured; price regulation should include price floors and price ceilings.

#### **Digicel**

- (59) Digicel asserts that price cap regulation is superior to rate of return regulation. However, Digicel believes that contingency contracts should be in place to prevent the price cap regime from being undermined by unforeseeable events that may occur after the commencement of the price cap.

### Proposed Further Action/Comment

- (60) URCA notes the broad support for price cap regulation.
- (61) In response to BTC's point about the removal of outgoing ILD services from a basket of regulated services, URCA will determine, by analysis of the market based on the information available, the services suitable for inclusion in price cap regulation. URCA will issue its determination of SMP for the different services and the obligations to be imposed on SMP operators before 1 October 2009, as stated earlier.
- (62) Although there is support for price cap regulation, the consultation highlighted the specific information and other requirements that are typically necessary for a price cap to be implemented some time after a transitional period. URCA will consult in detail on price cap regulation if it were to adopt that form of retail price regulation in the future.

**Question 9:** Do you agree with the proposal to introduce an Interim Pricing Framework in the short term? If you disagree, please state your reasons.

#### **BTC**

- (63) BTC supports an interim measure before the implementation of retail price regulation by a price cap. BTC is concerned that the transitional arrangements are intended to last between six and twelve months, compared to a one to two year period in some Caribbean countries. BTC would like URCA to have discussions with SMP designates on a reasonable time period for the transition to Price Cap Regulation.

#### **CBL**

- (64) CBL agrees that an Interim Pricing Framework is required. CBL reiterates its argument that both cable TV and high speed data services should not be subject to price regulation. CBL submits that if basic cable TV service should continue to be price regulated then the existing price of \$30 should be retained as the "going-in" price. CBL suggests that the Interim Pricing Framework include a well defined process to review price change applications in an efficient and effective manner.

#### **SRG**

- (65) SRG agrees with the proposal. SRG believes that it is essential to have an Interim Pricing Framework in place until the market is deemed sufficiently mature to allow sustainable competition. SRG suggests that the Interim Pricing Framework should remain in place no less than 24 months.

#### **Digicel**

- (66) Digicel disagrees with the proposed Interim Pricing Framework. Digicel argues that the framework is cumbersome and unsuitable for a transition period to competition.

- (67) As an alternative, it suggests that a simpler price cap mechanism based on revenue-weighted prices, that would address tariff rebalancing, should be used. Sub caps could be placed on line access to ensure that tariff rebalancing occurs. They could also be used to control the pace of price increase of any service, allowing the regulated company some flexibility during the transition period.

Proposed Further Action/Comment

- (68) URCA has noted the valuable insights offered by the respondents and is making some amendments to the Interim Pricing Framework as a result of these contributions. In particular, URCA will provide greater clarity to the industry on the overall process, timescales, types of changes and information to be provided with submissions.

**Question 10:** What principles should underpin any Interim Pricing Framework for retail price regulation and on the nature of the interim arrangements?

**BTC**

- (69) BTC strongly disagrees that public consultation should be a principle of any Interim Pricing Framework. BTC argues that public consultation is an unnecessary hurdle that restricts its ability to respond to customer needs as market conditions change. BTC suggests that URCA use the data produced from the Regulatory Financial Reporting systems to satisfy the requirement for transparent and non-discriminatory pricing.

**CBL**

- (70) CBL agrees that the proposed principles for the Interim Pricing Framework are reasonable but suggests that clearly defined procedures are required for applications to change prices of existing price regulated services and prices for new services.
- (71) CBL submits that the operators providing price regulated services should be free to file applications to change prices for those services or introduce new services at any time. CBL further proposes a process whereby the regulator can explicitly approve price increases, deny price decreases or block the introduction of new services if necessary.

**SRG**

- (72) SRG suggests that the principles underpinning the Interim Pricing Framework should embrace section 4(a) (iii) of the Comms Act in encouraging and promoting sustainable competition. SRG also suggests that all changes in price (increases or decreases) by an SMP operator must be subject to approval by URCA.




