



INFRASTRUCTURE SHARING REGULATIONS

CONSULTATION DOCUMENT

ECS 17/2014

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1. INTRODUCTION

1.1 Outline of this Public Consultation

The Utilities Regulation and Competition Authority (URCA)¹ is the independent regulator and competition authority for the electronic communications sector (ECS) in The Bahamas with powers under the Communications Act, 2009 [Ch. 304] (Comms Act) to, inter alia, issue regulatory and other measures for the purpose of carrying into effect the electronic communications policy objectives. The ECS includes broadcasting, radio spectrum and electronic communications.

As stated in its Annual Plan for 2014, URCA is continuing to encourage the development of competition in the ECS by reducing barriers to entry into the sector. One of the most significant barriers to entry is the high level of infrastructure costs associated with the deployment of electronic communications networks. URCA is conscious that with the imminent introduction of mobile competition, there will be an increased need for the construction of facilities by new operators. Accordingly, in an effort to reduce the need to duplicate existing facilities thereby reducing the capital investment required to enter the market, URCA proposes to introduce regulations which will require operators, where possible, to share their facilities.

As part of this consultation, URCA sets forth in Section 2 of this document the draft Infrastructure Sharing Regulations that it proposes to issue under section 8(1)(d) of the Comms Act, which provides URCA with the power to issue regulations for the purpose of carrying into effect the electronic communications policy objectives. The draft Regulations propose to establish provisions which will encourage the sharing of passive infrastructure, such as towers, masts, ducts and power supply between licensees.

URCA, as prescribed by section 11 of the Comms Act, has a duty to consult the public prior to introducing regulatory instruments of public significance. Regulations have been identified by section 13(2) of the Comms Act as a regulatory instrument. URCA is also mandated to afford persons with sufficient interest a reasonable opportunity to comment on URCA's proposals and URCA is to give due consideration of comments received during the consultation process. Subsequent to the conclusion of the consultation period URCA will issue a Statement of Results and Final Regulations after consideration of all the comments received.

¹ Established under section 3 of the Utilities Regulation and Competition Authority Act, 2009 [Ch. 306]

1.2 Background

1.2.1 Legal and Policy Considerations

As already indicated, the Comms Act establishes the law applicable to the ECS and empowers URCA, as the regulator for the ECS, with implementing the objectives of the electronic communications sector policy. Under section 4(a) of the Comms Act, the electronic communications policy has as part of its main objectives:

“to further the interests of consumers by promoting competition and in particular –

- (i) to enhance the efficiency of the Bahamian electronic communications sector and the productivity of the Bahamian economy;*
- (ii) to promote investment and innovation in electronic communications networks and services;*
- (iii) to encourage, promote and enforce sustainable competition;*
- (iv) to promote the optimal use of state assets, including radio spectrum...”*

It is also the objective of the electronic communications policy at section 4(b) of the Comms Act and repeated in the revised ECS Policy² to *“further the interests of persons in The Bahamas in relation to the electronic communications sector by –*

- (i) promoting affordable access to high quality networks and carriage services in all regions of The Bahamas;*
- (ii) maintaining public safety and security;*
- (iii) contributing to the protection of personal privacy;*
- (iv) limiting public nuisance through electronic communications;*
- (v) limiting, any adverse impact of networks and carriage services on the environment; and*
- (vi) promoting availability of a wide range of content services which are of a high quality.”*

It should also be noted that pursuant to section 5 of the Comms Act, URCA is mandated to introduce regulatory measures with a view to implementing the electronic communications policy objectives and such measures must comply with the following guidelines:

- (a) “market forces shall be relied upon as much as possible as the means of achieving the electronic communications policy objectives;*
- (b) regulatory and other measures shall be introduced –*

² Issued on 4th April, 2014 and published in the Official Gazette of The Bahamas on 23rd April, 2014.

- (i) where in the view of URCA market forces are unlikely to achieve the electronic communications policy objectives within a reasonable time frame; and*
- (ii) having due regard to the costs and implications of those regulatory and other measures on affected parties;*
- (c) regulatory and other measures shall be efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and non-discriminatory.”*

URCA, as part of this consultation and in compliance with the above guidelines, considered several factors in seeking to determine whether infrastructure sharing should be implemented in The Bahamas, and if so the extent to which licensees should be required to share their infrastructure, what types of infrastructure should be subject to the requirement, and upon which licensees should the obligation be imposed.

