



UTILITIES REGULATION AND COMPETITION AUTHORITY (URCA) CONSUMER PROTECTION REGULATIONS

STATEMENT OF RESULTS

ECS 18/2013

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1. Introduction

The Utilities Regulation and Competition Authority (URCA) issues this Statement of Results on its Consumer Protection Regulations Consultation Document (ECS 07/2013). Concurrently with the publication of this Statement of Results, URCA has also published the final Consumer Protection Regulations (ECS xx/2013) as a separate document.

On June 10, 2013 URCA published the Consultation Document on its draft Regulations for Consumer Protection in The Bahamas. The closing date for responses was August 2, 2013 and this deadline was subsequently extended to August 30, 2013. To solicit feedback from the wider public, URCA launched a public relations support schedule that included town meetings in New Providence, Abaco, Eleuthera, San Salvador, Andros and Grand Bahama as well as guest appearances on various radio and television shows.

This Statement of Results document sets out a summary of the responses to each of the questions in the consultation document and general comments made by the respondents, and URCA's analysis and response to the comments received in response to the public consultation document.

In addition to the comments received at the public town meetings which are attached at Annex 1, URCA received written responses from the following:

- 1) The Bahamas Telecommunications Company Limited (BTC);
- 2) Cable Bahamas Limited, including its affiliates Caribbean Crossings Limited and Systems Resource Group Limited, (collectively, CBL);
- 3) Sharlyn Smith;
- 4) Rodger "Dodger";
- 5) Adrian SJ;
- 6) Deborah Weech; and
- 7) Franklyn R. Wilson.

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

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

The Consumer Protection Regulations shall apply only to the Electronic Communications Sector (ECS) in The Bahamas and do not limit or exclude any legal rights or remedies a consumer may have under the Consumer Protection Act, 2006 or any other relevant law for the time being in force in The Bahamas.

Structure of the remainder of this Document

The remainder of this document is structured as follows:

Section 2: Summary of General Comments to the Public Consultation – This Section contains a summary of the general comments to the consultation received by URCA and URCA’s responses (and any decision made).

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

Section 4: Conclusion and Next steps

2. Summary of General Comments to the Public Consultation

Two of the respondents to this consultation, BTC and CBL, made general comments on the proposed Consumer Protection Regulations for the electronic communications sector (ECS) in The Bahamas. This Section summarises the general comments made by BTC and CBL:

BTC's General Comments

BTC welcomed the opportunity to comment on URCA's Consumer Protection Regulations Consultation Document and indicated its general support for the promotion of an environment in which consumers' rights and interests are protected. BTC also applauded URCA on its efforts to generally address consumers' rights and indicated that such initiatives are laudable and congruous with other jurisdictions.

Notwithstanding the foregoing general comments submitted by BTC, it expressed its opinion that URCA has taken a prescriptive approach on various issues in the Regulations and that such approach intrudes on the day-to-day running of regulated entities. BTC commented that the Regulations have the potential of introducing additional administrative burden on operators, particularly in an environment where companies in general are attempting to operate more effectively and efficiently. Indicating that URCA cited recent complaints from the public regarding poor quality of service and customer services provided by service providers in the market as indicators of the need for consumer protection regulation in the sector, BTC stated that URCA did not provide any details of the nature, type and frequency of complaints and instead made a very broad and general reference to such complaints. BTC further suggested that the public and sector's interest may have been served by a discussion in the Consultation Document on the nature and types of complaints received by URCA.

BTC also took the opportunity to express that it has established a robust customer service programme which recognises the interests of customers and their right to a choice. It further referred to the introduction of user-friendly customer contracts, detailed terms and conditions of services, a complaint handling process and a compensation policy as evidence of its commitment to the sector and a commitment to investing in educating and empowering consumers. BTC also expressed that there is a need for the Regulations to evenly address the protection of consumers' rights with all operators irrespective of whether an operator has been declared as having Significant Market Power (SMP) in one or more services.

BTC further cautioned URCA that *"commercial enterprises should not be unduly hindered in their ability to conduct business in response to market forces nor be straight jacketed by overly restrictive regulations and direct consumer demands."*

CBL's General Comments

CBL has indicated that it does not object in principle to consumer protection regulations to address legitimate market failures and where the framework is proportionate to its purpose and does not impose undue burdens on operators.

CBL also expressed certain concerns regarding the proposed Consumer Protection Regulations, some of which it has classified as being "high level concerns". CBL asserted that the proposed Regulations are *"far too detailed, prescriptive and sweeping in nature"* and that they *"unnecessarily and unjustifiably apply to every electronic communications service and service provider in The Bahamas"*. CBL is of the opinion that this approach is disproportionate to the consumer protection safeguards already in existence in the ECS in The Bahamas. CBL further submitted that the Consultation Document neglected to provide substantive evidence to support the introduction of the Regulations at this time. CBL asserted that URCA offered no indication as to whether particular markets were examined or categories of consumers were surveyed before embarking on such *"intrusive and burdensome regulatory action"*. Referring to section 5 of the Communications Act, 2009 (Comms Act), CBL made the point that such regulations should only be introduced where market forces are demonstrably ineffective and that URCA provided no evidence of market failure with respect to a specific market segment or Service Provider to justify the introduction of the Regulations. CBL further noted that URCA made no reference to section 5 of the Communications Act in the consultation document which mandates URCA to take into account various guidelines prior to introducing regulations and other policy measures. Therefore, CBL concluded that URCA's justifications for the introduction of the Regulations are inadequate.

Indicating that the Consultation Document offered generalised allegations of poor quality of service and customer care, CBL stated that such allegations directly contradict its own experience of providing a high quality service valued by its customers. CBL commented that it would have preferred if the number and types of specific consumer complaints were firstly observed under the formal complaints handling process prior to URCA introducing the Regulations. CBL expressed that it has been their experience that very few complaints have been made under the formal complaints handling process. Prior to introducing the Regulations, CBL argued that URCA should have first allowed sufficient time to properly assess and evaluate the effectiveness of the complaints handling regime.

CBL recommended that the proposed Regulations be narrowed in scope by limiting the applicability of the Regulations to service providers designated as having Significant Market

Power (SMP) for certain services and also by limiting the Regulations to services that are price regulated by URCA.

Finally, CBL argued that the Regulations apply to all Service Providers in The Bahamas unnecessarily and unjustifiably rather than being targeted at a specific problem or set of problems.

URCA's General Comments

In addressing BTC's and CBL's common concern regarding the Regulations as being overly prescriptive, URCA stresses that it is mindful of its statutory duty to ensure that regulatory and other measures it introduces are proportionate to their purpose.¹ URCA does not share the views of BTC and CBL that the Regulations are too prescriptive. URCA considers that, as expressed in the Consultation Document², due regard was had to the proportionality of the Regulations and the need for URCA to avoid placing an unnecessary burden on operators in their provision of electronic communications services to consumers in The Bahamas.

URCA acknowledges that, as mentioned by both CBL and BTC, specific details of the nature, type, number and frequency of complaints received were not included in the Consultation Document to support the introduction of the Consumer Protection Regulations. URCA considers that the absence of such data does not impede URCA's statutory duty to implement the electronic communications policy objectives of the Communications Act, more specifically to further the interests of consumers. However, URCA notes that it receives and reviews consumer complaints on an on-going basis and many consumer complaints are already in the public domain³. Although URCA did not include the specific complaints in the Consultation Document, URCA fully considered and was mindful of such complaints in the formulation of the proposed Regulations. It is URCA's position that the focus of the proposed Regulations is to establish an *ex-ante* framework that effectively addresses consumer protection and service quality issues within the sector. Further, the handling of complaints remains in the hands of the operators, however the Consumer Protection Regulations provide a necessary framework of minimum rights and obligations within which the complaints should be addressed by operators. In this context URCA sought in the Regulations to give effect to Paragraph 21 of the Electronic Communications Sector Policy, particularly *"... specific measures protecting the rights of consumers when contracting with licensees for the provision of electronic communications services; and implementing complaint handling and dispute resolution procedures."*

¹ See section 5(c) of the Comms Act.