**Digicel**

(73) Digicel's response to question 9 also applies to question 10.

**Proposed Further Action/Comment**

(74) URCA has noted the valuable insights offered by the respondents and it is intending to make amendments to the Interim Pricing Framework as a result of these contributions. In particular, URCA will provide greater clarity to the industry on the overall process, timescales, types of changes and information to be provided with submissions.



**Question 11:** Do you agree with the proposed regulation of special offers and discounts? If you disagree, please state your reasons.

**BTC**

- (75) BTC argues for an extension of special promotions for a period not exceeding 30 days. It also requests guidelines on the criteria to determine whether a special promotion is similar to a special promotion that concluded less than 120 days earlier. BTC would prefer the use of the word “same” instead of “similar” with respect to special promotions.

**CBL**

- (76) CBL supports the adoption of the proposed regulation of special offers and discounts for price regulated services.

**SRG**

- (77) SRG agrees with the approach in principle. However, SRG is concerned that the 10 day period is too short for URCA to properly analyse the proposed terms of the special offers and discounts and determine whether they are anticompetitive. SRG believes that for URCA to make a reasoned decision, URCA must consult with other operators that will be affected by URCA’s decision. SRG further suggests that the applicant should be given the opportunity to respond to comments submitted by other operators, thus increasing the 10 day time limit for approval proposed by URCA.

**Digicel**

- (78) Digicel does not see the need for regulatory approval of discounts. Digicel feels that if a service is subject to competition then as a rule it should not be included in a price cap. However, if potential or actual competitive services are included in the price cap then any discounting practice designed to distort competition would normally be captured by ex post competition law.
- (79) Digicel states that it does not support regulatory rules that are not based on sound economic analysis that shows the practice to be anticompetitive.

Proposed Further Action/Comment

- (80) URCA has noted the valuable insights offered by the respondents and it is intending to make amendments to the Interim Pricing Framework as a result of these contributions. URCA will regulate special offers and discounts. In particular, URCA will provide greater clarity to the industry on the overall process, timescales, types of changes, information to be provided with submissions, etc. with respect to special offers and discounts.

**Question 12:** Do you agree with the proposed form of the price cap shown above? Do you have views based on experience with price cap regimes on the application of a price cap with this broad form?

**BTC**

- (81) BTC has no objection to the proposed form of price cap. BTC refers to its concerns on the use of the CPI as noted in its response to Question 14 and its suggestion on exogenous occurrences in its response to Question 18. BTC reiterates its response to question 18 on quality factors.

**CBL**

- (82) CBL agrees that the proposed form of price cap is best practice but notes that the multi-basket price cap formula is typically applied to incumbent telecommunications companies and not cable companies or new entrants.
- (83) CBL maintains its argument that only basic cable TV service should be price regulated, if at all, and that two specific cost adjustments should be allowed in the price cap formula.
- (84) CBL considers that should basic broadband services be found to be susceptible to price regulation then a standard price formula is the most appropriate to apply. Additionally, the same price cap should be imposed on BTC's broadband internet service as it is the incumbent operator.

**SRG**

- (85) SRG offered no comment to this question.

**Digicel**

- (86) Digicel agrees that incentive-based price caps are the appropriate way to regulate retail monopolized services. Further, Digicel considers that retail price control in telecommunications will soon be an anachronism although it may have to be used in the public interest for a limited number of services during the transition period following liberalisation of the sector.

Proposed Further Action/Comment

- (87) The broad support for the form of price cap is noted. BTC's comments on quality and exogenous occurrences are addressed by URCA in the Proposed Further Action/Comment sections of question 14 and 18, respectively.
- (88) URCA notes CBL's comments with regard to the application of the price cap.

- (89) Although there is support for price cap regulation, the consultation highlighted the specific information and other requirements that typically result in a price cap being implemented some time after a transitional period. URCA will consult in detail on price cap regulation if it were to adopt that form of retail price regulation in the future.