In compliance with section 5(a) of the Comms Act, URCA considered market forces as a means of achieving the aforementioned electronic communications policy objectives. As it relates to infrastructure sharing, in accordance with section 5(b)(i) of the Comms Act, URCA has concluded that market forces are unlikely to achieve the electronic communications policy objectives in section 4(a) and in section 4(b)(i)-(ii) and (iv)-(v) within a reasonable time frame because without regulatory intervention, because operators are unlikely to share facilities as there is no incentive to share facilities with competitors. In a newly competitive market, URCA considers it is unlikely that significant infrastructure sharing will occur immediately upon the entry of a new competitor as the incumbent operator has significant incentive to retain control of its market share for as long as possible. Therefore, it is URCA's view that these Regulations are essential in order to implement and enforce infrastructure sharing in The Bahamas. URCA also had due regard to the costs and implications of the introduction of the Regulations on affected parties as mandated in section 5(b)(ii) of the Comms Act. URCA has concluded that no additional significant costs will be incurred by operators by the introduction of the Regulations. In URCA's view, both the infrastructure provider and the infrastructure seeker will financially benefit from infrastructure sharing. An infrastructure provider will gain revenue from leasing its facilities and the infrastructure seeker will benefit from the substantial cost savings associated with network deployment.

URCA has also considered the Government's policy on infrastructure sharing as outlined in the current ECS Policy issued by the Government of The Bahamas on April 4, 2014 and published in the Official Gazette of The Bahamas on April 23, 2014. In the ECS Policy, the Government identified that there are various regulatory considerations to be addressed within the context of cellular mobile liberalization with infrastructure sharing being one of them. The Government further expressed that URCA, in accordance with its statutory mandate, is required to ensure that all regulatory measures necessary for cellular mobile liberalization are met and fulfilled in

accordance with the timetable set for such liberalization.³ The Government also outlined URCA's role in promoting growth in the ECS by identifying and implementing regulatory incentives that are appropriate for The Bahamas. The Government indicated to URCA that it should consider whether new initiatives, such as facilities sharing, are necessary or appropriate in the Bahamian context.⁴

The foregoing paragraphs provide the legislative and regulatory framework by which URCA may mandate and direct the sharing of infrastructure among licensees in the sector. As indicated in the preceding section, URCA is exercising its power under sections 8(1)(d) of the Comms Act to issue proposed regulations for the purposes of establishing a framework for guiding and promoting the sharing of electronic communication infrastructure. This consultation document incorporates URCA's proposals to implement infrastructure sharing in The Bahamas to achieve the policy objectives outlined in the Comms Act and the ECS Policy.

1.2.2 Market Considerations

In a developing market, there is a need for the expansion of networks by operators in order to improve network coverage. The sharing of facilities among all operators will increase savings as operators will not need to deploy every tower independently. Thus, operators will be able to roll out networks much quicker and sparsely populated areas and islands would benefit from improved coverage as a result of enhanced network deployment.

Moreover, in fulfilling its policy objective of maintaining public safety, URCA has a responsibility to ensure that electronic communications infrastructures have no adverse impact on the public. URCA is aware of the potential visual impact and potential health risks associated with exposure to electromagnetic emissions from telecommunication towers. The construction of new towers is likely to have an adverse impact on the skyline and aesthetic environment. Human exposure to radio frequency radiation (RFR) emissions that can be transmitted from towers has generated concern on the impact of such emissions on the health and wellbeing of the public. While the World Health Organization has found that there is no convincing scientific evidence that weak RFR signals from base stations and wireless networks adversely impact health, it has acknowledged that human exposure to RFR emissions increases with an escalation in the number of base stations and wireless networks.⁵ Facilities sharing would also avoid the duplication of towers in areas where towers already exist and minimize the need for additional

³ Paragraph 89 of the Electronic Communications Sector Policy published in the Official Gazette of The Bahamas on 23rd April, 2014.

⁴ Paragraph 83 of the Electronic Communications Sector Policy published in the Official Gazette of The Bahamas on 23rd April, 2014

⁵ World Health Organization Factsheet on Electromagnetic Fields and Public Health available at <http://www.who.int/peh-emf/publications/facts/fs304/en/>

towers in congested areas where space is limited. By limiting the amount of newly constructed towers, both the adverse visual and environmental impact of towers would be minimized. Therefore, URCA considers that infrastructure sharing, at least in relation to towers, is an appropriate means to protect the visual character and amenity of the islands of The Bahamas and to minimize any possible health risks associated with electromagnetic emissions.