² See paragraph 3.1(1) at page 9 of the Consultation Document.

³ See URCA's Final Decision on Cable Bahamas Price Increase application (ECS 02/2013) and Annex A of this document.

URCA is however sympathetic towards the desire expressed by BTC and CBL to have information regarding the nature and frequency of complaints submitted to URCA and will consider in its Annual Plan the formulation of a specific framework for the publication of information on consumer complaints going forward.

Both BTC and CBL mentioned the existence of their consumer complaints handling regimes and other initiatives as evidence of a commitment to their customers. CBL, in particular, commented that URCA should have allowed sufficient time to assess and evaluate the effectiveness of the complaints handling regime before introducing the Regulations. In response to this, URCA reminds licensees that complaint handling is merely one component of the overall consumer protection obligations placed on operators in their respective licences.⁴ Furthermore, the licence conditions expressly provide for the co-existence of both consumer protection regulations and consumer complaint handling procedures.⁵ As stated above, the Regulations help to provide the framework of rights and obligations within which complaints should be addressed by operators.

In response to BTC's specific concern that the Regulations should address the protection of consumer's rights with all operators irrespective of whether an operator has been declared as having SMP in one or more services, URCA clarifies that the Regulations are general in their application and must, as a matter of necessity, apply to all operators issued with Individual Operating Licences (IOL) and Class Operating Licences Requiring Registration (COLRR) by URCA under the Communications Act. Additionally, licensees determined to have SMP are mandated to comply with various obligations as stipulated in Part G of the IOL. Condition 36.3.1 of the IOL makes particular reference to the establishment and publication of quality of service levels and compensation levels that are applicable only to SMP operators. Moreover, it is URCA's position that in order for non-SMP operators to successfully compete in the market, they will in any event need to offer services at the same or higher standards as those applicable to SMP operators.

In contrast to BTC's position, CBL expressed the opinion that the Regulations should be limited in scope and apply only to SMP Service Providers and services that are price regulated by URCA. URCA disagrees with this comment and notes that URCA must comply with its statutory duty to ensure that regulatory measures are proportionate to their purpose and introduced in a manner that is transparent, fair and non-discriminatory.⁶ Furthermore, section 45(2) of the

⁴ See 2.3(1) at page 7 of Consultation Document.

⁵ See Condition 18 of the standard form Individual Operating Licence and Condition 1.16 of the standard form Class Operating Licence Requiring Registration, both available on URCA's website at www.urbahamas.bs.

⁶ See sections 8(1) and 5(c) of the URCA and Communications Acts, respectively.

Communications Act provides for URCA to introduce general regulations relating to the protection of Consumers. URCA considers that all Consumers of electronic communications services in The Bahamas should be safeguarded and not just those who subscribe to services provided by SMP Service Providers only.

In response to CBL's comment that URCA provided no evidence of market failure to justify its decision to introduce the Regulations at this time, URCA notes that it is mindful of its statutory mandate to introduce regulatory measures where market forces are *unlikely* (emphasis added) to achieve the electronic communications policy objectives within a reasonable time frame. Therefore, based on the proper interpretation given to this provision of the Communications Act, URCA disagrees with the position taken by CBL that any failure of the market must occur as a precondition to action by URCA. In this regard, URCA is required to form a view as to the likelihood of market forces not achieving the policy objectives when introducing a regulatory and other measure. Furthermore, it is URCA's position that the Regulations are ex-ante in scope given the need to protect consumers in The Bahamas because of limited choice in the market. URCA stresses that, as with all regulatory and other measures, due consideration was given by URCA of the all of the statutory guidelines stipulated in section 5 of the Communications Act prior to introducing the Consumer Protection Regulations for public consultation.

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

In this Section, URCA provides responses to the specific comments received on the various Parts of the Regulations. After each Part of the Regulations, URCA posed a series of questions in order to gain the feedback of stakeholders on the issues raised therein. While BTC, generally, provided direct answers to the questions posed in the consultation document, CBL along with the other respondents to the consultation, submitted comments on specific aspects of the Regulations. Below, URCA has summarised the comments received and has provided its comments below. URCA has carefully analysed and considered the responses received. The views expressed by all respondents to the consultation have assisted URCA in establishing the final Consumer Protection Regulations.

Part 1: Introduction

While URCA did not pose any questions in this Part of the Regulations, BTC, CBL and Adrian SJ submitted comments on this section for URCA's consideration.

BTC

BTC expressed concerns regarding two definitions at Part 1.3.1 of the Regulations. Firstly, BTC argued that the definition for the term "Advertisement" does not take into account oral communications and communications in the print media and should be expanded to include the same, as print media is a significant form of communication between Service Providers and Consumers; also there is an increasing reliance on door-to-door and telephone sales and promotion. Secondly, BTC commented on the definition of "Business Day", that particularly in New Providence, Saturday is now a business day for banks and several of its retail stores now open on Saturday.

CBL

CBL commented that the Regulations should only apply to those services where URCA finds a Service Provider to possess SMP and for services deemed as price-regulated SMP services. CBL proposed limiting the Regulations to CBL's basic pay TV service, BTC's retail fixed voice products and access services (including domestic and international calling) and BTC's retail mobile voice products and data access services.

CBL also recommended that URCA amend the definition of “Consumer” to apply to small businesses and small not-for-profit organisations only. CBL is of the belief that large businesses and organisations are well able to negotiate terms and conditions with Service Providers and there is no need to include them in the definition of “Consumer”. CBL recommended distinguishing small businesses from larger entities based on the expected amount each entity would spend on services with the Service Provider and proposed \$12,000 per annum as the threshold to distinguish large entities from small ones.

CBL also suggested including “acts or threats of terrorism” in the definition of “Force Majeure”. Following on from CBL’s comments on SMP service providers and price regulated services, CBL proposed that “Price-Regulated SMP Service” be included in Part 1 of the Regulations and be defined as *“a service for which URCA has designated a service provider as having significant market power and for which URCA has imposed ex ante price regulation”*.

Adrian SJ

Adrian SJ queried why the Regulations do not apply to all URCA Licensees in The Bahamas and suggested that the definition of “Consumer” be expanded to include Consumers who become resellers of Services.

URCA’s Comments

URCA notes BTC’s concern that the definition for “Advertisement” does not take into account oral communications and communications in the print media but disagrees with this point as the definition expressly states that the communications made by the Service Provider may be in any verbal or written form. However, URCA has decided to expand the definition of “Advertisement” to expressly include print and broadcast media. Therefore, the new definition for “Advertisement” will read as follows:

“Advertisement means any communication (whether written, verbal or via electronic, print or broadcast media) made by, on behalf of, or at the request of a Service Provider, which seeks to encourage, induce or entice any person or persons to purchase, subscribe or obtain any Services or Products provided or supplied by the Service Provider.”

URCA also notes BTC’s position that Saturday is increasingly becoming a business day for many businesses in The Bahamas and that the definition of “Business Day” in the Regulations should reflect the same. URCA accepts this point and recognises that some Service Providers maintain hours of operation on Saturdays. Therefore, URCA has amended the definition as follows:

“Business Day means any day on which a Service Provider’s offices are open to the public for carrying out some or all of its business functions, excluding gazetted public holidays.”

