



# **Publication of Regulatory (Separated) Accounts for SMP Licensees**

## **Statement of Results and Final Decision**

**ECS 18/2012**

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**UTILITIES REGULATION & COMPETITION AUTHORITY**

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## 1. Introduction

The Utilities Regulation and Competition Authority (URCA) issues this Statement of Results and Final Decision (ECS 18/2012) on the requirements for publication of Regulatory (Separated) Accounts for SMP Licensees in the electronic communications sector in The Bahamas. This follows URCA's publication on 22 November 2011 of URCA's consultation document (ECS 21/2011) on URCA's proposed requirements for the "Publication of Regulatory (Separated) Accounts". Subsequently, in response to a request from a licensee, URCA further published on 5 December 2011 a "Supplement to Consultation Document ECS 21/2011", providing an overview of international precedent cited in the consultation document.

### 1.1 The Objectives for the Consultation

In ECS 11/2010, URCA, sets out the *ex ante* regulatory obligations imposed on operators with Significant Market Power (SMP), namely BTC and CBL. As part of that Decision, URCA imposed, amongst others, a requirement on both BTC and CBL to publish separated accounts. However, based on further representations made by interested parties URCA waived the requirement to publish the initial (2009) Accounting Separation (A/S) and Cost Accounting (C/A) results but specifically stated that it: *"intends to launch a public consultation on the future publication requirements of separated accounting information" and that the consultation "...will include a discussion of which aspects of separated accounts should be published in the future, and criteria for how URCA should determine if particular information is confidential"*.<sup>1</sup> URCA's intent was also stated in the respective Final Accounting Separation and Cost Accounting Guidelines for both BTC and CBL, where URCA states that it was *"in the process of reviewing its position on the general issue for confidential treatment of information and will publicly consult on this matter in due course."*<sup>2</sup>

As such, the objective of consultation ECS 21/2011 was to set out URCA's:

- proposals with respect to publication of separated accounting and cost accounting information by SMP licensees;
- proposed criteria for determining if particular information is confidential (i.e., not subject to publication); and
- to invite comments from licensees and other third parties on URCA's proposals.

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<sup>1</sup>ECS 11/2010, page 12.

<sup>2</sup>Sections 4.5 of ECS 12/2010 and ECS 13/2010 issued 22 April 2010.

For the avoidance of doubt, the consultation did not, in any way, pertain to consult on the merits of the actual A/S and C/A obligations faced by SMP licensees, or the obligation on such licensees to publish A/S and C/A information. Those issues were previously consulted on and URCA issued its Final Decision on these matters (ECS 11/2010) in April 2010.<sup>3</sup>

## **1.2 The Consultation Process**

The closing date for submitting responses to the consultation was initially set for 20<sup>th</sup> January, 2012 but was extended to 3<sup>rd</sup> February 2012 at the request of one or more licensees. On or before this deadline date, URCA received responses from two companies:

- BTC; and
- CBL - which responded on behalf of itself, Caribbean Crossings Ltd. and its subsidiary.

URCA published the responses received on its website at [www.urcabahamas.bs](http://www.urcabahamas.bs), on 7 February 2012.

URCA wishes to thank the respondents for their comments and commitment to continue involvement in URCA's processes for the Publication of Regulatory (Separated) Accounts.

URCA has prepared this Statement of Results following its consideration of the substantive comments received from BTC and CBL. URCA stresses that its lack of response to a comment should not be taken to mean that URCA has not considered the comment or that it is unimportant or without merit.

## **1.3 Structure of the remainder of this Document**

The remainder of this document is structured as follows:

- Section 2: General Comments – Summary of the general responses to the consultation, and URCA's comments; and
- Section 3: Responses to Consultation Questions – Summaries of the responses to each consultation question, and URCA's comments and final decisions.
- Section 4: Presents URCA's Final Decision

Annex: Reporting templates for published A/S information

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<sup>3</sup>URCA's position on the merits of publication requirements is contained in ECS 11/2010. This was replicated in ECS 21/2011. Namely, publication of separated accounting information will support the following regulatory objectives (i) retail price regulation where it is applied; (ii) promote transparency and non-discrimination; (iii) setting or assessing cost-oriented wholesale/interconnection charges; (iv) overcome the information asymmetry between URCA and the SMP Licensees; and (v) inform any ex-post assessment under the competition provisions of the Comms Act.

## 2. General Comments

In response to the public consultation both BTC and CBL made a number of general comments on URCA's proposals on publication of Regulatory Accounting information for BTC and CBL. In this Section, URCA identifies and responds to those general comments. For the purposes of structuring this document and avoiding unnecessary repetition, URCA also responds in this section to any general comments made by licensees which overlapped with their responses to specific questions.

### **BTC**

BTC welcomed the opportunity to comment on URCA's proposal on the publication of A/S and C/A information and stated that the publication of separated accounts will not achieve the results intended by URCA nor does it have any significant merit for the industry or the public at large.

BTC further stated that any publication requirement risks putting confidential information in the public domain with limited benefits associated with such publication. As such, BTC was not satisfied that URCA had taken sufficient account of its obligations under s.40(2) of the Comms Act.

BTC's comments covered the following topics:

- The rationale for publishing A/S information;
- The benchmarking included by URCA in the consultation; and
- Timing of A/S publication requirements

#### Rationale for publication requirements of A/S information

BTC expressed its concerns with the methodology and logic used by URCA to come to the preliminary conclusion that publication is merited. In BTC's view, were URCA to act on that conclusion, it would impose substantial costs on licensees without any significant benefits by way of advancement and development of the electronic communications sector (ECS).

According to BTC, international best practice generally suggests that regulatory obligations should not be imposed unless the benefits clearly outweigh the costs and in BTC's view URCA has not discharged this obligation. BTC stated that URCA did not provide any arguments as to why publication of A/S and C/A information was merited in The Bahamas.

Specifically, BTC contended that URCA had not made out a case that the requirement for publishing is proportionate. BTC noted that under s. 40(2) of the Comms Act “URCA must consider the regulatory burden and the benefits to consumers, and then find an appropriate balance”; and, according to BTC, under s. 40(3) “URCA is not to require publication of BTC’s regulatory accounts and, in its consultation document, URCA failed to make the case that such publication would promote efficiency and sustainable competition and maximize consumer benefits.”

Further, BTC expressed concerns that URCA may not have reviewed its previous analysis which concluded that publication was not merited at that stage. BTC then reviewed and replicated URCA’s reasoning from ECS 11/2010. BTC further cited specific statements made by URCA in ECS 11/2011 namely:

*“...[it] does not believe that publishing the separated accounts is critical to it achieving the objectives of the Accounting Separation obligation.”*

*“... at this stage of the development of the market, it would be reasonable not to require BTC and CBL to publish their Accounting Separation statements for 2009.”*

BTC believes the foregoing statements still holds and BTC does not see any evidence presented by URCA requiring URCA to change its original position.