Further, in a newly liberalized cellular mobile market, it is imperative that the introduction of new entrants is encouraged in order to promote competition. Facilities sharing increases the attractiveness of the market to new players since barriers to market entry are lower, reducing overall infrastructure investment costs for operators. Facilities sharing will serve as a catalyst for faster roll-out of new and innovative services by all operators in an effort to differentiate product offerings to consumers.

While encouraging facilities sharing as a means of reducing barriers to entry, URCA has balanced its approach to encourage sharing against the desire for the construction of adequate physical infrastructure to ensure a robust and effective electronic communications system in The Bahamas. As such, URCA's processes for sharing and in particular the pricing of facilities sharing must at the same time ensure that where appropriate operators are adequately incentivised to construct new facilities. This can be done by ensuring that operators are adequately compensated for sharing their facilities and that prices are not set so low as to encourage sharing where construction of new facilities is more efficient.

1.2.3 International Best Practice

The International Telecommunication Union (ITU) has recognised that infrastructure sharing, particularly as it relates to mobile, is an alternative for lowering the cost of network deployment, especially in rural or less populated areas and it may also stimulate the migration to new technologies.⁶ Infrastructure sharing could also deliver other specific benefits to operators and the general public which include the following⁷:

- 1) *Ease of network roll-out by a new entrant.* New entrants seeking to build scale will be operational more quickly by way of infrastructure sharing. It would take a significantly longer period of time to become operational if entrants had to build an entirely new network.

⁶ The Telecommunication Development Bureau (BDT) of the International Telecommunication Union (ITU) "*Trends in Telecommunication Reform 2008 – Six Degrees of Sharing*".

⁷ KPMG (2011) "*Passive Infrastructure Sharing in Telecommunications*". Brochure available at: <http://www.kpmg.com/BE/en/IssuesAndInsights/ArticlesPublications/Documents/Passive-Infrastructure-Sharing-in-Telecommunications.pdf>. See also GSMA "*Mobile Infrastructure Sharing*". Report available at <http://www.gsma.com/publicpolicy/wp-content/uploads/2012/09/Mobile-Infrastructure-sharing.pdf>.

- 2) *Availability of a new source of revenue.* Infrastructure sharing may provide an incumbent operator with an additional source of revenue from fees collected from the leasing of infrastructure to the access seeker.
- 3) *Improved quality of service and increased consumer choice.* As a result of infrastructure sharing, operators' focus will shift from network deployment to improving their products and technological innovation since service and product differentiation will become even more necessary to successfully compete in the market.
- 4) *Reduction of negative environmental impact.* Sharing of infrastructure by operators is a way to address environmental and public health and safety concerns relating to the proliferation of towers and related equipment.⁸

In developing the proposed Regulations, URCA had regard to various approaches to facilities sharing adopted by different countries around the world. In the Asian hemisphere, URCA considered the regulatory approaches adopted by Pakistan and Hong Kong. In Pakistan, the Pakistan Telecommunications Authority has encouraged infrastructure sharing by signing a Memorandum of Understanding with all five of the country's mobile operators in order to decrease capital costs for rollout, improve aesthetics and to comply with international best practices.⁹ In Hong Kong, all telecommunications operators are encouraged to negotiate infrastructure arrangements and the Telecommunications Authority may also direct operators to share the use of facilities where it is in the public interest to do so.¹⁰

In Africa, the Rwanda Utilities Regulatory Agency has issued Guidelines for facilities sharing for all licensed operators in the telecommunications sector to protect the social and physical environment from potential negative impacts and to maximize the use of network facilities, among other objectives.¹¹ In Nigeria, the Nigerian Communications Commission has issued Guidelines on Infrastructure Sharing which encourages any operator who owns or controls facilities amenable to sharing to enter into negotiations with other operators who submit a

⁸ See "*Telecom Infrastructure Sharing: Regulatory Enablers and Economic Benefits*" by Booz & Co. Report available at <http://www.booz.com/media/uploads/Telecom-Infrastructure-Sharing.pdf>.

⁹ Government of Pakistan – Pakistan Telecommunication Authority website, "Mobile Operators Sign MOU for Infrastructure Sharing" last updated Friday, August 27, 2010 available at http://pta.gov.pk/index.php?option=com_content&view=article&id=1567%3Amobile-operators-sign-mou-for-infrastructure-sharing&catid=92%3Apress-releases&Itemid=112.