In response to CBL’s suggestion that the Regulations should apply only to SMP Service Providers and services that have been deemed as price regulated, URCA reiterates that applying the Regulations to IOLs and COLRRs is consistent with URCA’s statutory duty to introduce regulations that protect consumers generally and the licence conditions applicable to these categories of licensees. Therefore, URCA rejects this proposal as inconsistent with the law, the licences and the Sector Policy. For the same reasons, URCA rejects CBL’s proposal to include “Price-Regulated SMP Service” as an additional definition in Part 1 of the Regulations.

URCA further notes CBL’s suggestion to amend the definition of “Consumer” to expressly exclude large businesses and organisations. URCA considers that adopting this proposal would be inconsistent with the definition of “Consumer” in the Communications Act which does not discriminate between small and large businesses. Also, it is URCA’s position that even large businesses might not be able to negotiate reasonable terms with a service provider and would still require protection under the Regulations. Therefore, URCA considers that the definition of “Consumer” is adequate for the purposes of the Regulations.

URCA notes CBL’s suggestion that “acts or threats of terrorism” be included in the definition of “Force Majeure”. URCA has no objection to this submission, to the extent that an actual act of terrorism is concerned, and has amended this definition as follows:

“Force Majeure means an unforeseen or uncontrollable force or event outside the reasonable control of a party affected by that event, including but not limited to one or more of the following: fire, flood, earthquake, storm or other disturbance, whether caused by the elements, an act of God, war, strike, lockout, riot, explosion, insurrection, terrorism, governmental action or any exercise of emergency powers by any governmental authority.”

An additional recommendation put forth by CBL is that URCA include “Price-Regulated SMP Service” as an additional definition in Part 1 of the Regulations given its proposal that the Regulations apply only to Service Providers that have been designated as having SMP in certain services and services that are price regulated by URCA. As URCA has not amended the scope of the Regulations as proposed by CBL, it does not consider it necessary to include this additional definition at this time.

In response to Adrian SJ's concern that the Regulations should apply to all and not specific URCA licensees, URCA clarifies that IOLs and CLORRS are the only URCA licensees with specific consumer protection obligations placed on them under their respective licences. URCA also clarifies that Consumers who become resellers of electronic communications services in The Bahamas are required under the Communications Act to obtain a licence from URCA for such activities. Once licensed to operate as an IOL or COLRR, the reseller becomes a Service Provider and is obligated to comply with the provisions of the Regulations when providing services to its Customers.

Part 2: Consumer Sales, Contracts and Services

Question 1:

- a) Do you agree with URCA's proposals in Part 2 of the draft Consumer Protection Regulations regarding what Service Providers must do for Consumers in relation to retail sales and service, including the provision of information and contracting? If not, why not?
- b) Should any other provisions be included in Part 2 or any removed?

BTC

BTC commented that it generally agreed with URCA's proposals in Part 2 of the Regulations. However, BTC expressed the opinion that the requirements for Consumer contracts are extensive and that URCA should resist the temptation to be overly prescriptive in its requirements.

Regarding security deposits, BTC submitted that while it may be reasonable to anticipate the likely charges for some services, such as broadband, it may not be as easy to assess anticipated charges for fixed line and mobile services, particularly where long distance and roaming charges can exceed the security deposit. BTC further commented that the amount of the security deposit required should be a commercial decision and operators should have the flexibility in determining the level of security deposits based on profile and the level of credit to be extended.

BTC recommended that Part 2.9.2 of the Regulations be omitted as no local clearing house exists with information on a Customer's individual credit history, therefore, operators have to rely on a Customer's employment history and other forms of data to assess the credit risk each Customer poses. BTC believes it is unreasonable to require Service Providers to compensate Customers for delays in the absence of formal credit assessment agencies. BTC suggested that the timeframe referred to in Part 2.9.2 should be reviewed to take into account credit checks.

It is BTC's view that the exclusion under Part 2.1.1 (Provision of Information), particularly the reference to Part 2.10 (Fault Repair and Service Interruption) should apply to Individual Operating Licensees even if they have not been designated as having SMP.

CBL

CBL recommended the removal of Part 2.1.1 of the Regulations following its proposal that the Regulations should only apply to SMP Service Providers. Alternatively, CBL suggested that should URCA decide to apply the Regulations to all retail electronic communications services then Part 2.1.1 should be limited to Price-Regulated SMP Services.

CBL further proposed that URCA modify Part 2.1.3 of the Regulations to ensure that only services provided generally to Consumers are covered by this Part rather than a full disclosure of all service and pricing information, which, in CBL's opinion may be confidential as in the case of negotiated business services.

Further, CBL proposed that Part 2.5.4 be restricted to allow for Customers to opt out of receiving unwanted voice or electronic communications only, but not print advertising. CBL stated that it often has to contact its Customers via written communication delivered by the post office and Customers have the option of ignoring such written advertising. CBL believes that it would be costly, unwarranted and disproportionate for URCA to force Service Providers to modify their billing systems to accommodate Customers who may wish to opt out of receiving such information.

Under Part 2.5.6, provision is made for a Customer to terminate an ongoing contract without notice at any time to the Service Provider and without penalty once the contract has reached the end of its minimum period. CBL expressed objection to this provision and suggested that the Customer be allowed to terminate the service at any time following the minimum period upon reasonable written notice to the Service Provider. CBL also commented that the last parenthetical phrase in Part 2.5.6 be deleted as it goes without saying that a Service Provider cannot charge a customer twice for the same purchase.

CBL also makes reference to Part 2.5.7 which allows a Customer to terminate a contract for services where the Service Provider unilaterally changes a contract with the Customer. CBL commented that the provision is unclear as it does not stipulate exactly how a Customer may go about terminating the contract. CBL recommended that the provision include that the Customer must give notice in writing and that the notice must be given to the Service Provider prior to the proposed date of the modification or amendment of the contract, failing which the termination right expires.

Regarding the issue of security deposits at part 2.6.1, CBL stated that it accepts that a security deposit of no more than three months of anticipated charges would generally be appropriate

for most Customers. However, a higher security deposit may be required in a limited number of cases, such as where a Customer has a poor credit rating or a history of repeat non-payment of service fees. Therefore, CBL suggested that Part 2.6.1 be amended to include a provision for the Service Provider to determine where a security deposit of more than three months of anticipated charges would be required in exceptional cases.

Regarding Part 2.9 of the Regulations that outlines the conditions under which exemptions from the Customer QoS standards would apply in the provisioning of services, CBL recommended that two additional exemptions should be included: the first being an event of force majeure, and the second where a Customer is at fault in meeting his or her obligations that are a prerequisite to the Service Provider meeting its obligations. CBL recommended that these two exemptions also be included as exceptions to Part 2.10.2 which covers fault repair and service interruption.

Additionally, CBL recommended that Part 2.10.4 of the Regulations be deleted from the Regulations as, in its opinion, it serves no useful purpose. CBL supported this assertion by stating that when an event of force majeure occurs, it is typically impossible to give immediate notice to all affected customers. It further noted that the Service Provider has every incentive to rectify the situation as soon as possible. Alternatively, CBL recommended that if URCA abstains from removing Part 2.10.2 then it should amend the provision to state that the Service Provider shall give notice to Customers “as soon as reasonably practical after becoming aware of the disruption or outage”.