Finally, in reference to paragraph 2 under Section 1.1 of ECS 21/2011, BTC stated that URCA failed to explain its conclusion that:

*“The publication of those accounts as proposed in this consultation document will enhance the availability of relevant and reliable information on a timely basis that is understandable by all stakeholders and can be effectively used by interested parties to make informed decisions.”*

#### BTC’s comment on URCA’s benchmarking

In BTC’s view URCA’s benchmarking exercise did not adhere to international standards of due care and was thus flawed. In particular, as part of its response to Question #1, BTC contended that URCA’s benchmarking is “incomplete, leading, misleading structured and the results are at best inconclusive”. In particular:

- BTC commented that URCA did not attempt to construct a properly defined peer group of countries for The Bahamas in the benchmarking approach, noting that there are no countries in the English-speaking Caribbean where telecommunication licensees have, to date, published separated accounts. Indeed, it believed this should carry more weight in the benchmark exercise, given similarities between those markets and The Bahamas,

than those of the EU. BTC contradicts URCA's statement on the verification process for the separated accounts of LIME's business unit in Barbados arguing that the Fair Trade Commission (FTC) requires the dominant licensee to submit separated accounts on a confidential basis, i.e., there is no requirement for publication.

- BTC contended that URCA's study provided no information on publication requirements in recently liberalized EU countries in Eastern Europe which although imposing a separated accounts obligation did not similarly impose a publication requirement.

BTC stated that it approached a number of EU regulators where publication of regulatory accounts is not mandated. BTC commented that the feedback received indicated that in most countries the regulators consider that the costs of publishing information that is potentially detrimental to the commercial interest of SMP operators outweighs the benefits of transparency, promotion of competition and non-discrimination to the industry. In those countries, monitoring of SMP operators' accounting results and information is ensured by a process of audits, inclusive of peer reviews by a second accounting firm, and reviews by the regulator. BTC proposed that such a system be implemented in The Bahamas, with the detailed description of the accounting separation methodology then being published. In BTC's view this approach would provide confidence in the accounts and the monitoring system of SMP operators by URCA while not requiring commercially sensitive information to reach the public domain. In BTC's opinion, the EU experience suggests that confidence in the accuracy, timeliness and appropriateness of regulatory accounts should be assured before publication is considered.

#### Timing of A/S publication requirement

As part of its response to consultation Question #2, BTC urged URCA to consider, in determining publication requirements, the stage of market development in The Bahamas and market players' limited experience of separated accounts.

In support of this, BTC stated that many regulators in EU Member States did not immediately impose publication obligations after market liberalization. For example, it cited Belgium and The Netherlands which imposed a publication requirement approximately fifteen (15) years after market liberalization. BTC further went on to state that OPTA (the Dutch regulator) has since removed this obligation and as such there may be a need for a review of the situation in The Netherlands, given that that country has the highest overall score in the 2009 European Competitive Telecommunication Association (ECTA) Scorecard which was highlighted by URCA.

#### **CBL**

CBL is of the view that the obligation on CBL to prepare and publish separated accounts is unreasonable and furthermore pioneering in the cable television business.

CBL's general comments covered the following topics:

- CBL's current A/S obligation;
- The publication requirements of A/S information imposed on CBL; and
- Further comments.

#### A/S obligation imposed on CBL (CBL's current A/S obligation)

CBL commented that it found only one other instance in the world where accounting separation has been applied to a cable television operator and while accounting separation is a common SMP obligation, it is uncommon for a cable television operator to be designated with SMP and therefore have this obligation imposed. In CBL's view, cable television operators have been treated as media to introduce real competition in the telecommunications market and provide consumers with choices. Thus, CBL objected to the imposition of an accounting separation requirement on CBL and *a fortiori* CBL believed that its regulatory accounts should not be published.

CBL continued to express its objection to the imposition of an accounting separation obligation on CBL and in support of that position stated that *ex post* competition investigations by URCA did not require instituting an accounting separation regime. In CBL's opinion URCA's *ex post* sanctions and remedies would be sufficient to correct market distortions and consequential to that, accounting separation was not a prerequisite. CBL further stated that the imposition of accounting separation to support the retail price regulation it faces was not necessary since the retail tariff regulations were rules based and the rules as set out in that document did not support the need for accounting separation.

#### Publication requirement for CBL's regulatory accounts

In CBL's view the publication of CBL's regulatory accounts would increase information asymmetry with its peers (as Cable TV operators are commonly not required to publish A/S data). CBL contended that there is no *ex ante* obligation on CBL to provide wholesale products to others and thus it does not hold any information on such products which could lead to information asymmetry of regulatory concern.

As part of its response to consultation Question #1, CBL stated that the publication of CBL's regulatory accounts would not contribute to the public policy objectives articulated at s. 4(a)(ii) and (iii) of the Comms Act. In CBL's view the information provided in CBL's regulatory accounts is not relevant to market entry as segment or service profitability is not based on stand-alone costs, given that the fixed and common costs across all services is significant in the cable television business. CBL believes this means that the regulatory accounts do not provide a good



indication for stand-alone returns of the regulated business and forms no basis for market entry into anything but all businesses that CBL operates.

Given the above, CBL was unclear as to how publication of its regulatory accounts would contribute significantly to the achievement of sustainable competition. It was also of the view that the high cost of preparing, auditing and publishing regulatory accounts is disproportional relative to the hypothetical benefits and counterproductive to the promotion of market entry and investment in the ECS in The Bahamas.

CBL was similarly unclear as to who these interested parties may be that may benefit from CBL's publication of its regulatory accounts and requested URCA to provide a practical example.

Further, CBL stated that the argument used for publishing separated accounts, namely, *"that the SMP operator is not discriminating between its own downstream operations and those of competition providers"*, does not apply to CBL. CBL stated that while it was reasonable to not require a full set of reports for wholesale businesses or explicit cost-oriented transfer charge information for CBL, it was necessary to do so for BTC which sells voice termination on its network to its retail business and other operators.

Similar to BTC, CBL expressed the view that the publication of its separated accounts is unlikely to achieve the main objectives identified by URCA in ECS 21/2011 and imposing this obligation was therefore disproportionate, unnecessary and unreasonable. CBL commented further that imposition of the proposed publication requirements on CBL was likely to contribute to CBL's rising cost of regulatory compliance without any corresponding benefit to competition or consumers.

#### Further comments

In general, CBL argued for a more conservative regulatory approach stating that the market is newly liberalized and that the actual and potential size of the market is uncertain and subject to regulatory constraints.

Finally, CBL stated that URCA should recognize BTC's dominance in the fixed telephony market and that coupled with BTC's entrenched mobile monopoly and ubiquitous networks necessitates a different treatment of BTC vis-a-vis CBL.

#### URCA's response to comments

URCA notes and thanks BTC and CBL for their comments on URCA's proposals and addresses the main issues below. It structures its response to the general comments as follows:

- Objective of the consultation document;

- URCA’s cited international precedence;
- The merits of A/S publication requirements;
- BTC’s specific comments on the A/S publication requirements
- The timing of the A/S publication requirements;
- BTC’s proposed peer review;
- CBL’s A/S requirements; and
- CBL’s A/S publication requirements.