¹⁰ Hong Kong Telecommunications Ordinance, Chapter 106, section 36AA available at http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/65248D243340F9BD482575EE0039F763?OpenDocument&bt=0.

¹¹ Rwanda Utilities Regulatory Agency, "Guidelines for Siting and Sharing of Telecommunication Base Station Infrastructure" issued April 1, 2011 available at http://www.rura.rw/fileadmin/docs/GUIDELINES_FOR_SITING_AND_SHARING_OF_TELECOM_BTS_INFRASTRUCTURE.pdf.

request to share in the use of its facilities. The Nigerian Commission has outlined that the primary objective for issuing the Guidelines is to establish a framework within which operators can negotiate infrastructure sharing arrangements to ensure that the unnecessary duplication of infrastructure is minimized or completely avoided, to protect the environment by reducing tower proliferation, to promote fair competition and to ensure that the economic advantages of infrastructure sharing are realized for the overall benefit of all stakeholders.¹²

In the Caribbean, the Telecommunications Authority of Trinidad and Tobago has also issued regulations applicable to its licensees to negotiate in good faith to share use of their facilities.¹³ In various Latin American countries such as Argentina, Brazil, Chile and Colombia, passive sharing between mobile network operators has been the preferred approach. However, independent tower companies play a key role in the industry by leasing space on towers to the operators.¹⁴ Within the European Union (EU), National Regulatory Authorities have been given the power under Article 12 of the Framework Directive (2002/21/EC)¹⁵ to impose infrastructure sharing of such facilities among operators including buildings, entries to buildings, building wiring, masts, antennae, towers, ducts, conduits, manholes and cabinets.¹⁶

In a developing market, infrastructure sharing is of particular importance to facilitate widespread, improved and affordable coverage. Therefore, URCA considers that regulatory involvement 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.

1.2.4 Proposed Obligation to Share

i. Which operators/licensees should share facilities?

As previously stated within this document, one of the most significant barriers to entry into the ECS is the high level of infrastructure costs associated with the deployment of electronic communications networks. The introduction of mobile competition will undoubtedly lead to an

¹² Nigerian Communications Commission, “Guidelines on Collocation and Infrastructure Sharing” available at http://www.ncc.gov.ng/files/Legal-Guidelines_Collocation_and_Infrastructure_Sharing.pdf.

¹³ Republic of Trinidad and Tobago, The Telecommunications (Access to Facilities) Regulations, 2006 available at http://tatt.org.tt/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=133&PortalId=0&TabId=222.

¹⁴ ITU Regional Economic and Financial Forum of Telecommunications/ICTs for Latin America and the Caribbean – March 12, 2014, “Mobile Infrastructure Sharing: Trends in Latin America” by Daniel Leza available at https://www.itu.int/en/ITU-D/Regulatory-Market/Documents/CostaRica/Presentations/Session8_Daniel%20Leza%20-%20Mobile%20Infrastructure%20Sharing%20-%2012%20March%202014.pdf.

¹⁵ Framework Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, available at http://ec.europa.eu/digital-agenda/sites/digital-agenda/files/140framework_5.pdf.

increased need for the construction of facilities by new operators. The sharing of infrastructure (where possible) will reduce the duplication of existing facilities thereby optimizing the use of scarce national resources (e.g. land or spectrum), as well as reduce negative environmental impacts with respect to proliferation of unsightly infrastructure.

With that being said, the exact components that may be required by a new entrant are difficult to identify in advance of a detailed review of the new mobile operator's business plan and licence conditions. There may be components of existing networks that span other services within the ECS that could very well be of use to the new entrant. In the case of The Bahamas, other ECS operators include those who offer pay TV, landline voice telephony, and internet by way of fixed or wireless technologies. Restricting infrastructure sharing to two operators (i.e. the existing mobile service operator and the new mobile service operator) may be unnecessarily limiting in the absence of the identification of the exact infrastructure needs of the new entrant given what is available to be shared.