URCA’s Comments

URCA notes both BTC’s and CBL’s comments regarding Part 2.6.1 on security deposits but maintains its position that the security deposit required by Service Providers should be reasonable and should not exceed three (3) months of the reasonably anticipated charges for the Services to be provided by the Service Provider. URCA considers that the purpose of a security deposit is to protect the Service Provider from financial loss and to ensure payment for Services without penalising or placing an inordinate burden on the Customer. In the absence of further detailed information by BTC and CBL of how it will determine Customers with poor credit ratings or the specific circumstances where a greater security deposit would be required, URCA considers that this could lead to an unfair and discriminatory practice amongst Service Providers. Therefore, URCA has determined that the current limit on the security deposit required by a Service Provider from its Customers is adequate.

While BTC has suggested that the exclusion in Part 2.1.1 should apply to IOLs even if they have not been designated as having SMP, CBL on the other hand suggested the removal of this exclusion on the premise that the Regulations should apply only to SMP Service Providers or alternatively that Part 2.1.1 should be limited to Price-Regulated SMP Services. URCA rejects both of these proposals and highlights that the exclusions under Part 2.1.1 of the Regulations relate to Customer Quality of Service (QoS) Standards which will apply only to Service Providers having SMP in the provision of fixed voice, high speed data services and connectivity, mobile voice and mobile data services and pay TV services.

URCA notes CBL's suggestion that Part 2.1.3 of the Regulations be restricted to avoid the disclosure of confidential negotiated business service and pricing information to the public. URCA rejects this proposal and clarifies for CBL that, as stated in Part 2.1.3, the requirement for a Service Provider to display information on its rates and terms and conditions for services on its website and at all retail outlets applies only to services offered to the public at large and not to confidential negotiated services. URCA considers that the rates and terms and conditions for services of confidential negotiated services would, by their very nature, be confidential and not publicly available.

URCA does not share CBL's views that it would be costly for Service Providers to modify their billing systems to comply with Part 2.5.4 of the Regulations. This clause relates solely to giving Customers the opportunity to accept or reject receiving voice, written and electronic messages that are used for advertisement purposes only at the time of entering a contract for Services and not to Customer billings. The overriding objective of this provision of the Regulations is to allow Customers the ability, at the time of entering into a contract for Services, of choosing to opt out of receiving unsolicited and nuisance telephone calls and electronic messages that advertise the Service Provider's products and services. If a Customer has given their permission to the Service Provider to receive such messages, the Service Provider may telephone or send the Customer electronic marketing messages about Products and Services. Further, URCA notes that section 47 of the Communications Act provides for URCA to regulate or prohibit unsolicited communications to consumers so as to reduce or eliminate annoyance, inconvenience or anxiety. URCA however has amended this Part of the Regulations to allow Customers to notify Service Providers at a later time that the Customer wishes to receive written or other communications, such as billing inserts, advertising new Products and Services and promotional offers by the Service provider. Therefore, Part 2.5.4 will now read as follows:

"At the time of entering into a contract for Services, a Service Provider shall give the Consumer an opportunity to accept or deny the approval of receiving voice, written or electronic messages from the Service Provider, which are used for the advertisement of

the Service Provider or the sale of the Service Provider's Products or Services. Customers may, however, notify the Service Provider at a later date, either verbally, in writing or by electronic message that the Customer wishes to receive the Service Provider's advertisements of Products and Services."

Regarding Part 2.5.6, URCA considers that it would have been useful for CBL to have given an indication of what, in its view, constitutes "reasonable notice" to a Service Provider by a Customer who wishes to terminate his or her services after expiry of the initial term of a contract. URCA considers that once the minimum contract term has ended, a Customer should be able to terminate his or her agreement with the Service Provider at any time without advance notice or penalty. URCA disagrees with CBL that the Customer must only give written notice and considers that any form of notice should suffice. URCA also clarifies for CBL that the intention of the parenthetical phrase in Part 2.5.6 is to allow a Service Provider to be able to recover unpaid charges from a Customer who intends to terminate their contract, even though no further charges can be applied to a Customer's account by the Service Provider when notice is given. Nevertheless, having taken into account CBL's concerns, URCA has amended Part 2.5.6 as follows:

"Where a contract reaches the end of any minimum period, such contract shall thereafter be terminable by the Customer giving written or other notice at any time to the Service Provider and without any penalty or other charge being made by the Service Provider (save in respect of any Services and Products already provided to the Customer under the contract)."

URCA has no objection to CBL's recommendation that under Part 2.5.7 a Customer should provide a Service Provider with notice prior to the date of a proposed modification, amendment or variation of a contract but disagrees that the Customer must only give written notice and considers that any form of notice should suffice. URCA has amended Part 2.5.7 in accordance with CBL's proposal as follows:

"A Service Provider shall give a Customer not less than one (1) month notice of any proposed modification, amendment or variation to a contract (which term includes a change in the price of any Service or Product, whether approved by URCA or not) which is likely to be of material detriment to the Customer. The giving of such notice shall be grounds for termination of the contract by the Customer from the effective date of the notice, without penalty or charge other than in respect of Services already provided to the Customer under the contract (but not in respect of Products purchased by the Customer in connection with the Services). The Service Provider shall, at the same time

as giving notice, inform the Customer of the ability to terminate the contract without penalty if the proposed modification is not acceptable to the Customer by the Customer giving written or other notice to that effect to the Service Provider at any time during the notice period.”

URCA notes BTC’s recommendation that Part 2.9.2 of the Regulations be deleted since there is currently no clearing house in The Bahamas with information on a Customer’s individual credit history. URCA is aware of the lack of credit rating agencies locally and disagrees that this provision should be deleted as this is not the only means by which a Service Provider is able to carry out credit checks on Customers. As recognised by BTC, credit checks may be and are currently conducted by obtaining employment history information, loan payments history or through other means such as previous payment history for other services with other Service Providers. URCA appreciates that there may be a delay in a Service Provider receiving the necessary information required to complete a credit check on a Customer and URCA has amended Part 2.9.1(b) to reflect that the delay in the provisioning of services should be limited to five (5) Business Days upon completion of the credit check. URCA also notes CBL’s suggestion that two additional exemptions should be included in Part 2.9.1 regarding the provisioning of Services by a Service Provider. URCA agrees that where an event of force majeure occurs or where a Customer fails to meet his or her obligations that are a prerequisite to the Service Provider providing its services, then, a Service Provider should not be held liable for failing to meet this specific Customer QoS standard. Based on the comments received from both BTC and CBL, URCA has amended Part 2.9.1 to read as follows:

“A Service Provider shall provide Services to Customers within the timeframe established and set out in the Customer Quality of Service standards identified in the Schedule hereto, subject to the following:

- a) delays attributable to lack of infrastructure in the Service area, in which instance the timeframe for provisioning of the Service shall be estimated by the Service Provider and shall be subject to intervention by URCA upon the receipt of a complaint by the affected Customer;*
- b) delays attributable to credit checks for the provision of post-paid Services to new Customers only, in which instance, the delay for the provisioning of the Service shall be limited to five (5) Business Days from completion of a credit check. The Service Provider will not be responsible for delays in the provision of post-paid Services to the extent that the delay is caused by non-receipt of credit history information or the delay is caused by the Consumer being identified by a credit check as not*

creditworthy, save that where the Service Provider agrees to provide Service to such Consumer the period of delay shall not exceed the time required for the credit check, and the provisioning of Service with appropriate safeguards;

c) delays attributable to an event of Force Majeure; and

d) delays attributable to the failure of a Customer to firstly fulfill his or her obligations in order for a Service Provider to provide the Service.”