Objective of the consultation document

For emphasis, the consultation did not, in any way, seek comments on either (i) the requirements to prepare regulatory accounts or (i) the rationale for publishing A/S information per se. URCA reiterates that those issues were previously dealt with in URCA’s extensive engagement with SMP licensees which culminated in URCA’s 22 April 2010 Final Decision on Obligations Imposed on SMP Operators. Instead, the consultation sought to identify the separated accounting information that should be published by SMP licensees who are already subject to such an obligation and to establish the criteria for the determining information that should be treated as confidential ( i.e., factors that would restrict or limit the specific separated accounting information from being published).

BTC and CBL are further reminded that in ECS 11/2010, URCA reiterated its position that it was of the view that publication can support the objectives identified at Section 2.4.1 of ECS 11/2010.<sup>4</sup> Contrary to BTC’s comment, URCA did not conclude in ECS 11/2010 that publication would have limited value. Rather, in ECS 11/2010, URCA reaffirms “... *that publication of separated accounting information can support ...*” the regulatory objectives URCA identified in said document.<sup>5</sup>

At the time, URCA concluded then that it would forbear in respect of the publication of 2009 separated accounting information for both BTC and CBL but it would consult on the future publication requirements. This does not, in any way, mean a consultation on the obligation to publish but rather a consultation on the type and scope of information to be published

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<sup>4</sup>See also footnote 3 above

<sup>5</sup>See “The costs and benefits of publishing accounting separation information” on page 10 of ECS 11/2010.

### URCA's cited international precedence

URCA disagrees with BTC that URCA's benchmarking exercise was flawed and that URCA did not exercise due care. URCA emphasises that it was not required in ECS 21/2011 to present justification for publication of separated accounting information as that issue was already concluded in URCA's Final Decision on Obligations Imposed on SMP Operators (ECS 11/2010). URCA wishes to clarify that the benchmarking exercise was principally to ascertain the extent to which other regulatory authorities required the affected operators to publish certain pieces of separated accounting information (notably route factors and unit costs).

Nevertheless, URCA takes the liberty to respond to some of the issues identified by BTC. In particular:

- URCA acknowledges BTC's comments that there is currently little, if any, precedence across the Caribbean region with regard to the publication of separated accounting information. However, URCA believes the absence of such precedence should not deter URCA from implementing such requirements in The Bahamas. Further, URCA notes BTC's comment that URCA did not attempt to compare the situation in a properly defined peer group of countries similar to The Bahamas (i.e., English-speaking Caribbean countries). URCA did consider Caribbean countries with similar characteristics to The Bahamas but, as stated by BTC, publication requirements do not presently exist in the Caribbean. However, based on exchanges between URCA and its regional counterparts, URCA understands that the absence of separated accounts and/or the publication of separated accounts obligations regionally should not be taken to mean that regional bodies consider either measure unimportant, without merit or believe that the benefits would be negligible.
- URCA notes and welcome BTC's discussions with EU regulators on publication of separated accounts. BTC should be aware from those discussions that Article 11 of Directive 2002/19/EC of The European Parliament and of the Council of March 7, 2002 (as amended by Directive 2009/140/EC) requires NRAs in member countries to have regard to national and Community rules on commercial confidentiality.<sup>6</sup> Consequential to that, EU regulators have flexibility in the implementation of such an obligation. For example, URCA's research revealed that in Germany, separated accounts are not published due to confidentiality requirements derived from case-law from the

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<sup>6</sup>In Sweden separated accounts are not published due to the Swedish confidentiality act since TeliaSonera is still partially a public trade company. In Switzerland, there is no publication because the business secret of the SMP operator has to be treated as strictly confidential. In Denmark, the Danish administrative law allows the NRA to make the separated accounts publically available if and operator request it to be made publically available.

Constitutional Court. In Hungary on the other hand, separated accounts are not published due to such accounts being regarded as business secret. While no such confidentiality requirement current exists in statue in The Bahamas, URCA has nonetheless as part of this public consultation articulated criteria that can be used by licensees to put forward a case that the information to be published is confidential.<sup>7</sup>

- URCA accepts and agrees with BTC that URCA did not include New EU Member States in its benchmarking study. URCA also accepts that not all of these countries which have imposed a separated accounting obligation also imposed a publication obligation. However based on the Information available to URCA, some of the New EU Member States, notably Bulgaria and Poland, have implemented a publication obligation. In Bulgaria the separated accounting information that may be published is subjected to the protection of the commercial secret of the SMP operator<sup>8</sup>, while in Poland a non-confidential version of the separated accounts is published.<sup>9</sup> Indeed, newer EU Member States must comply equally with the EU Directive<sup>10</sup> to ensure the publication of such information would contribute to an open and competitive market, while respecting national and Community rules on commercial confidentiality.
- The inclusion of Jersey and Guernsey, where a publication requirement has been imposed, was motivated by these countries having similar characteristics to The Bahamas.

#### Merits of A/S publication requirements

Notwithstanding the above, URCA would like to respond briefly to the comments received on the overall merits of A/S publication requirements.

In summary, URCA disagrees with BTC that the publication of the separated accounts would not achieve the results intended by URCA or have any significant merit for the industry. It remains URCA's position that publication can support the objectives of A/S and C/A, and in ECS 11/2010 URCA provided three examples to support its position:

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<sup>7</sup>See section "3.4 Criteria for Determination of Confidentiality" of this Statement of Results.

<sup>8</sup>Article 169 of Bulgaria's Law on Electronic Communications.

<sup>9</sup>In Turkey, the obligation has not started. In Czech Republic and Slovenia the publication requirement has not been imposed. In Slovenia there are general rules for separated accounts but not detail guidelines on how such accounts should look

<sup>10</sup>Article 11 of Directive 2002/19/EC of The European Parliament and of the Council of March 7, 2002 (as amended by Directive 2009/140/EC).

- *“Other licensed operators and potential entrants can understand the derivation of regulated access and interconnection charges and so participate fully in consultation on proposed rates;*
- *Other licensed operators can develop more thoroughly any complaints regarding potential anti-competitive behaviours by SMP operators (for example, any examining the costs faced by the SMP operators); and*
- *Transparency, and hence confidence in the regulatory system, can be increased.”*

URCA also disagrees with BTC and CBL that the publication of separated accounts would not aid the monitoring of anti-competitive behaviours. URCA’s position is supported by the second bullet above, URCA’s statement in the Table on page 11 of ECS 11/2010 <sup>11</sup> and also by URCA’s experience in respect of *ex post* competition investigation against SMP licensees. Specific to URCA’s experience, URCA has often used information derived from the separated accounts as the reference point for establishing a *prima facie* of anti-competitive conduct by BTC. URCA has often complemented this information with additional data and submissions from BTC/CBL and other licensees. However, URCA’s requests for such additional information only became necessary once a *prima facie* case was established and more detailed information was required.