URCA notes that under section 40(1)(d) of the Comms Act and Condition 38 of the Individual Operating Licence (IOL), URCA has powers to mandate that licensees with Significant Market Power (SMP) share infrastructure in designated areas considered necessary and in the interest of the public and/or in the national interest. URCA, however, considers that in order to achieve the electronic communications policy objectives outlined in section 4 of the Comms Act and the Government's strategic aims for meeting these policy objectives in the ECS Policy, the sharing of infrastructure should occur between Individual Operating Licensees and/or Individual Spectrum Licensees, not just those designated by the Comms Act or by URCA as having SMP. Furthermore, infrastructure sharing is in no way intended to cause any undue economic harm to incumbent service providers who in this case have been classified as having SMP in various sub-markets. Rather, the overarching principle is that of facilitating sector wide enhancement and progress. To that end, incumbent operators (due to possible restrictions on capital expenditure or environmental concerns) may also be able to benefit from the use of new infrastructure that is deployed by the new entrant. In theory, infrastructure sharing would also enable the incumbents to improve upon their service offerings. Limiting who is able to request infrastructure sharing to only the new entrant (to the exclusion of the incumbent SMP operator) is a potential impediment to continued growth and sustainable development of the ECS in The Bahamas.

ii. Active vs. Passive Infrastructure Sharing

URCA desires to establish an effective regulatory framework to promote infrastructure sharing in The Bahamas. Infrastructure takes two main forms: active and passive.

Active infrastructure sharing involves operators sharing the active network elements in the network such as base stations, access node switches and management systems. A widespread approach has been to restrict active infrastructure sharing due to the concern that this type of infrastructure sharing may enable anti-competitive conduct, such as collusion or lead to the gradual elimination of consumer choice.¹⁷

Passive infrastructure sharing is defined as the sharing of space or physical supporting infrastructure which does not require active operational co-ordination between network operators.¹⁸ Passive infrastructure sharing is the most commonly shared infrastructure approach among operators, as it is easier to set-up contractually and maintain.¹⁹ Also, less challenges arise in dissolving an infrastructure sharing arrangement than with active infrastructure sharing and chances of dispute are minimal. In light of the foregoing, URCA proposes that these Regulations focus exclusively on passive infrastructure sharing for the time being. The sharing of active elements of a network amongst service providers could possibly result in an increased inter dependency between service providers with current challenges in service quality being replicated. There is also a need to boost facilities based competition in The Bahamas since the market is still in a development phase. It is also imperative that redundant active infrastructure is developed to ensure the availability of a network in the event of failure or unavailability of another. In future, URCA may consider active sharing among operators; however, such a decision would be subject to more detailed market reviews and further consultation.

iii. Costs of Sharing

In this Section URCA discusses and outlines charging proposals for passive infrastructure sharing in The Bahamas. Understandably, an incumbent will not be keen to share assets with a new entrant. It may even be encouraged to charge prices that are cost-prohibitive to the potential entrant in an effort to force the entrant to make the decision of building out a network of their own at a high cost or abandoning plans to enter the market.

As mentioned above, URCA has surveyed the regulatory framework for passive infrastructure sharing around the world. In respect of charging, regulatory bodies appear to have a preference for the negotiation of commercial price and non-price terms and conditions of agreement

¹⁷ ITU (2008) "What do we mean by 6 Degrees of Sharing?" Discussion Paper. Global Symposium for Regulators, Pattaya 11-13 March, at http://www.itu.int/ITU-D/treg/Events/Seminars/GSR/GSR08/discussion_papers/Overview_Final_web.pdf.

¹⁸ GSMA "Mobile Infrastructure Sharing". Report available at <http://www.gsma.com/publicpolicy/wp-content/uploads/2012/09/Mobile-Infrastructure-sharing.pdf>.

¹⁹ KPMG "Passive Infrastructure Sharing in Telecommunications". Report available at <https://www.kpmg.com/BE/en/IssuesAndInsights/ArticlesPublications/Documents/Passive-Infrastructure-Sharing-in-Telecommunications.pdf>.

between operators as opposed to actively setting prices.²⁰ In instances where regulatory bodies play a more direct role, international benchmarking, a formulaic approach or cost based price setting are most frequently used. Furthermore, authorities that set maximum prices do so with the intent of ensuring that access providers recover no less than the incremental costs of access to the infrastructure but not more than the fully allocated costs of owning and maintaining infrastructure.²¹

Maximum price setting is not a feasible option for the Bahamian market at this time because information regarding the costs of the incumbent's network has not been collected or studied to any great extent. It is not advisable for URCA to make estimations on the supposed cost of sharing infrastructure in the absence of a comprehensive study that would take into consideration both the valuation of the incumbent's assets and the requirements of the new entrant who is as yet to be determined.