URCA notes CBL’s recommendation that Part 2.10.4 should be removed from the Regulations or alternatively, that the notice requirement under this Part should only apply where the outage is expected to last more than two days and where it is expected that more than 1,000 Customers would be affected. URCA disagrees that removal of Part 2.10.4 is warranted and that notice should only be given to Customers where the outage is expected to last more than two days and where more than 1,000 Customers would be affected. However, URCA recognises that Service Providers may face a challenge in providing immediate notice to its Customers during an event of Force Majeure and will instead require a Service Provider to provide affected Customers with notice as soon as reasonably practicable after becoming aware of a disruption or outage caused by an event of Force Majeure. Therefore, URCA has amended Part 2.10.4 as follows:

“Where an event of Force Majeure causes an outage or disruption to any Service, the Service Provider shall, as soon as reasonably practicable after becoming aware of the disruption or outage, give notice to affected Customers detailing the disruption or outage, and shall use its best endeavours to rectify the fault within the shortest possible time having regard to the circumstances.”

Part 3: Consumer Obligations

Question 2:

- a) Do you agree with URCA's proposals in Part 3 of the draft Consumer Protection Regulations regarding what are a Consumer's obligations to their Service Providers? If not, why not?
- b) Should any other provisions be included in Part 3 or any removed?

BTC

BTC commented that it fully supports the proposed consumer obligations as outlined in Part 3 of the Regulations.

BTC proposed that the following provisions also be included in the list of consumer obligations:

- i) Timely payment by the Consumer of invoices rendered by the Service Provider for services received by the Consumer;
- ii) Observing the confidentiality of other Consumers' information and not illegally accessing or hacking another Customer's account or call records; and
- iii) A Consumer obligation to ensure that the billing and payment information provided to the Service Provider is always current and is not false or misleading. The Customer should be liable for any charges associated with his or her failure to provide up to date billing and payment information.

CBL

CBL provided no comments on Part 3 of the proposed Regulations.

URCA's Comments

URCA has no objection to including BTC's suggestion regarding the additional Customer obligations to pay all bills rendered by a Service Provider and to notify a Service Provider of updated contact information. However, URCA considers the illegal hacking into a Customer's account, call records or other information by another Customer as a criminal matter and does not consider it appropriate to include this recommendation as part of the Consumer obligations in the Regulations. URCA has included the additional Customer obligations as follows:

“3.7 Obligation to pay for Services

3.7.1 A Customer shall pay the specific fees, costs or other charges resulting from his or her use of the contracted Services with his or her Service Provider on or before the payment due date stipulated by the Service Provider.

3.8 Obligation to update personal information

3.8.1 A Customer is responsible for notifying his or her Service Provider in the event of changes to personal details, including contact information.”

Part 4: Advertising

Question 3:

- a) Do you agree with URCA's proposals in Part 4 of the draft Consumer Protection Regulations regarding what Service Providers must do for Consumers regarding advertising and selling practices? If not, why not?
- b) Should any other provisions be included in this Part 4 or any removed?

BTC

BTC is supportive of the obligations being imposed on Service Providers regarding advertising in Part 4 of the Regulations. However, BTC pointed out that Part 4.2.1 does not take into account instances where a Service Provider may not be able to determine and calculate the existence of geographical or technical limitations, such as those instances in which there may be over subscription of a service leading to technical challenges to the delivery of the service. BTC recommended that a more feasible approach be implemented where a Service Provider advises consumers of the limitations as soon as reasonably practicable after it becomes aware of the limitations. BTC further argued that Part 4.6.1 does not take into account the reality of advertising, the limitations of space in print advertisements, the limitations of time in radio and television advertisements and the general advertising and marketing practices worldwide. BTC disagrees that there should be an express requirement for a Service Provider's legal and trade name to be included in advertisements and submitted that Service Providers should be given the freedom and flexibility to advertise under the name they choose and in accordance with their branding. BTC also mentioned that the Regulations should allow for Service Providers to indicate in advertisements that corporate details may be accessed from the Service Provider's website and from its retail stores and offices.

BTC proposed that provisions be included in Part 4 that address the avenues through which Consumers may be advised of the terms and conditions applicable to Products and Services offered by Service Providers. In light of the aforementioned limitations associated with advertising, BTC proposed that Service Providers advise Consumers that certain terms and conditions attach to the provision of Products and Services and that Consumers be directed to the Service Provider's website for a detailed listing of those terms and conditions or their offices where printed material containing the terms and conditions may be obtained.

CBL

It is CBL's view that Part 4 of the Regulations relating to advertising by Service Providers is unnecessary and redundant, given the Consumer Protection Act. Alternatively, CBL suggested that Part 4 be amended to exempt radio and television advertising as, in its opinion, the existing provisions can only be practically applied to print or web-based advertising. Further, CBL proposed that Part 4.5.2 (b) be revised to take into account the possibility that an individual Consumer or a small percentage of Consumers may misunderstand or misinterpret a comparative advertisement despite being clear. Therefore, CBL argued that this provision be amended to state *"All comparative advertisements shall respect the principles of fair competition and shall be so designed such that Consumers generally are not likely to be misled as a result of the comparison, either about the Service or Product advertised or that with which it is compared."*

URCA's Comments

URCA clarifies for BTC that Part 4.2.1 of the Regulations, which require a Service Provider to clearly indicate in advertisements whether any geographical or technical limitations exist regarding the availability of an advertised service, only applies where such limitations are known to the Service Provider, as stipulated at Part 4.2.1(b). It follows that the effect of Part 4.2.1 of the Regulations is that, prior to and at the time of advertising, a Service Provider is already aware of, or is able to determine or calculate the existence of geographical or technical limitations regarding the availability of the advertised service.

URCA also takes note of BTC's comments regarding Part 4.6.1 of the Regulations and considers that a Service Provider should be required to provide Consumers with relevant information in order to make an informed decision regarding the Product and/or Service advertised. URCA also considers it essential that Consumers are aware of the identity of the Service Provider that is offering the Product or Service. Nevertheless, URCA is of the view that it is reasonable for Service Providers to disclose either their legal or trade name in advertisements, and where it is unable to provide all of its contact details in an advertisement due to limitations of space and/or time, then Service Providers must indicate in the advertisement that further corporate details and details of the terms and conditions of the Product and/or Service advertised may be found on the Service Providers' website and at their retail outlets. Part 4.6.1 has been amended as follows:

"A Service Provider must disclose in all Advertisements:

- (a) its legal name or the trade or brand name (if any) under which it conducts business;*
- (b) its contact details (including principal business addresses, postal address, telephone and fax numbers and e-mail address); and*
- (c) the terms and conditions of the Service or Product advertised.*

Where a Service Provider does not disclose all of the above information in the Advertisement, then it must state in the Advertisement that further details of this information can be obtained on the Service Provider's website and at its retail outlets where the advertised Services and Products are sold."

URCA does not agree with CBL that Part 4 of the Regulations is unnecessary and redundant. URCA reiterates that the Regulations do not limit or exclude a Consumer's rights or remedies under the Consumer Protection Act or any other relevant law for the time being in force in The Bahamas.⁷ URCA has included specific provisions relating to Advertising in the Regulations that relate specifically to advertisements in the electronic communications sector. Further, URCA considers it important for Service Providers to provide Consumers with accurate information in print, radio and television media advertisements that is not misleading or deceptive.

⁷ See section 2.4 (3) at page 8 of the Consultation Document.

Part 5: Billing and Credit Management

Question 4:

- a) Do you agree with URCA's proposals in Part 5 of the draft Consumer Protection Regulations regarding Billing and Credit Management and what Service Providers must do in relation to Billing and providing information about Bills and charges for the services and products they supply as part of their standard market offerings? If not, why not?
- b) Do you agree with URCA's proposals in Part 5 regarding what Consumers are entitled to from Service Providers and what Service Providers must do in relation to the provision and management of credit for services and products supplied? If not, why not?
- c) What are your views on URCA's proposals in Part 5 for the Restriction, Suspension and Disconnection of a Customer's Services for non-payment of bills?
- d) Do you agree with URCA's proposal that late payment fees and reconnection fees charged by Service Providers should be reasonable, proportionate to the costs incurred by Service Providers as a result of the late or non-payment of Bills and should not represent or cause an inordinate burden to Customers? If not, kindly suggest an alternative approach.
- e) Should any other provisions be included in Part 5 or any removed?