URCA wishes to separate the issues of costs of preparing separated accounts from that of publishing separated accounting information. There are two aspects of costs that are associated with publishing separated accounts: firstly, costs associated with publishing the actual accounts and secondly, the costs associated with publishing commercially sensitive information. URCA has given due consideration on the first set of costs, and consequential to that URCA proposed in Question #2 of this consultation that the accounts be published on the SMP licensee’s web site. This in URCA’s view minimises the associated costs of publishing the actual separated accounting information. URCA has also given regard to the second set of costs and has engaged licensees throughout this consultation on the criteria to be used for determining commercially sensitive information. URCA further disagrees with BTC that URCA did not consider URCA’s obligation under s.40(2)(b) of the Comms Act. URCA reminds BTC that URCA is required to balance the obligations under s.40(2)(b) with those in s.40(3)(a) when imposing the obligation to publish separated accounting information. In so doing, URCA in ECS 20/2009 presented a non-confidential regulatory accounting information set that BTC would be required to publish. In ECS 11/2010 URCA reaffirmed that non-confidential set of regulatory accounting information that the licensees would publish in the Table at Section 3 titled “Summary of URCA’s Acceptance/Rejection of Proposal Received from SMP Operators”.

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<sup>11</sup>“Without publication, other operators will be less able to include detailed cost information in their complaints (and so to assess the merit of potential complaints before these are submitted).

### BTC's specific comments on URCA's decision to require publication of A/S results

URCA disagrees with BTC that URCA's proposals on publication are premature and unsupported by empirical evidence. URCA reminds BTC that in accordance with s. 40(1)(c) of the Comms Act, URCA imposed a separated accounts requirement on BTC which also included the publication of separated accounting information. URCA therefore sees no reason to deviate from its stated position on the merits of publication which URCA believes appropriately reflect URCA's remit under s.40(3) of the Comms Act. URCA further reiterates that URCA fulfilled its statutory obligation under s.40(2) of the Comms Act and considered the regulatory burden and benefits of imposing separated accounts obligation. URCA further reminds BTC that while URCA is not duty bound under s.40(2) of the Comms Act to "*find an appropriate balance*" between the regulatory burden and consumer benefits of any obligation imposed on a SMP licensee, URCA in its deliberations did consider those benefits and burdens (See Table at pages 11-12 of ECS 11/2010).

URCA accepts that in 2010 after considering whether it was possible to achieve the objective of AS without requiring the publication of those accounts that it expressed the view that "*..[it] does not believe that publishing the separated accounts is critical to achieving the objectives of the Accounting Separation obligation.*" BTC should be aware however, that the foregoing statement was conditioned by URCA based on the phrase which preceded it, namely "*...in the context of the interim period...*" where the 'interim period' referred to 2009 where URCA forebear on the publication requirement for 2009 *only*. Further, it is also evident that URCA, in the "Conclusion" paragraph immediately after that statement, expressed its continued belief "*... that publishing separated accounting information can add to transparency in the market, reduce information asymmetry between SMP operators and other licensees, and increase confidence in the regulatory framework.*".

URCA reminds BTC that the primary purpose of the present consultation was to identify the non-confidential accounting separation information that is to be published and the criteria to inform the information and data set to be published. This is reflective of URCA's "Conclusion" in ECS 11/2011 where URCA stated that it intended to launch a public consultation on the future requirements of separated accounting information and the criteria to determine if particular information is confidential.

URCA acknowledges that the accuracy, timeliness and appropriateness of regulatory accounts is important to the publication requirement. URCA is aware that the requirements imposed by national regulators regularly evolve, with accounting statements having to evolve alongside those requirements. Furthermore, regulated operators will also regularly update the approach and data used in the preparation of the accounts. However, this should not – and indeed in other jurisdictions does not - prevent the publication of accounts, where that has been deemed appropriate.

### Timing of A/S publication requirement

Concerning BTC's reference to the premature timing of the publication requirement compared to EU precedence, URCA reminds BTC that the current EU regulatory framework provides National Regulatory Agencies with flexibility in the implementation of the publication requirement for separated accounting information.

With reference to the EU precedence cited by BTC, URCA has the following observations:

- The Netherlands. it is URCA's understanding that the separated accounting framework was developed by the national regulator (*OPTA*) in 2003/04 after having two public consultation- one on the fundamentals of the methodology and a second on implementation, and only imposed the obligation on the incumbent, Royal Dutch PTT (*KPN*) in 2005 under Article 13 of the EU new regulatory framework (2002/21). URCA understands that Directives<sup>12</sup> prior to the new framework Directive did not include the preparation and publication of separated accounts, however, URCA is aware that *KPN* was required to keep separated accounts for its fixed line and mobile units. URCA understands that the removal of the obligation was made as part of *OPTA*'s 2008/09 market review.<sup>13</sup> In removing the publication requirement *OPTA* stated that it would *"...withdraw the accounting separation obligation because it believes that the cost orientation obligation and the non-discrimination remedy are sufficient to prevent eventual margin-squeeze situations."*<sup>14</sup> <sup>15</sup>In its discussion with URCA, *OPTA* stated that the new obligation (referred to as the 5<sup>th</sup> Rule), in conjunction with cost-orientated tariffs was deemed sufficient protection against price discrimination and margin squeeze. This suggests that *OPTA* has implemented other appropriate regulatory measures to mitigate any negative potential impact associated with the removal of the

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<sup>12</sup>Directive 97/51/EC which amended Council Directives 90/387/EEC and 92/44/EEC.

<sup>13</sup>Prior to the 2008/09 market review, accounting separation report must (a) cover the wholesale and retail cost system as approved by *OPTA*, (b) be audited and (c) be published. The accounting separation reports were published both by *OPTA* and by *KPN*.

<sup>14</sup><http://circa.europa.eu/Public/irc/info/ecctf/library?l=/nederland/registeredsnotifications/nl20080826/nl-2008-0826-0827/ EN 1.0 &a=d>

<sup>15</sup>The new rules concerning non-discrimination (especially the 5<sup>th</sup> rule) states that the price of a downstream service must at least cover the cost of the regulated wholesale inputs plus incremental costs of unregulated wholesale services. As such, the retail tariffs must be higher than the regulated wholesale tariffs. This protects competitors against margin squeeze and prevents cross subsidies from wholesale to retail. While the Netherlands' NRA (*OPTA*) stated that while accounting separation can give insight into cross-subsidies (although that requires an implementation of accounting separation on a detailed level), it was of the view that the 5<sup>th</sup> rule prevents margin squeeze and is considered to be a more direct and effective remedy by *OPTA* than accounting separation.

publication obligation. In URCA's view, the current conditions in The Netherlands are not similar to those currently existing in The Bahamas, in terms of market maturity and the regulatory framework can therefore rely more on its *ex post* powers to enforce and promote sustainable competition.