**Question 13:** Do you agree with the use of a ‘building blocks’ regime to determine starting prices under the price cap?

**BTC**

- (90) BTC supports the proposed approach. BTC further supports the use of the Interim Pricing Framework model to derive the initial prices to be used in the price cap regulation.

**CBL**

- (91) CBL submits that the “Building Blocks” approach is complex and costly and is commonly established for many incumbent telecommunications companies globally. CBL continues its argument that in the case of cable TV and high speed data services that the imposition of price cap on these two services is onerous, costly and disproportionate to section 5 of the Comms Act.
- (92) CBL prefers an international benchmarking approach. CBL argues that the benchmarking should be performed in a fair and balanced manner using comparable countries. A just and reasonable price could be established for each service during the Interim Pricing Framework if services are to be price regulated. CBL further argues that the existing price of \$30 for basic cable TV is unquestionably low.

**SRG**

- (93) SRG offered no comment to this question.

**Digicel**

- (94) Digicel is of the view that implementing an exhaustive price cap mechanism in The Bahamas is unlikely to be in the public interest and that the regulator or its consultants should not attempt to do the work required for the implementation. Digicel argues that the tasks involved are large and most regulators do not have the financial or experienced specialised human resources to perform such tasks.
- (95) Digicel notes that in its experience, complex regulations of this type in very small jurisdictions inevitably impose much higher risk of regulatory error. Digicel also asserts that the appeals systems in very small countries are typically not economical to use since the regulated firms do not have sufficient revenues for appeals to be commercially viable.

- (96) Digicel is convinced that a simpler, less intensive approach (not the detailed price cap proposed) would reduce regulatory risk and would likely lead to a greater level of investment in the sector in The Bahamas.

Proposed Action/Comment

- (97) CBL's preference for use of an international benchmarking approach is noted.
- (98) Digicel's objection to price caps is noted. While acknowledging that it is not an easy task, URCA is not convinced that the work required to establish and implement price caps is disproportionate. As noted above in URCA's comments, URCA will consult in detail on price cap regulation if it were to adopt that form of retail price regulation in the future.

**Question 14:** Do you agree with the use of CPI within the price control formula? If you disagree, please state your reasons.

**BTC**

- (99) BTC makes a case to use a separate index for the communications sector. BTC is of the opinion that the CPI is too broad and not characteristic of the changes in the communications sector. BTC notes that the Department of Statistics captures data on the communications sector inclusive of postal services. BTC feels that in the future the Department of Statistics should be asked to provide a communications index which excludes postal services. BTC concedes that in the absence of a sector specific index, the CPI would have to be used as a proxy.

**CBL**

- (100) CBL supports the use of a CPI measure in the price cap formula.

**SRG**

- (101) SRG offered no comment to this question.

**Digicel**

- (102) Digicel states it would prefer for an input price index to be used instead of the All Bahamas Price Index. However, it would accept the use of the CPI if it is used in a "pragmatic approach". Digicel favours the use of a six monthly period for the inflation rate rather than an annual rate.

Proposed Actions/Comments

- (103) The arguments and proposals made by Digicel have been noted. URCA does not believe that there is international precedent for the use of a six monthly inflation rate. In addition to this, a six monthly index is not available from the Department of Statistics.
- (104) URCA does not believe that currently there is a more appropriate index to use than the annual CPI measure. However, URCA will consider the possibility of an electronic communications sector specific index in the future.
- (105) Based on these observations and as the majority of respondents were supportive of the use of a CPI as is or as a proxy, URCA will adopt the CPI as appropriate when the use of indexing is required for the establishment of retail price caps.

**Question 15:** Do you agree with the proposed use of the prior year's inflation rate as measured in the All Bahamas Price Index? If you disagree, please state your reasons.

**BTC**

- (106) BTC has no objection to the use of the All Bahamas Price Index.

**CBL**

- (107) CBL supports the use of the All Bahamas Price Index.

**SRG**

- (108) SRG offered no comment to this question.