URCA proposes to allow the operators to attempt to reach a commercially negotiated price that is cost-based and guided by the following principles:

- Charging should serve to promote the efficient use of assets and sustainable competition and maximize benefits for customers;
- Price must reflect a reasonable rate of return on capital employed and take into account the investment made by licensees;
- Price must reflect the true economic cost of assets including a reasonable rate of return;
- Price must only reflect the unbundled components that the operator wishes to use. Licensees must unbundle distinct facilities and corresponding charges sufficiently so that the buyer need only pay for the specific elements required;
- Price must be transparent;
- Prices must be impartial/nondiscriminatory. This means that charges for passive infrastructure must be no less favourable than those the seller offers its affiliates or any other licensed operator.

URCA proposes in these regulations that it may intervene in the event that operators cannot come to an agreement. A price will then be set by URCA based on the aforementioned principles.²²

²⁰ Supra, note 17 at page 26.

²¹ Cartesian for Ofcom (2010) Economics of Shared Infrastructure Access. Final Report , at <http://stakeholders.ofcom.org.uk/binaries/consultations/wla/annexes/csmg.pdf>

²² ITU (2008) Mobile Sharing. Discussion Paper. Global Symposium for Regulators, Pattaya, 11-13 March, at http://www.itu.int/ITU-D/treg/Events/Seminars/GSR/GSR08/discussion_papers/Camila_session4.pdf

1.3 Objective of this Consultation

The key objective of this consultation process is to seek public comments on the draft Regulations applicable to Individual Operating Licensees and/or Individual Spectrum Licensees for the sharing of facilities used for the provision of electronic communications services in order to promote the availability of a wide range of high quality, efficient, cost effective and competitive electronic communications services throughout The Bahamas from those licensees who are subject to these Regulations.

1.4 How to respond to this Consultation

URCA invites comments and submissions on this consultation document from members of the public, licensees and other interested parties. Responses to this consultation should be submitted to URCA not later than 5:00 p.m. on January 30, 2015.

Persons may deliver their written responses or comments to URCA's Chief Executive Officer, either:

- by hand, to URCA's office at UBS Annex Building, East Bay Street, Nassau; or
- by mail to P.O. Box N-4860, Nassau, Bahamas; or
- by fax, to (242) 393-0153; or
- by email, to info@urcabahamas.bs.

URCA reserves the right to make all responses available to the public by posting responses online on its website at www.urbahamas.bs. Respondents that are participants in the Government of The Bahamas' Selection Process to operate a cellular mobile network and provide cellular mobile services to the public in The Bahamas are invited to mark their comments as 'confidential' and such comments will not be published by URCA. All other responses marked 'confidential' should provide reasons to simplify evaluation by URCA of the request for confidentiality. URCA may, in its sole discretion, choose whether to publish any confidential document or submission.

URCA will carefully consider all comments and submissions received on the consultation on or before the deadline date specified above. At the conclusion of this consultative period, URCA will review the responses received and will publish a Statement of Results on the consultation and a finalised version of the Regulations.

1.5 Structure of the Document

The remainder of this document is structured as follows:

Section 2: Outlines URCA's Draft Regulations for Infrastructure Sharing

Section 3: Describes URCA's "Next Steps" in the Consultation process

Schedule: Outlines Draft Guidelines for the Construction of Communications Towers

Annex A: Application Form for Approval to Construct Communications Towers

Annex B: Summarises the questions raised under this Consultation document for stakeholder comment

2. DRAFT INFRASTRUCTURE SHARING REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I	INTRODUCTION
PART II	SHARING OBLIGATIONS
PART III	PROCEDURE FOR NEGOTIATING INFRASTRUCTURE SHARING
PART IV	PRICE SETTING FOR PASSIVE INFRASTRUCTURE SHARING
PART V	REFUSAL OF ACCESS
PART VI	DISPUTE RESOLUTION AND COMPLIANCE WITH REGULATIONS
SCHEDULE	GUIDELINES FOR THE CONSTRUCTION OF COMMUNICATIONS TOWERS
ANNEX A	APPLICATION FORM FOR APPROVAL TO CONSTRUCT COMMUNICATIONS TOWERS
ANNEX B	SUMMARY OF CONSULTATION QUESTIONS

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 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 charge 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 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.

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

“Passive Infrastructure Sharing” means the sharing of non-electronic infrastructure and facilities.