- Belgium. URCA understands that the accounting separation obligation which was initially specified by Royal Decree dated 4 October 1999, was replaced by a new Royal Decree on accounting separation that was based on the EC Recommendation C(2005) 3480). URCA understands that the Belgium Institute for Posts and Telecommunications (BIPT) adopted on 22 August 2007, a Decision regarding the specifications of the cost accounting system used by Belgacom to elaborate the separated accounts. The Decision laid down the cost accounting framework to be respected, including a detailed time schedule regarding the preparation, publication and auditing of cost accounting documents. URCA understands that the level of detail of the published accounts by Belgacom allows third parties to identify, per SMP market and other business account the amount of charges arising from the markets where the dominant firm has been found to have SMP. URCA further understands that the separated accounts show transfer charges with regard to various products between 4 lines of Business: core network, local access, retail and other businesses.

It is therefore clear to URCA that the experiences of The Netherlands and Belgium support URCA's imposition of separated accounts in the early stages of liberalization.

URCA also disagrees with BTC that URCA has not considered the current stage of market development in The Bahamas and market players' limited experience of separated accounts. URCA's previous decision to forbear on the publication requirement for 2009 was dictated by URCA's consideration of the current status of the market. Further, URCA having regard to experiences from the EU and the Caribbean, continues to maintain the view that a publication requirements is equally applicable in the early stages of market liberalization.

#### BTC's proposed peer review

URCA does not agree with BTC's proposal for a process of audits inclusive of peer reviews by second auditing firms and reviews by the regulator. URCA's review of the EU experience revealed that such an approach is primarily found in Portugal where the separated accounts are considered confidential. Consequential to that an Independent auditor evaluates the compliance of the incumbent's separated accounts with the regulatory legislation and NRA's



recommendations prior to the NRA publishing annually a Statement of Compliance.<sup>16</sup> Separate and apart from the EU's experience, URCA gave consideration to the likely impact that such a system of peer review may have on regulatory cost. In URCA's view, such a system may not only increase the cost of regulation on SMP licensees but may also lengthen the time for completion of the auditing of separated accounts, which would inevitably impact on the relevance and timeliness of the published separated accounting information. Further, URCA is of the view that such an approach may be administratively cumbersome and challenging to implement.

#### CBL's requirement to prepare regulatory accounts

URCA strongly disagrees and rejects the comment that the requirement to prepare separated accounts on a cable TV operator would be disproportionate, unnecessary and unreasonable. URCA is cognizant of the recurring theme throughout CBL's response on the imposition of an A/S and C/A obligation on CBL. URCA reminds interested parties that this consultation was not on the requirements of imposing regulatory accounts but rather on the information to be published by SMP operators. As mentioned above, URCA's reasoning for the imposition of the A/S and C/A obligation on BTC and CBL is well documented<sup>17</sup> and URCA does not believe it would be prudent for URCA to repeat those arguments here. Moreover, the Guidelines that BTC and CBL are required to adhere to when preparing their regulatory accounts are well documented and known to both operators.

URCA accepts that presently there is limited regulatory precedent for cable television operators to prepare (and/or publish) separated accounts. URCA, however, reminds CBL that the current ECS regulatory framework is unique to The Bahamas and such a framework might not be evident in other regional jurisdictions or elsewhere. As CBL was determined to have SMP, URCA - following extensive engagement with CBL - imposed a separated accounts obligation on CBL pursuant to relevant objectives and principles specified in the Comms Act.

#### Publication requirement of CBL's regulatory accounts

URCA does not agree with CBL that the publication of separated accounting information would not contribute to the policy objectives articulated at s.4(a)(ii) and (iii) of the Comms Act. In URCA's view all of the statutory obligations contained in the Comms Act, support the s.4 policy objectives of the Comms Act.

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<sup>16</sup>In its discussions with URCA, OPTA stated that given that the separated accounting obligation was removed some time ago, it could not verify whether the system of audit peer review was utilized in The Netherlands during the time period that the separated accounting obligation was imposed.

<sup>17</sup>See Section 2.4 of ECS 11/2010

URCA accepts CBL's argument that service profitability is not based on stand-alone costs and that fixed and common cost across all services may be higher in the cable television business than in telecommunications. That said, URCA remains of the view that publication of separated accounting information could be valuable to the industry, foster overall development of the sector and instil confidence in the regulatory process.

Further, URCA notes CBL's comments on dominance in relevant economic markets and the observation that CBL is only the second cable television operator in the world with an accounting separation obligation. URCA accepts that BTC and CBL have SMP in different economic markets and consequentially the *ex ante* obligations imposed cannot be always the same or identical. In the case of A/S and C/A this may also include dissimilar publication requirements. For example, BTC is the only SMP operator currently required to provide cost-based wholesale/interconnection services to Other Licensed Operators (OLOs) and therefore the requirement for publication of routing factors and unit cost information for such services would be more applicable to BTC than CBL. However, this may change over time as the market evolves and competition takes root.

URCA further agrees with CBL that there are no *ex ante* price obligations on CBL's wholesale products and services nor does CBL currently provide regulated wholesale services to OLOs in The Bahamas. Consequential to that the issue of information asymmetry between CBL and other operators, as far as wholesale products and services and for a publication requirement for separated accounting information, does not arise within the current status of the market. URCA therefore accepts CBL's argument that a publication requirement to ensure transparency and non-discrimination in wholesale charging would not be applicable to CBL at this time.

Regarding the comment on retail price regulations, URCA is reminding CBL that, in accordance with the Retail Price Rules CBL is required to provide separated accounts information for price changes.<sup>18</sup> URCA considers that it is only in instances where this information is either not available or is unreliable should the SMP operator rely on other information to support its proposed price change.

URCA accepts CBL's argument that the following statement used by URCA to justify the publications of separated accounts, "*that the SMP operator is not discriminating between its own downstream operations and those of competition providers*", is more applicable to BTC than for CBL, given that the former provides wholesale services in SMP markets. CBL is however cognizant that URCA is required to consult publicly on the publication of separated accounting information, prior to making its final decision. URCA has duly done this and the comments

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<sup>18</sup>See para. 17 of ECS 13/2010 issued to CBL on 22 April 2010.

received from stakeholders are used to inform URCA's final decision. URCA therefore having considered CBL's comments and recognizing that CBL currently does not provide cost-based wholesale/interconnection services to downstream competitors, considers that reasons of transparency and non-discrimination are not appropriate grounds for imposing the publication requirement on CBL.

Therefore, URCA proposes to defer the requirement for CBL to publish aspects of its separated accounts until further notice. However, as the market develops, URCA may consider such a requirement on CBL.

### 3. Responses to Consultation Questions

In this Section URCA sets out the responses received to each of the five consultation question, URCA's comments on responses received, and URCA's final decision with respect to each proposal.