**Digicel**

- (109) Digicel's response to question 14 also applies to question 15.

Proposed Further Action/Comment

- (110) The arguments and proposals made by Digicel have been noted. URCA's comments in paragraphs 103 to 105 are also applicable here.

**Question 16:** Do you agree with the use of an X-factor to reflect expected productivity gains over the period?

## **BTC**

- (111) BTC suggests that tariff rebalancing should be carried out prior to any assessment of productivity gains and consequent determination of a suitable X-factor. BTC agrees with the use of Total Factor Productivity models but believes that it should be allowed to collect actual data over time, rather than be subject to international benchmarking (which BTC states would disadvantage them due to the geography of The Bahamas). BTC has no objection to the concept of using of an X-factor to measure productivity gains.

## **CBL**

- (112) CBL states (as per Question 12) that the forward looking price cap model approach is applied to incumbent telecommunications companies. CBL submits that this approach on cable TV and high speed data services would be onerous and disproportionate to section 5 of the Comms Act. Further, CBL is of the view that it would be difficult if not impossible to find suitable countries to benchmark the productivity for cable companies.
- (113) CBL feels that alternative approaches for setting the X-factor for a price cap plan for cable TV or high speed data services should be identified and consulted upon with other interested parties.

## **SRG**

- (114) SRG offered no response to this question.

## **Digicel**

- (115) Digicel's response to question 13 also applies to question 16.

## Proposed Further Action/Comment

- (116) URCA identified in the consultation document the problems associated with the use of international benchmarking to set starting prices for use in a TFP model. CBL's comments in relation to this question support this view.
- (117) URCA has noted BTC's comments regarding its preference for the determination of the TFP through the use of operator forecasts of the relevant data.
- (118) URCA will consult in detail before it adopts any price cap regulation in the future and the X-factor would likely form part of such consultation.

**Question 17:** What price control period do you think should be used? Do you believe that the appropriate price control period is affected by the proposed phasing in of competition in The Bahamas?

**BTC**

- (119) BTC supports a two year price control period and notes that full liberalisation should impact the price control period. BTC feels that there is a need to revisit the price control period and the basket of price regulated services once supply-side substitution is available.

**CBL**

- (120) CBL suggests a price control period of no less than three years and no more than four years. However, CBL believes that if competition develops in the price capped service(s) market sufficiently to protect consumer interests, then the regulated firm should be permitted to file an application, including factual evidence to support the request, with URCA requesting that the said service(s) be withdrawn from price regulation.

**SRG**

- (121) SRG offered no comment to this question.

**Digicel**

- (122) Digicel suggests that where price cap is being introduced for the first time, the price control period should be set for 12 - 24 months. Digicel is of the view that retail price regulation in telecommunications should gradually disappear following liberalisation of the sector. Digicel feels that in the two to three years following liberalisation, the business environment for all operators can be expected to change fairly rapidly.

**Proposed Further Action/Comment**

- (123) URCA notes that the suggestions from respondents vary between 1 to 4 years for the price control period. This represents a significant range.
- (124) As URCA intends to introduce an interim price regulation framework, it will consider the appropriate duration of any future price caps at the appropriate time, taking into account the comments received in this consultation.



**Question 18:** Should a Z factor be included? If a Z factor is included what are some of the exogenous occurrences that should be considered?

**BTC**

- (125) BTC supports in the inclusion of a Z factor in the price cap formula. BTC suggests that the following occurrences, which it considers to be outside of the operator's control, be considered: hurricanes; changes in international settlements rates; changes in legislation; judicial or administrative action; and changes in the tax structure.

**CBL**

- (126) CBL agrees with that a Z factor should be in any price cap plan. CBL believes that any event that is outside of the control of the price regulated firm, and has a disproportionate impact on the communications sector, should be eligible for potential treatment as an exogenous factor. Some of CBL's suggestions of exogenous occurrences that could be considered are: the costs of new regulatory obligations, new regulatory charges, new sector specific taxes, and recovery of damage caused by hurricanes or other natural disasters.