BTC

BTC commented that the proposals in Part 5 of the Regulations are consistent with practices observed elsewhere. However, BTC notes that under Part 5.5 provision is made for URCA to identify time periods for a Service Provider to issue Bills where a Billing system or processing problem has occurred. BTC questioned URCA's involvement and whether such involvement would result from notification by the Service Provider or through a complaint from a Consumer. BTC commented that it sees no necessity for URCA to intervene under such circumstances and that it is in a Service Provider's interest to issue bills as soon as possible.

BTC indicated that it disagreed with Part 5.1.2(i) of the Regulations requiring Service Providers to include in all bills a refund due date. BTC argued that the period for refunds can vary since refunds are usually an outcome of some query or dispute and that it is difficult in some cases to specify a specific date on the bill for a refund.

BTC disagreed with URCA's proposal that a Service Provider may only suspend a Customer's account where a Customer has failed to pay an outstanding, undisputed balance sixty (60) days

or more after the payment due date. BTC believes that this period is excessive and further adds to Service Providers' challenges in recovering bad debt. BTC proposed that suspension occurs no longer than forty-five (45) days after the payment due date.

BTC expressed concern that URCA's proposal regarding late payment fees and reconnection fees in Part 5.14.1 suggests a movement to the regulation of such fees. BTC commented that, consistent with international best practices, Service Providers have had the latitude, within reason, to apply late payment fees and reconnection fees. BTC further argued that URCA's reference to "an inordinate burden to customers" is ambiguous and subjective and that it should be removed from this Part of the Regulations. BTC also proposed that Part 5.1.2 of the Regulations be amended to include applicable taxes as the Government of The Bahamas has expressed future implementation of a Value Added Tax by July 2014.

CBL

CBL argued that much of Part 5 of the Regulations is unnecessary and amounts to micro-managing the billing and credit management practices of Service Providers. CBL commented that URCA provided no indication of what specific concern is being addressed by such detailed and prescriptive billing and credit management regulations.

CBL noted that a three (3) month cut-off period for the recovery of unbilled amounts from a previous billing period is unnecessary and arbitrary. CBL stated that billing errors may occur for a variety of reasons, including possible fraudulent behaviour on a Customer's part, and it can take some time before the errors are detected. CBL argued that there is no prejudice to Customers if billing errors are not corrected more than three (3) months after a billing period. CBL also expressed the view that this period is inconsistent with Part 5.11.1 of the Regulations which state that when requested, a Service Provider must provide Customers with up to three years of historical billing information. CBL opined that billing errors relating to under or over charges are not common and should be addressed on a case-by-case basis when they occur. CBL suggested that Part 5.6.1 of the Regulations be deleted as, in its opinion, there is no need to place arbitrary limits on the recovery of undercharges provided under the proposed Regulations.

Referring to Part 5.13 of the Regulations, CBL expressed a number of concerns regarding URCA's proposal for the handling of late and non-payment of bills. CBL commented that it already has a well-established process for the handling of non-payment of bills that has worked effectively for many years. CBL expressed that the proposed new process would require extensive and costly billing system and practice changes to be implemented by CBL with no

identified benefit to the company. CBL believes that the minimum ninety (90) day period from the bill due date to Disconnection will inevitably lead to extra burdens on Customers and some Customers will likely seek to “game” the new deadlines. Therefore, CBL would have no choice but to implement measures to protect itself by increasing security deposits for example. CBL also commented that the extended disconnection deadline could also lead to higher service rates to offset greater losses attributable to unrecoverable unpaid accounts. CBL further commented that it currently does not have the technical means in place to Restrict or Suspend Customers’ services as provided for in the Regulations. It added that it would incur significant upfront and ongoing network and system costs to implement these measures. CBL expressed that it currently faces challenges with non-payment of bills and that this challenge will be exacerbated by extending the time limit before Services can be Disconnected for non-payment. CBL expressed the view that the key factor for dictating possible Disconnection timing in the case of unpaid bills should be the exhaustion of the Customer’s security deposit. Alternatively, CBL recommended that the time frame of 90 days be reduced to 60 days, which is consistent with CBL’s current practice. Despite this recommendation, CBL argued that provisions on non-payment of bills in the Regulations should be limited to stipulating that Service Providers put in place their own clear and reasonable service Disconnection policies which should not be as detailed and prescriptive as those in the Regulations. CBL argued that its current process is clear and reasonable and should not be subject to the arbitrary and costly changes contemplated in the Regulations.

CBL has also expressed the view that a significant loophole exists in the Regulations in that disputed balances would free a customer from the responsibility of paying an outstanding balance and from being disconnected by the Service Provider. CBL expressed the view that legitimate billing disputes can be investigated and resolved relatively quickly by Service Providers on a case-by-case basis. However, CBL believes that the Customer should be required to pay all outstanding non-disputed balances on or before the payment due date. CBL commented that this provision would open the door to abuse of the bill payment process as customers may rely on frivolous billing disputes to avoid or delay outstanding balance payments or the possibility of service Disconnection.

CBL suggested that Part 5.13.6 of the Regulations relating to billing management and a Disconnection scheme for Universal Services be removed from the Regulations as it believes that there should be no reason to introduce further measures to accommodate customers who fail to pay their Universal Service bills. CBL also commented that it currently does not offer prepay services and that the introduction of such services would involve significant new technology and operating costs. CBL commented that this is a matter best left for a future USO review process.

Sharlyn Smith

Sharlyn Smith shared a recent experience she had with a BTC customer service agent where she was advised by the agent that as a result of bills sometimes being uploaded late by BTC, the amount payable by the payment date will be more than the amount shown on the statement. She expressed concern that the monthly statements provided to Customers are inaccurate at the dates thereof and argued that the monthly statements should reflect the amount owed to BTC on the date thereon.

Deborah Weech

Deborah Weech expressed concern over CBL's practice of issuing bills for monthly services prior to the closure of the Billing period and then applying a late fee if payment is not made by the due date.

Franklyn R. Wilson

Franklyn R. Wilson also expressed the view that CBL's "Prior Month Adjustments" or "Late Charges" that appear on his statements are not warranted and he encouraged URCA to take steps to ensure that CBL's practices in this regard are appropriate.

URCA's comments

URCA considers that based on its duties under section 45(1) of the Communications Act, where a Service Provider experiences a problem with its Billing system, URCA should maintain some level of involvement to ensure that the problem is rectified in a timely manner and Consumers are provided with complete bills in a timely manner. URCA considers that it is necessary to safeguard the interests of Consumers so as to allow for fair and reasonable time frames for the settlement of bills whenever Billing system problems occur. URCA further clarifies for licensees and the public that it may become involved in such matters as a result of being notified by the Service Provider, a Consumer or by way of commencing an investigation on its own initiative.

While URCA agrees with BTC that refunds made to a Customer are usually the outcome of a dispute with a Service Provider, refunds or credits may also have to be applied to a Customer's account in light of URCA's proposals for Customers to be compensated if Customer QoS Standards set out in the Regulations are not met. While a Service Provider may not be able to specify an exact date as asserted by BTC, an estimated due date should be provided on a Customer's bill for the information of the Customer.