#### 3.1 Information for Publication

**Question #1:**

*Do you agree with URCA's proposal that a SMP licensee should be required to publish the following components of its regulatory (separated) accounts, namely:*

- *Profit and loss statements (consolidated by line of business);*
- *Mean capital employed statement (consolidated by line of business);*
- *Reconciliation (with statutory accounts) statements;*
- *Independent auditor's opinion.*
- *Detail Cost Allocation Methodology (explaining inter alia, details of cost drivers, attributions and/or ABC modeling, where applicable)); and*
- *A Responsibility Statement by the Chief Financial Officer?*

#### **BTC's Comments to Question 1**

BTC did comment on the elements of the accounts which URCA proposed should be published. It did, however, raise some general concerns on the publication of A/S information for its mobile business as well as on the potential for the published A/S information from both BTC and CBL being misleading.

#### A/S results for BTC's mobile business

BTC stated that it did not agree with URCA's proposal. In BTC's view it is clearly inappropriate for BTC's mobile business to be separately presented while BTC has a monopoly in the provision of mobile services.

#### Concerns about published A/S information being misleading

BTC further raised concerns about the accuracy of its current A/S information. In particular:

- BTC stated that it was in the process of a rigorous cost reduction exercise and the results from that program would not be reflected fully in the separated accounts for a significant period of time and, until such time, published information is likely to be misleading. While BTC agrees that separated accounts can be helpful for URCA, BTC referenced recent *ex post* investigations conducted by URCA which in BTC's view

required a deep review of commercially sensitive information that is not present in the separated accounts. This suggested to BTC that access to the separated accounts alone has limited value to assess anti-competitive behaviors and the end result of URCA's proposal to publish such information would therefore be that commercially sensitive information ends up in the public domain while delivering limited value in the monitoring of SMP operators.

- In BTC's opinion information presented in its separated accounts, whether publicly available or otherwise, has limited merit without further investigation of the cost incurred by BTC to provide universal service. BTC stated that the imposition of universal service obligation is likely to result in higher average costs of providing services like fixed telephony. In BTC's view this is highly relevant as new entrants may use BTC's separated accounts to 'cherry pick' market entry. There is also the risk that geographically averaged costs from the separated accounts would present a misleading picture of BTC's cost base in competitive and prospectively competitive areas/regions. Additionally, BTC stated that a universal service obligation only funded by BTC would put the company at a competitive disadvantage and urged URCA to consider the net costs associated with universal service as part of the use of separated accounts.

BTC further expressed concerns that separated accounts prepared by CBL could be misleading if transfer values for transactions between CBL and its associated companies SRG and Caribbean Crossings Limited are not subject to review.

### **URCA's response to BTC's comments**

#### **A/S results for BTC's mobile business**

URCA is of the view that BTC's mobile exclusivity is not a suitable justification against any publication requirement. URCA has had regard to its decision in ECS 11/2010, in respect of the separated accounting information that is to be published by BTC,<sup>19</sup> and has therefore concluded that BTC would only be required to publish information relating to mobile wholesale services within BTC's Reference Access and Interconnection Offer (RAIO).

#### **Concerns about published A/S information being misleading**

URCA's notes BTC comments on the rigorous cost reduction exercise undertaken by the company. URCA therefore looks forward to these costs reductions being reflected in the

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<sup>19</sup> See Table at Section 3 of ECS 11/2010 titled "Summary of URCA's Acceptance/Rejection of Proposal Received from SMP Operators".

separated accounts going forward and BTC's charges for wholesale services and other price regulated retail services. Again though, URCA does not believe this should affect the requirement for publication of BTC's A/S information.

URCA notes BTC's comments on the possible implications that the publication of separated accounting information may have on BTC's USOs. URCA is however hard pressed to accept the argument that potential market entrants would formulate their decision to enter the ECS market in The Bahamas solely on a review of BTC's separated accounts. URCA accepts that published separated accounting information may be used to provide guidance to potential entrants but does not believe it will lead to the outcomes suggested by BTC. That said, it is URCA's view that concerns about potential 'cherry picking' can, if required, be appropriately addressed through other regulatory instruments. For example, BTC will be aware that URCA is also consulting on the implementation of the universal service obligations contained in the Act.

URCA further notes BTC's concerns on CBL's separated accounts and the need for review of CBL's transfer charges to CBL's associated companies. URCA reminds BTC that CBL is not currently required to provide cost-based wholesale services to other licensees and the imposition of such an obligation would be ultra vires the Comms Act. URCA notes instead, that BTC's argument is applicable to BTC's transfer charges between BTC's retail and wholesale divisions. It is for that reason URCA would require BTC to publish relevant separated accounting information for the RAIO charges. This, in URCA's view, would promote transparency and non-discrimination and provide other licensees confidence in how charges are derived and applied.

### **CBL's Comments to Question 1**

CBL noted that none of the operators in the countries surveyed publish extensive operational statistics and driver values as CBL does in its regulatory accounts. In CBL's view the Final A/S and C/A Guidelines for CBL (ECS 13/2010) only requires a description of the driver values used and not the value and drivers themselves. In CBL's view, URCA's proposal for comprehensive reporting and publication of driver values is extremely rare even for heavily regulated fixed-line incumbents.

### **URCA's response to CBL's comments received**

As previously stated by URCA, CBL will not be required to publish its separated accounting information at this time. URCA however reserves the right to amend such decision, after due consultation, as the market evolves.

URCA accepts that none of the countries that publish route factors also published driver values. While URCA has given this consideration, URCA remains of the view that where accounts are published, they should contain sufficient information to allow other operators to have a better appreciation of the derivation of regulated wholesale service (i.e., RAIO) charges, without

divulging proprietary information on BTC's business. To that end, URCA will require BTC to publish in a tabular format the drivers and route factors that informs each RAIO charge, while excluding unit values.

### **3.2 Publication Timeline**

**Question #2:**

*Do you agree with URCA's proposal that a SMP licensee be required to publish its regulatory (separated) accounts on its website within eight months after the end of the relevant financial year?*

#### **BTC Comments to Question 2**

BTC has not commented on the proposed requirement for SMP licensee having to publish its regulatory (separated) accounts on its website within eight months after the end of the relevant financial year.

#### **CBL Comments to Question 2**

CBL believed that it is feasible for an SMP licensee with an obligation to produce and publish at least part of its separated accounts to do so within nine (9) months of the end of the relevant financial year. The additional month required by CBL for both submission and publication would in CBL's view relieve the significant strain the accounting separating obligation places on CBL.

#### **URCA's response to CBL's comments**

URCA notes CBL's comments on the timeline for the publication of separated accounting information by an SMP licensee. However, URCA disagrees with CBL's proposal that a maximum nine (9) month period should apply after the end of the relevant financial year for the production and publication of separated accounts. URCA reminds CBL that URCA's decision on the required time period for the submission of audited separated accounts to URCA is six months after the end of CBL's financial year (ECS 12/2010 and 13/2010, Section 4.1.1). The additional two months for publication proposed by URCA in this consultation would allow URCA to conduct its required internal review of those submitted audited separated accounts. URCA is therefore hard pressed to accept CBL's proposal for an additional month (i.e., nine (9) months, in total).