**SRG**

- (127) SRG offered no comment to this question.

**Digicel**

- (128) Digicel agrees that especially in small economies a Z factor be included in the price cap mechanism.

Proposed Further Action/Comment

- (129) URCA has noted all of the suggestions of exogenous occurrences that should be considered and will give them due regard in the development of a price cap regime and the specifics of the Z factor will form part of future consultations.

**Question 19:** Do you agree that quality control incentives should be built into price control regulation? What are the relevant key performance indicators (KPIs) that you consider could be utilised for monitoring quality?

**BTC**

- (130) BTC disagrees that quality control incentives should be built into the price cap formula. BTC prefers Guarantee Service Standards linked to Key Performance Indicators (KPIs) for price regulated services. BTC encourages quality control being addressed in its licence and as part of consumer protection.

**CBL**

- (131) CBL disagrees with a quality control incentive being built into price control regulation for cable TV and high speed data services. CBL argues that the introduction of a quality control incentive is unnecessary, unwarranted and inconsistent with the provisions in section 5 of the Comms Act. CBL notes that both services are subject to a high degree of competition with new emerging competitive alternatives.

**SRG**

- (132) SRG offered no response to this question.

**Digicel**

- (133) Digicel is of the opinion that unless the service is not going to be subject to competition in the near to medium term, then quality of service should be left to operators to decide on as a competitive parameter. Digicel notes that quality of service tends to be a function of the technology, busy hour capacity and busy hour pricing.

Proposed Further Action/Comment

- (134) The respondents do not support the inclusion of quality control incentives in price control regulation. URCA will review this proposal again in the future when it develops a retail price cap regime. However, both quality of service and consumer protection are included as licence conditions in the new regime, especially in the individual operating licence. Subject to further analysis and consultation, URCA remains minded to include quality of service parameters in a price cap regime at the appropriate time.

**Question 20:** Should operators be able to carry over out-performance in early years into the later years within the same price control period?

**BTC**

- (135) BTC agrees that operators should be allowed to carry over headroom (outperformance) in any price cap plan.

**CBL**

- (136) CBL agrees that operators should be allowed to carry over headroom in any price cap plan that may be implemented by URCA.

**SRG**

- (137) SRG offered no response to this question.

**Device**

- (138) Digicel believes that regulatory experts generally prefer carry-over of headroom. Digicel supports the carry-over of headroom for price increases. However, Digicel believes that if carry-over could potentially harm competition by allowing strategic low prices of services then the services should not be price capped. Digicel strongly believes that the price cap mechanism is not the appropriate mechanism to prevent predatory discounting.

Proposed Further Action/Comment

- (139) There is substantial support for the proposal to carry over out-performance in early years into the later years within the same price control period. Digicel's point on potential for predatory pricing is noted.
- (140) URCA will carefully consider how any proposal for carry over will be developed in any retail price cap framework in the future.

**Question 21:** Do you agree with the initial thinking on the provision of information for use in price control regulation?

**BTC**

- (141) BTC acknowledges the need to provide information for use in price regulation. BTC argues that information supplied to URCA needs to be considered confidential subject to provisions of the Comms Act.

**CBL**

- (142) CBL agrees with the proposed provision of information for use in price control regulation. CBL believes that any requirement for Regulatory Financial Reporting (RFR) should be kept to a minimum to ensure that regulatory costs are efficient and proportionate to their purpose in keeping with section 5 of the Comms Act.

**SRG**

- (143) SRG did not respond to this question.

**Digicel**

- (144) Digicel is of the opinion that the approach proposed for price cap regulation in the consultation is ambiguous given the available regulatory resources.

Proposed Further Action/Comment

- (145) BTC's request for confidentiality of information is noted. CBL's comment on Accounting Separation to be kept to a minimum is also noted.
- (146) Transparency is critical to the development of the electronic communications sector. As such, URCA will respect legitimate confidentiality but is minded to publish as much data and information as possible.