Part 2: 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.
- 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 regulations, where URCA considers it to be in the public interest to do so it may direct an Infrastructure Provider under these 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 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;
 - (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 the electronic communications equipment which it intends to install on that 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 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 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 communication, 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 of 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 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. 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 Infrastructure Sharing

- 2.14 An Infrastructure Provider shall provide access to its facilities under terms and conditions 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 shall constitute evidence for the purposes of Part 2.15 of technically feasible access to that facility or any similar facility.

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

Part 3: PROCEDURE FOR NEGOTIATING 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) 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 request further information that it may reasonably require in order to process 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 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 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.

- 3.8 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
 - (iii) refuse to designate a representative to make binding commitments.
- 3.9 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.

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.
- 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.
- c) Should any other provisions be included in Part 3 of the draft regulations or removed?

Part 4: PRICE SETTING FOR PASSIVE INFRASTRUCTURE SHARING

- 4.1 An Infrastructure Provider shall set commercially negotiated access rates based on its 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.

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

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 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 days of receipt of the Access Request providing its reason for the refusal, 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 regulations to reconsider its decision refusing access; or
 - (iii) impose an infrastructure sharing arrangement on the parties under these 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.

Question 4:

- a) What are your views on the proposed circumstances whereby an Infrastructure Provider may deny an Access Request by an Infrastructure Seeker?
- 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.
- c) Should any other provisions be included in Part 5 of the draft regulations or removed?

PART 6: DISPUTE RESOLUTION AND COMPLIANCE WITH REGULATIONS

- 6.1 Where a dispute arises under these regulations with respect to any matter involving access to infrastructure, the matter may be referred 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 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.

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.
- b) Should any other provisions be included in Part 6 of the draft regulations or removed?

3. NEXT STEPS

URCA will carefully consider all comments and submissions received by the prescribed deadline for responding to this Consultation document. URCA intends to issue a Statement of Results and Final Regulations following the closure of the consultation period. URCA's Statement of Results will include full reasons for its decisions contained in the Final Regulations. URCA looks forward to receiving written submissions to this Consultation document.

SCHEDULE

GUIDELINES FOR THE CONSTRUCTION OF COMMUNICATIONS TOWERS

1. General Provisions

- i. A Licensee who intends to construct a tower must demonstrate that 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 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 Communications Towers at Annex A.*
- iii. Where URCA is satisfied that co-location is not feasible, URCA shall issue the Licensee a Certificate of Non-Objection which indicates that co-location on an existing structure is not 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 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. 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 for construction of a new communications tower:
 - a) A completed application form;
 - b) Evidence of co-location feasibility where appropriate (*See Section 4 of these Guidelines*);
 - c) 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;
 - d) Location plan clearly showing the proposed site location in relation to major roads;
 - e) 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;
 - f) Height of proposed tower above ground and above sea level;
 - g) Height of platforms for placement of equipment;
 - h) Type and quantity of equipment to be placed on the proposed tower including timeframes for construction;
 - i) Capacity of proposed tower; weight and quantity of equipment; and
 - j) Radio Frequency (RF) Coverage 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. Upon receipt of a completed application, URCA shall evaluate the application based on the criteria established by URCA. *See Section 3 of these Guidelines.*
- iii. Where there are existing structures in the area, a Feasibility Analysis for Co-location 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.
- iv. Where URCA has determined that co-location on an existing tower in the area is feasible, URCA shall submit this recommendation to the applicant.

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.

- v. Processing of an application may necessitate a field inspection of the location for the proposed tower by URCA. 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. 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.
- vi. When URCA has made a decision on an application, the applicant shall ordinarily be informed in writing of the decision within three (3) 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 infrastructure sharing 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 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. A non-objection granted by URCA shall expire within six (6) months of the date it was granted and will thereafter no longer be valid.

ANNEX A

APPLICATION FORM FOR APPROVAL TO CONSTRUCT COMMUNICATIONS TOWERS

Name of Entity Wishing to construct tower:

Type(s) of Licence held:

Type of Facility to be constructed:

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:

ANNEX B

SUMMARY OF CONSULTATION QUESTIONS

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

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

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

Question 4:

- a) What are your views on the proposed circumstances whereby an Infrastructure Provider may deny an Access Request by an Infrastructure Seeker?
- 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.
- c) Should any other provisions be included in Part 5 of the draft Regulations or removed?

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