### 3.3 Duration for Published Separated Accounts on Licensee’s Website

**Question #3:**

*Do you agree or disagree with URCA’s proposal that a SMP licensee be required to publish and maintain its annual regulatory (separated) accounts on its website, in the prescribed format, for a period of not less than three years?*

**BTC’s Comments to Question 3**

URCA notes that BTC did not respond specifically to Question #3.

**CBL Comments to Question 3**

CBL was of the view that an SMP licensee with an obligation to produce and publish at least part of its separated accounts should maintain the documents on its website for a period of one (1) year or alternatively for a maximum of three (3) years.

**URCA’s response to CBL’s comments**

URCA notes CBL’s proposal that accounts should be maintained on the operator’s website for a period of one year. URCA remains of the view that where an operator faces a publication requirement, it should maintain such information on its website for a time period no less than three (3) years. URCA believes this is appropriate as it would allow for meaningful year-to-year comparisons of the separated accounting information by interested stakeholders.

### 3.4 Criteria for Determination of Confidentiality

**Question #4:**

*Should SMP licensees be required to provide evidence to support a contention that publication of regulatory accounts would harm legitimate commercial interests? If so, what sort of evidence should be required?*

**BTC’s Comments to Question 4**

BTC was firmly of the view that the publication of information contained in the separated accounts could provide competitors with sensitive market information and have the potential to harm BTC’s commercial interest.

BTC agrees with URCA that the onus of demonstrating that the publication of particular data would harm the SMP licensee should reside with that licensee. However, BTC was of the view that what is considered confidential should be in light of the nature of the data in question and



of the prevailing circumstances at the time of the disclosure. BTC argued that it is neither safe, nor fair on an SMP operator for URCA to limit the reasons justifying non-disclosure in advance and there after cited paragraph 5 of ECS 21/2011 where URCA stated “...it is often difficult to determine whether public disclosure of regulatory information will in fact damage commercial interests .... The impact of disclosure will likely depend on circumstances in particular markets.”

BTC further cited s.14(1) of the Comms Act which states that “...URCA shall not be required to publish or otherwise divulge information that in its view would be commercially confidential.” While BTC recognized that s.14(1) does not go as far as to say that URCA may **not** publish such information, it points, in BTC’s view, to the conclusion that commercially confidential information should **not** be published in these or other circumstances.

Finally, without prejudice to its stated objection to publication, BTC proposed the following approach which BTC considered fairer and more in line with international best practices:

*“if BTC considers that the publication of any information contained in the separated accounts is likely to prejudice the commercial position of BTC it may, at the time of the submission of the information, notify URCA of the particular information which it requests should not be published, giving reasons why it reasonably considers that disclosure of such information could reasonably be expected to cause material economic damage to BTC or otherwise materially prejudice BTC’s rights or legitimate interest.*

*The notification shall be supported by a certificate in writing from the Financial Director of BTC or from a lawyer employed by BTC to that effect.*

*URCA shall review BTC’s request and shall determine whether:*

- (a) Publication of the information concerned is in the public interest on the basis that it makes a material contribution to the creation of a transparent, open and competitive market; and*
- (b) The advantages of publication outweigh any harm to BTC; and*
- (c) The information should be published in full, excluded from publication or published in a summarised or redacted form.”*

### **URCA’s response to BTC’s comments**

As stated by URCA in ECS 11/2010, URCA has determined that the separated accounting information it has deemed suitable for publication has not been determined to be commercially confidential. As to that set of information to be published, BTC has not demonstrated in its response what it perceives to be commercially sensitive information.

While URCA accepts that available international experience is inconclusive as to whether publication of regulatory accounts would harm the legitimate commercial interest of an SMP licensee, URCA reiterates its position as stated in ECS 21/2011 that international experience also shows that regulators typically require the SMP licensee to demonstrate that the publication of regulatory accounts would harm its commercial interest. URCA believes this is appropriate given that the SMP licensee would have the relevant information at its disposal to demonstrate commercial harm. In URCA's view, BTC in its submission to URCA has not demonstrated that the publication of BTC's non-confidential separated accounting information will damage BTC's commercial interest in any way.

URCA notes BTC's reference to s. 14(1) of the Comms Act as it pertains to confidentiality. URCA has, through this consultation, stated its intent to publish specific separated accounting information that URCA considers to be non-confidential and at a sufficiently aggregated level not to be commercially sensitive, and invited BTC, other SMP licensees and interested stakeholders to inform URCA's view under s. 14(1) of the Comms Act. BTC has not provided any reasons to change URCA's view on the non-confidential information that URCA considered publishing.

Finally, URCA notes BTC's alternative proposal for the determination of commercially sensitive information. URCA considers the commencement of the confidentiality process under BTC's proposal not to be dis-similar to its own proposal, i.e., for BTC to demonstrate that the published separated accounting information (or parts thereof) can harm its commercial interest. In accordance with its alternative proposal, BTC did not demonstrate in its consultation response that the publication of separated accounting information would cause commercial harm. Given that the later part of BTC's proposal hinges on the former part (i.e., BTC demonstrating commercial harm), URCA is hard pressed to accept the rest of BTC's alternative proposal.

#### **CBL's Comments to Question 4**

CBL was of the view that an SMP licensee with an obligation to produce and publish at least part of its separated accounts should justify any omissions in the published version of the accounts. CBL stated that it is extremely difficult if not impossible to present conclusive evidence that publication of certain information in the regulatory accounts would harm legitimate commercial interests and attempts to find such evidence is both costly and time consuming. CBL proposed that URCA act on the basis of reasonableness when evaluating requests for omission of commercially sensitive information and suggested that reasonableness be assessed on precedents or benchmarks from the countries it has included in the benchmarking exercise cited in the consultation document.

### **URCA's response to CBL's comments**

URCA notes CBL acceptance of the fact that an SMP licensee with an obligation to produce and publish at least part of its separated accounts should justify any omissions in the published version of the accounts.

URCA assures CBL that URCA will act reasonably when evaluating requests for omission of commercially sensitive information. Assessment of any request by an SMP licensee would necessitate that the SMP licensee demonstrate *inter alia*:

- the publication of regulatory accounts:
  - discloses information about the SMP licensee's strategy; and
  - contains information beyond its SMP obligation; and
- the time frame for the publication of information provides a competitive disadvantage to the SMP licensee.

### **3.5 Publication of Auditors Report**

#### **Question #5:**

*Do you agree with URCA's proposal that the independent auditor's opinion should include:*

- *The conclusion of the auditor;*
- *All identified irregularities;*
- *Recommendation made by the auditor; and*
- *A detail description of the verification methodology utilized by the auditor.*

### **BTC's Comments to Question 5**

BTC stated that without prejudice to its objections to publication, BTC has no objection to this proposal. However, BTC proposed that this approach should be tailored to ensure public confidence in the accounts prior to requiring publication.

### **URCA's response to BTC's comments**

URCA agrees with BTC's response to URCA's proposal that the approach to the independent auditor's opinion should be tailored to ensure public confidence in the accounts to be published. Given that BTC is only required to publish its separated accounting information specific to RAIO charges, the auditor's opinion, for publication should have to be similarly oriented.