**Question 22:** Do you agree with the views expressed above on the use of baskets of services in retail price control regulation? Do you have views on the appropriate form of the tariff baskets to be used?

**BTC**

- (147) BTC supports the use of baskets of services in the application of the price cap so as to have greater pricing flexibility to allow tariff rebalancing. As BTC noted in its response to question 1, BTC is concerned about the absence of any discussion on the scope of baskets.

**CBL**

- (148) CBL generally agrees with the use of service baskets within a price cap plan. CBL notes that most of the discussion in the consultation referred to price cap plans applicable to telecommunications services. CBL submits that if cable TV and/or high speed data services are to be subject to price regulation then service baskets should not be used and only a single basic service in each case needs to be price capped.

**SRG**

- (149) SRG suggests that the provision of free local calls should be isolated from other services so as to not distort any basket and that mobile services must be separated from fixed services.

**Digicel**

- (150) Digicel does not generally support the use of multiple baskets in price controls. However, Digicel thinks that it may be necessary to have two baskets if the two policy goals of tariff rebalancing and price caps for services not subject to competition in the medium to long term are involved.
- (151) Digicel asserts that one of the advantages of price caps is the flexibility of the regulated operator to adjust prices individually for services as demand and supply factors change. Digicel further states that sub caps should not seek to undermine the pricing flexibility and should be restricted to situations where a “strong political dimension” (such as the rate of line rental increases) needs to be addressed.

Proposed Further Action/Comment

- (152) It is premature at this stage for URCA to discuss the scope of any basket of services. URCA will have to conduct a specific consultation on Retail Price Cap implementation to determine the composition of any basket(s) of services and whether tariff rebalancing, if necessary, will impact any basket. URCA notes Digicel’s comment on the use of sub-caps to undermine

pricing flexibility and will be mindful of the use of sub-caps in the future development of Retail Price Cap Regime.

- (153) With respect to the services that will be price regulated in the future, URCA will conduct market reviews from time to time which shall be subject to public consultation.

## 4. OTHER ISSUES

- (154) Two of the respondents to the retail pricing consultation raised some points which did not address specific questions in the consultation. URCA has considered these points and its response to them is set out below.

### BTC

- (155) BTC feels that there are some characteristics unique to the communications sector which distinguishes it from other sectors of the economy. BTC claims that the communications sector is highly unionized, putting upward pressure on prices of communications services.
- (156) The tourism sector is the largest sector in The Bahamas, contributing approximately 60% to Gross Domestic Product (GDP). The tourism sector is highly unionized in The Bahamas. Therefore BTC's argument that the communications sector is unique because it is highly unionized does not appear to be supported by this evidence.
- (157) BTC claims that the "import content" (which is the heavy reliance on imported capital equipment and other services in the communications sector) will affect prices of communications services. As BTC itself notes, The Bahamas as a whole relies heavily on imports and as such the communications sector is not unique in this way.
- (158) BTC notes that the use of benchmarks can be contentious given the geography of The Bahamas. URCA believes that while The Bahamas is an archipelago, its geography is not unique. Other countries such as the Philippines and Seychelles are also archipelagos facing similar challenges with duplication of infrastructure.
- (159) BTC suggests the possible use of benchmarks in the development of a Weighted Average Cost of Capital (WACC) given the absence of a well developed capital market in The Bahamas.
- (160) On August 19 2009, URCA issued its preliminary determination on the cost of capital for designated SMP operators. The preliminary determination is available at URCA's website at [www.urcabahamas.bs](http://www.urcabahamas.bs) and comments should be submitted to URCA by 1 October 2009.