URCA notes BTC’s concerns regarding URCA’s position on late payment and reconnection fees. While URCA agrees that an inordinate burden to Customers requires some level of subjectivity, URCA has noted a common complaint from Consumers regarding the imposition of late payment and reconnection fees. While Service Providers do have the latitude as to whether to apply such fees, URCA considers that such fees must always be reasonable, not punitive or excessive and must be proportionate to the administrative costs incurred by the Service Provider as a result of the late payment or non-payment of bills. Further, late payment and reconnection fees must not lead to the potential exploitation of Customers through the imposition of an unfair burden to Customers. Therefore, URCA maintains its position that Part 5.14.1 of the Regulations is a necessary provision and has not been provided with a basis that it requires amendment.

As the imposition of Value Added Tax (VAT) is an exercise for the Government of The Bahamas, URCA does not consider it as part of its remit to impose any requirements relating to VAT on Service Providers. URCA expects that the Government will publish rules and requirements to be imposed on businesses in due course which will address the concern raised by BTC.

URCA disagrees with CBL that most of Part 5 of the Regulations is unnecessary and amounts to micro-managing the billing and credit management practices of Service Providers. URCA considers that Consumers’ rights regarding billing and credit management should be safeguarded and the inclusion of these practices is warranted as part of URCA’s statutory remit. However, URCA is sympathetic towards BTC’s and CBL’s current challenges in recovering payment for overdue accounts and has made some adjustments to the timeline for action following non-payment of bills. While URCA does not aim to be overly prescriptive in this regard, URCA considers it necessary that all Service Providers adhere to a minimum timeframe for the handling of non-payment of bills. While it may have been useful for CBL to provide further information on the costs it would incur to implement the technical means to Restrict or Suspend Customers’ services, URCA does not object to CBL’s current process of handling non-payment of Customer bills. URCA has therefore amended Table 1 in Part 5.13.9 of the Regulations as follows:

Consequence of Non-payment of Bills	Minimum Number of Days from Payment Due Date
Restriction or First Notification of overdue bill payment	30
Suspension or Second Notification of overdue bill payment	45

Disconnection	60 <i>(or exhaustion of Customer's Security Deposit)</i>

Part 5.13 of the Regulations has also been amended to reflect the timeline for non-payment of bills illustrated in the above table. URCA stresses that the timeframes are merely the minimum acceptable, and a Service Provider is free to implement longer, less restrictive timeframes.

URCA does not share CBL's views that a three (3) month cut-off period for the recovery of unbilled amounts from a previous billing period is unnecessary and arbitrary nor inconsistent with a Customer's ability to request billing information for a period of up to three years from the date of the request. URCA considers it is necessary to place limits on a Service Provider's ability to issue a back bill to a Customer. Placing a time limit on back billing should encourage vigilance by Service Providers to detect and correct billing errors and inconsistencies in a swift manner and should translate into increased accuracy of bills issued to Customers.

While URCA has provided at Part 5.16.1(a) that a Service Provider must not take Credit Management action in relation to a specified amount that is the subject of an unresolved complaint, URCA does not consider that this would free a Customer from the responsibility of paying an outstanding balance and from being disconnected by the Service Provider as submitted by CBL. At Part 5.16.1(d) it is clear that a Service Provider may take Credit Management action in relation to those amounts that are not the subject of an unresolved Complaint. Therefore, Customers would still be responsible for paying all outstanding non-disputed balances by the payment due date indicated by the Service Provider.

Having considered CBL's comments relating to billing management and disconnection schemes for Universal Services, URCA has removed Part 5.13.6 of the Regulations; such schemes will be explored further in specific Universal Service regulatory measures issued by URCA.

In response to Sharlyn Smith's comments, URCA advises that billing accuracy and the timely issuance of bills is addressed in Part 5.1.1(c) of the Regulations which mandates Service Providers to ensure that Billings are accurate and timely and Part 5.6.1 explicitly states that "A Service Provider shall ensure that all charges relating to each Billing period are incorporated in the current Bill for that Billing period".

URCA notes the concerns of Deborah Weech and Franklyn R. Wilson regarding CBL's billing practices, particularly the application of a late fee on a Customer's account for payment not received by the payment due date. URCA also notes that reconnection and late payment fees were a common concern expressed by respondents at the various town meetings. As CBL is currently the only Service Provider to apply a late payment fee, URCA notes that CBL does not apply this late fee until after ten (10) days from the payment due date.⁸ While URCA has not proposed to regulate the time frames associated with late payment fees in the Regulations, URCA has stipulated in Part 5.14.1 of the Regulations that such fees must be reasonable, proportionate and must not represent or cause an inordinate burden to Customers.

⁸ See Table 1 on page 18 of CBL's response to URCA's public consultation document.

Part 6: Consumer Complaints Handling

Question 5:

- a) Do you agree with URCA's proposals in Part 6 of the draft Consumer Protection Regulations regarding what Consumers are entitled to from Service Providers and what Service Providers must do in relation to handling and Resolving Complaints regarding the supply of Services and Products?
- b) Do you agree with URCA's proposals in Part 6 regarding Service Providers' requirements for managing, monitoring, analysing and reporting Complaints? If not, why not?
- c) Should any other provisions be included in Part 6 or any removed?

BTC

BTC generally agrees with the proposals in Part 6 of the Regulations and expressed that as a result of URCA's consultation on "Guidelines for Developing Licensee Consumer Complaints Handling Procedures" (ECS 23/2011) and the Statement of Results and Final Determination (ECS 10/2012) thereon, it has adopted the recommended complaints handling procedures and is currently following them. With regards to Part 6.4.7, BTC noted that it may be difficult for Service Providers to deliver the offered Resolution to the Customer within ten (10) Business Days as there may be some delay in the Customer realizing the benefit of the credit. BTC further commented that while it is appreciative of the ability of Service Providers at Part 6.7 of the Regulations to charge for investigations requiring the retrieval of records that are more than twelve (12) months old it questioned whether the true cost of an investigation is chargeable to the Customer and whether the imposition of the charge would operate as a disincentive to the Consumer.

BTC expressed the view that in Part 6.4.6 the onus to escalate a complaint to URCA that had not been resolved within thirty (30) business days should be on the Consumer and not on the Service Provider. BTC commented that at Part 6.4.7, the requirement to provide the Consumer with written confirmation of the resolution of a complaint (beyond any written offer) is labour intensive and that its practice is to record complaint resolution details on its system. BTC also proposed that at Part 6.6.1 alternatives to writing to the Consumer at the last known address should be amended to include email and SMS/text messaging and various electronic channels such as Facebook and Twitter. Further, at Part 6.8.2 BTC expressed the view that a time limit should be imposed on the suspension of Credit Management Action on disputed charges so as

not to prejudice the Service Provider's ability to pursue legal avenues to recoup monies owed within the requisite limitation periods.

CBL

CBL noted that Part 6.8.1 of the Regulations prevents a Service Provider from restricting, suspending, disconnecting or taking other credit management action on a Customer's account while a complaint is being processed. This, in its opinion, leaves open the possibility that some Customers could submit frivolous billing complaints for the sole purpose of avoiding payment and delaying credit management action by the Service Provider. CBL recommended that this Part of the Regulations be amended to exempt frivolous complaints or complaints submitted for the primary purpose of avoiding payment. Further, CBL also commented that Part 6 of the Regulations effectively reflects URCA's Statement of Results and Final Determination on Licensee's Consumer Complaints Handling Procedures (ECS 16/2012) and that incorporating the complaints handling procedures in the Regulations is duplicative and unnecessary.