### **CBL's Comments to Question 5**

CBL was of the opinion that SMP licensees with an obligation to produce separated accounts and to publish at least part of those accounts should include the publication of the independent auditor's opinion. In CBL's view:

- All identified material irregularities should be published.
- Individually and collectively immaterial irregularities should not be published as they may be misleading and could lead to increased audit costs.
- Material recommendations made by the auditor should be disclosed (this is in the event of a requirement to publish); and
- Immaterial recommendations should not be published.

CBL disagreed with URCA that a detailed description of the verification methodology utilized by the auditor should be published. CBL stated that such a requirement does not exist for statutory accounts and if it is to be imposed for regulatory accounting it would lead to an increase in costs depending on the definition of "detailed". CBL was unclear as to why the URCA believed that the reporting requirement for the auditors should be higher in the case of regulatory audits as compared to statutory audits and should URCA insist on the publication of a detail description of the verification methodology utilized by the auditor, URCA should detail its response in full providing examples. Further, CBL opines that it is important to define "detailed" in the context of a detailed description of the verification methodology utilized by the auditor and cite examples of its application to companies of comparable turnover to CBL.

#### **URCA's response to CBL's comments**

URCA agrees with CBL's stated proposal above in respect of the publication of the independent audit opinion. Given URCA's decision on the accounting information to be published by BTC, the published auditor's opinion should only identify irregularities and material recommendations specific to the methodology for the derivation of RAIO charges.

While URCA accepts CBL's argument that a detailed description of the verification methodology utilized by the auditor should not be published, URCA is still of the view that an overview of the auditor's verification methodology should be published. This could provide context for review of the published information.

## 4. URCA's Final Decision

Having regard to the various proposals within this consultation, the responses received from BTC and CBL, and URCA's consideration of those responses, URCA makes the following decisions:

### **Separated Accounting Information to be Published**

BTC is required to publish the following information from its annual separated accounts:

1. A Responsibility Statement by the Chief Financial Officer.
2. Accounting Separation Methodology:
  - A description of the regulatory accounting principles used to prepare the A/S;
  - A description of attribution methodologies used to allocate costs;
  - A description of the process used to implement the allocation methodology;
  - A description of network components, activities and usage by service; and
  - The transfer charging methodology and basis of the attribution of transfer charges.
3. Tables showing the allocation of General Ledger (GL) and Fixed Asset Register (FAR) costs that are relevant to RAIO charges and how these costs relate to the main activities associated with the RAIO charges and how these activities relates to the RAIO charges. The tables, under this part, are those presented in BTC's "A/S: Methodology and Procedures Manual", namely
  - A table setting out the mapping of GL cost items to A/S cost types
  - A table presenting Cost Centre and Cost Type Groupings;
  - A table mapping the FAR Categories to the A/S Asset Categories;
  - Tables setting out the mapping of the GL and FAR to resource allocations types, namely:
    - Assets and cost types;
    - Cost Centre and Cost Type; and
    - Balance sheet cost categories and cost types.
  - A table detailing the Activity Allocations used in the A/S Model and the basis of each allocation;
  - A table setting out the description and allocation of each Network Component to network business; and
  - A table listing the Allocation key type and names used in the A/S model

*For the avoidance of doubt, the tables only need to set out the cost mapping process, with no actual allocation values having to be presented.*
4. Tables showing for each cost driver of relevance to RAIO charges:
  - the driver name;

- a brief description of the methodology used to allocate to relevant costs;
- the data sources used to inform the allocation; and
- a mapping of the source and destination of each cost item allocated based on the cost driver.

The tables, under this part, must be prepared in line with the reporting requirements presented in Table 1 of the annex to this document.

5. Table showing network component costs and routing factors for each network component used in the delivery of services included in BTC's RAIO. The table must be prepared in line with the reporting requirements presented in table 2 of the annex to this document.
6. Independent Auditor's opinion, which shall be comprised of:
  - The conclusion of the auditor;
  - All identified material irregularities;
  - Material recommendations made by the auditor; and
  - A general overview of the verification methodology utilized by the auditor.

The above requirements apply to BTC's 2011 separated accounts and continue to hold until further notice.

The current waiver for CBL to publish any A/S information continues to hold, subject to it not offering any regulated wholesale services to the market. URCA retains the right to review this decision at any point in time.

**Publication Timelines and Duration**

BTC shall publish its separated accounting information in the prescribed format on its website within eight months of the end of BTC's relevant financial year and maintained those published accounts on its website for a period no less than three years.

**Criteria for Determination of Confidentiality**

BTC shall be required to provide evidence to URCA to support a contention that publication of the above information would harm its legitimate commercial interests. In so doing, BTC must show, *inter alia* that:

- the publication of regulatory accounts:
  - discloses information about the SMP licensee's strategy; and
  - contains information beyond its SMP obligation; and
- the time frame for the publication of information provides a competitive disadvantage to the SMP licensee.

Any request to review the current treatment of confidential information needs to be submitted as part of BTC's submission of its separated accounts to URCA.

Upon receipt of such request, URCA will review the supporting evidence in order to reach a decision on whether to grant the request.

## Annex. Publication reporting templates

### Cost driver reporting template

The below table sets out the format for the reporting of the cost driver information contained in BTC's separated accounts of relevance to its RAIO charges. A separate table needs to be prepared for each cost driver and made available in Excel format.

**Table 1. Cost driver reporting template**

<b>Cost driver name:</b>	<b>[Name]</b>	
<b>Methodology:</b>	<b>[Text]</b>	
<b>Source:</b>	<b>[Text]</b>	
	<b>Source</b>	<b>Destination</b>
	<b>[Cost category 1]</b>	<b>[Network component A]</b>
	<b>[Cost category 2]</b>	<b>[Network component B]</b>
	<b>[...]</b>	<b>[...]</b>

### Route factor reporting template

The below table sets out the format for the reporting of the route factor information contained in BTC's separated accounts. For each RAIO service, the table needs to indicate whether a particular network component is utilised, with the "X" representing a route factor value greater than zero. For the avoidance of doubt the final, published table needs to cover all RAIO services for which charges are based on A/S information and all network components defined for most recent set of separated accounts. The table needs to be made available in Excel format.

**Table 2. Route factor reporting template**

	<b>Network component 1</b>	<b>Network component 2</b>	<b>Network component 3</b>	<b>Network component 4</b>	<b>Network component N</b>
<b>Unit costs (\$c/min)</b>	<b>\$c [...]</b>	<b>\$c [...]</b>	<b>\$c [...]</b>	<b>\$c [...]</b>	<b>\$c [...]</b>
<b>RAIO service 1</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>RAIO service 2</b>	<b>X</b>		<b>X</b>		<b>X</b>
<b>RAIO service 3</b>	<b>X</b>				<b>X</b>
<b>RAIO service N</b>				<b>X</b>	<b>X</b>

**Note:** (X) indicates that the relevant RAIO services utilised the respective network component (i.e. it has a route factor greater than zero).