### CBL

- (161) In summary, CBL is concerned that:
- Many if not all of the proposals are based on traditional retail price regulation that typically apply to fixed line telephony services and should not necessarily be

imposed on other communications services;

- The “presumption” of SMP, which may underpin the application of retail price regulation, is unfounded in the case of pay TV and high-speed data services and connectivity;
- The need for retail price regulation is based on flawed benchmarking analysis and that “a more comprehensive and balanced benchmarking analysis supports the conclusion that CBL’s prices are generally below comparable prices in other countries in the Caribbean”;
- If retail price regulation were to be applied, contrary to CBL’s view, then it should be “light-touch” and apply only to “basic” services; and
- A clearly defined price adjustment or review mechanism should be implemented for CBL’s basic Pay TV services immediately, as the current level is “unsustainable”.

(162) URCA has considered CBL’s concerns and is comfortable that its approach in each area is, and will be, appropriate and proportionate. In the interests of transparency, however, and recognising that The Bahamas is in the early stages of liberalisation when there is inevitably a higher degree of uncertainty in the industry than normal, URCA addresses some of the specific points raised by CBL in the following section.

(163) URCA may impose specific obligations on licensee’s determined to have SMP in the relevant market or markets in accordance with section 40 (1) of the Comms Act. URCA shall be publishing preliminary determinations on obligations to be imposed on licensees determined to have presumptive SMP before 1 October 2009. URCA will consult in detail before it adopts price cap regulation as the form of retail price regulation in the future. Some of the points raised by CBL in its response to the retail pricing consultation will be addressed in the preliminary determinations. For these points, URCA does not believe it would be appropriate or helpful to set out a detailed response in this document. CBL will be able to comment on the obligations before they are finalised. This will allow CBL to comment in a position of greater context and with access to URCA’s analysis and conclusions.

(164) In the following sections URCA addresses some of the specific points raised by CBL.



**Many if not all of the proposals are based on traditional retail price regulation that typically apply to fixed line telephony services and should not necessarily be imposed on other communications services.**

(165) CBL highlights differences between fixed line telephony and the markets where it is presumed to have SMP: Pay TV and High speed data and connectivity. These differences, it argues, relate both to the nature of the services and the underlying technologies used to deliver them. CBL also argues that there are differences in the ways that these are typically regulated internationally, and in the way they have been historically regulated in The Bahamas.

(166) The retail pricing consultation document explained that the proposals were not for a specific price control remedy:

*“(8) The consultation document does not propose the application of any specific price control remedy on any individual licensee, but simply seeks to establish the portfolio of price control remedies that could be applied and therefore create a general understanding among the licensees of how different remedies work and how and when they could be applied.”*

(167) In accordance with this approach URCA is considering each market in turn and determining the appropriate form of regulation. The forthcoming SMP obligations to be imposed on SMP operators will set out more detail about the nature of the markets and the nature of the ex ante regulation to be applied in each market at this time. Future retail price regulation will be based on market reviews conducted by URCA, again considering each market individually.

**The “presumption” of SMP, which may underpin the application of retail price regulation, is unfounded in the case of pay TV and high-speed data services and connectivity.**

(168) CBL is concerned that the “presumption” of SMP in the specific case of pay TV and high-speed data services and connectivity, is unfounded.<sup>4</sup> It argues that when the market conditions are properly taken into account, all forms of ex ante regulation, including retail price regulation of these specific services, are largely, if not entirely, unnecessary and unwarranted. It makes a number of arguments in support of its assertion that the SMP presumption is unfounded, covering market share, BTC’s position as incumbent in business internet, international precedent and the fact that there is facilities-based competition for some services.

(169) As mentioned above, URCA will be publishing obligations to be imposed on SMP operators, pursuant to section 116 of the Comms Act. CBL’s views have been taken into account in that

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<sup>4</sup> The “presumed” finding of SMP is included in the Communications Act 2009, Section 116, and quoted in paragraph 10 of the Retail Pricing Regulation Consultation.

document and CBL and all other interested parties will have the opportunity to comment on URCA's proposals.

**The need for retail price regulation is based on flawed benchmarking analysis and “a more comprehensive and balanced benchmarking analysis supports the conclusion that CBL's prices are generally below comparable prices in other countries in the Caribbean”**

- (170) CBL expresses concerns about the methodology applied when conducting the benchmarking in terms of the choice of countries and the conclusions drawn from the findings. CBL undertook its own benchmarking analysis across 16 Caribbean countries, chosen for their similarities in demographic data such as GDP per capita, population, surface area and population density.
- (171) CBL concludes from its analysis that there would be no justification for any new retail price regulation for either basic cable TV services or basic broadband services. CBL reached this conclusion on the basis that prices for two of their products are “on average lower” than those of services offered in other Caribbean countries.
- (172) CBL, in its response to the consultation, discusses some of the difficulties and subjective nature of benchmarking and presents alternative analysis.
- (173) URCA does not wish to comment in detail on this analysis given that URCA believes that the results and conclusions of its own benchmarking are valid and unbiased, taking into account the caveats and limitations highlighted at the time. URCA has noted CBL's analysis and further notes that all benchmarking is subject to margins of error.

**If retail price regulation were to be applied (contrary to CBL's view that it is unnecessary), then it should be “light-touch” and apply only to “basic” services.**

- (174) URCA is in agreement with CBL that its regulation should be light-touch, to the extent possible given the need simultaneously to protect consumers and foster efficient and sustainable competition for electronic communications services. This is a fundamental tenet of URCA's operation and will be applied in the possible implementation of retail pricing regulation as in URCA's general ongoing activities. However, CBL has chosen to highlight, over the period 1995-2008, increases in inflation and various operating costs, often citing increases of 100 - 200% to explain its requests for a price increase. However, CBL has not mentioned increases in gross turnover, customer numbers and profits over the same period that would present the inflation and other operating costs increases in a greater overall context.

**A clearly defined price adjustment or review mechanism should be implemented for CBL's basic Pay TV services immediately, as the current level is "unsustainable"**

- (175) The price for CBL's basic cable (pay TV) service has been set at \$30. To the extent that price regulation of CBL's basic cable TV service price is maintained (or any other CBL pay TV services becomes price regulated), CBL submits that a clearly defined price adjustment or review mechanism should be put in place immediately as part of the Interim Pricing Framework. CBL claims that maintaining its basic cable (pay TV) service price at \$30 going forward is "simply unsustainable without jeopardizing service quality".
- (176) URCA notes CBL's concerns about the fixed price of its basic cable (Pay TV) service. URCA described the Interim Pricing Framework that it intends to apply in the electronic communications market at paragraph (69) of the consultation document. This states that (inter alia):
- *"The regulator would amend the charges for a Price Regulated Service subject to consultation with the operator and any other interested parties, and would issue an instruction, determination or decision to the operator to amend or modify its charges accordingly;*
  - *Where an operator intends to introduce new prices for Price Regulated Services and prices for new Price Regulated Services it would provide the regulator with full details of the same and would ensure that such prices were transparent and non-discriminatory;*
  - *All applications to introduce new prices for Price Regulated Services and prices for new Price Regulated Services would have to be reviewed in a timely, transparent, objective and non-discriminatory manner and subject to a reasonable period of public consultation"*
- (177) These interim arrangements would apply to any of CBL's services for which it is found to have SMP and for which URCA has determined that retail price control is required. Therefore CBL will be able to make a case for changing the price for any such service. This case should be supported by any evidence that the current price does not reflect efficiently incurred costs. URCA will give due consideration to all applications for price changes.
- (178) URCA's longer-term aim is to aid the development of a competitive market for the delivery of electronic communications services where little ex ante regulation is required to ensure cost-reflective prices, high quality of service, innovation and investment.

## **5. CONCLUSION**

The responses to the consultation showed general support for the proposed retail pricing regulation regime and the underpinning principles of light-touch regulation, objectivity and transparency. The consultation covered a broad scope of retail price regulation and the Government and URCA are grateful for the commitment and insight shown by the respondents.

Understandably, there are a number of areas where the respondents would like further details before commenting further and to this end other consultations are planned for the coming months. URCA has taken note of the comments and questions which fall into this category and they will be built into future consultation and engagement with industry by URCA.