URCA's Comments

While URCA acknowledges that the majority of the provisions in Part 6 of the Regulations replicate those found in URCA's Guidelines for Developing Licensee Consumer Complaints Handling Procedures (ECS 16/2012), URCA does not agree that it was unnecessary to do so. URCA chose to include these provisions so that a comprehensive consumer protection framework would be available to Consumers in a single document. As already mentioned at Part 6.1.1 of the Regulations, URCA intends for the Guidelines to be read in conjunction with the consumer complaints handling provisions contained in the Regulations.

Consistent with URCA's Guidelines (ECS 16/2012), a Consumer has a right to escalate an unresolved complaint to URCA and Service Providers' complaints procedures must contain a clear statement to this effect. Service Providers are also required to notify Consumers that such escalation to URCA is subject to the Service Providers' internal escalation process for resolving complaints being firstly exhausted. This position is consistent with Parts 6.4.6 and 6.4.9 of the Regulations.

URCA notes BTC's concerns that it may be difficult for Service Providers to deliver the offered Resolution to a Complaint with ten (10) Business Days due to some delay in the actual realisation of the credit by the Customer. URCA has therefore amended Part 6.4.7(d) to allow for a Service Provider to complete all necessary actions to deliver the Resolution of a Complaint within ten (10) Business Days but not more than twenty (20) Business Days of the Consumer's

acceptance of the Resolution. URCA also notes BTC's comments that providing written confirmation of the resolution of a Complaint beyond a written offer of a resolution may be labour intensive. However, while a Service Provider may have recorded the complaint resolution on its system, URCA considers that it is equally important for a Consumer to be provided with confirmation of the resolution for record keeping purposes. Therefore, Part 6.4.7 (f) will remain as a provision of the Regulations.

URCA considers it is reasonable for a Service Provider to charge for the investigation of a Complaint requiring the retrieval of records more than twelve (12) months old as URCA appreciates that this information may not be readily available. URCA does not consider that the cost of the investigation operates as a disincentive to a Consumer; rather, it may encourage a Consumer to lodge a complaint as soon as possible after the incident being complained about has occurred in order to avoid being charged a fee for retrieving the records relative to that complaint. However, Service Providers are free to offer this service free of charge if they wish to.

URCA notes BTC's recommendation that Part 6.6.1 of the Regulations should allow Service Providers to email, text message and contact Customers via electronic channels such as Facebook and Twitter. It is not the intent of URCA to discourage Service Providers from utilizing multiple channels to communicate with their Customers. However, for the purposes of notifying the Customer that the Service Provider was unable to contact the Customer by telephone or other means, URCA maintains that the Service Provider must write to the Customer to advise of the previous attempts made to contact the Customer as mandated in Part 6.6.1 of the Regulations.

URCA does not object to imposing a time limit on suspending Credit Management action on a disputed amount that is the subject of a Complaint with a Service Provider in order to deter Customers from submitting billing complaints for the sole purpose of avoiding payment and Credit Management action being taken by a Service Provider. Upon the expiration of thirty (30) days from the date a Complaint is lodged, a Service Provider may commence Credit Management action to recover the disputed amount that is the subject of the Complaint. As Part 5.16 outlines credit management for disputed amounts, URCA will amend this Part of the Regulations to include this new time limit and will remove Part 6.8.

Part 7: Customer Quality of Service

Question 6:

- a) Do you agree with URCA's proposals in Part 7 of the draft Consumer Protection Regulations regarding the minimum Customer Quality of Service standard levels that Service Providers determined to have SMP by URCA should attain? If not, why not?
- b) Should any other provisions be included in Part 7 or any removed?

BTC

BTC acknowledged URCA's right to impose minimum Customer QoS standard levels that Service Providers should attain pursuant to their IOL. BTC queried whether it is URCA's intention to approve the additional Customer QoS standards or whether the requirement at Part 7.2.2 is for notification purposes only. BTC also noted that pursuant to its licence obligation, it already has a compensation and refunds policy which is currently displayed on its website.

BTC further commented that no other provision should be included in or removed from Part 7 of the Regulations.

CBL

CBL reiterated that the Customer QoS standards outlined in the Schedule should be limited to Price-Regulated SMP Services, more specifically, CBL's basic Pay TV service, BTC's retail fixed voice and access services and BTC's retail mobile voice products and data access services. CBL also repeated that where a Service Provider has failed to meet the Customer QoS standards due to an event of Force Majeure or due to the fault of the Customer, then the Service Provider should not be held liable.

URCA's Comments

URCA clarifies for BTC that the requirement at Part 7.2.2 for a Service Provider to notify URCA at least thirty (30) calendar days in advance of introducing additional Customer QoS is for notification purposes only. URCA notes BTC's comment that it already has a compensation and refunds policy; however, BTC will be required to publish a compensation and refunds policy that is applicable to the specific Customer QoS standards introduced in the Regulations. CBL's concerns relating to the Customer QoS standards have been previously addressed elsewhere in this document.

Part 8: Compliance and Monitoring by Service Providers

Question 7:

- a) Do you agree with URCA's proposals in Part 8 of the draft Consumer Protection Regulations regarding the compliance and monitoring arrangements that apply to Service Providers under the Consumer Protection Regulations? If not, why not?
- b) Should any other provisions be included in Part 8 or any removed?

BTC

BTC expressed concern over the increase of bureaucratic administrative burdens being imposed on Service Providers in addition to Service Providers' existing quarterly reporting obligations. Hence, BTC proposed that the compliance and monitoring requirements stipulated in Part 8 should be included in the quarterly report to URCA, rather than as a separate annual exercise. In its opinion, this would result in a more efficient and effective reporting mechanism. BTC also suggested that the compliance statement on behalf of the company be made by the senior executive with responsibility for customer service, except the end of year fiscal report which could be endorsed by the CEO.

BTC indicated that no other provisions in Part 8 should be included or removed.

CBL

CBL argued that the proposed time frame of six (6) months for implementing the Regulations is unrealistically short. CBL indicated that it would require at least eighteen (18) months to implement the Regulations in order to allow for a reasonable amount of time to implement changes to their billing system and associated staff training, the collection of increased security deposits from existing customers to correspond with the new process for the handling of unpaid bills, the implementation of new system processes and staff practices arising from the Customer QoS standards and the implementation of Customer complaint and QoS monitoring and reporting requirements.

URCA's Comments

URCA is sympathetic towards BTC's position with respect to the compliance and monitoring provisions in the Regulations. Therefore, URCA has amended Part 8.1.3 to allow for the quarterly submission of the Compliance Statement to URCA in order to monitor the

effectiveness and progress of the Regulations in a more efficient timeframe. Further, Part 8.1.3(a) which states that the Compliance Statement should be “*endorsed by the chief executive officer or other executive officer of the Service provider...*” already resolves BTC’s proposal about a senior executive with responsibility for customer service endorsing the Compliance Statement.

URCA disagrees with CBL that a period of eighteen (18) months is required to implement and comply with the obligations in the Regulations, particularly as URCA considers that doing so would pose an unreasonable disadvantage to Consumers who should have the security of knowing that URCA has implemented “*specific measures protecting the rights of consumers when contracting with licensees for the provision of electronic communications services and implementing complaint handling and dispute resolution procedures*”.⁹ While the obligations in the Regulations will require Service Providers to make some adjustments to their current practices, URCA does not consider that these obligations will require Service Providers to make significant and complex changes that would require a period longer than six (6) month to implement. Aside from posing general statements of possible dire consequences, CBL has not provided URCA with any empirical data that would justify such a long delay in implementing the Regulations. Therefore, URCA maintains its position in Part 8.1.1 that Service Providers are required to comply and implement the stipulated obligations within six (6) months of the publication of the Regulations.

⁹ Paragraph 21, Electronic Communications Sector Policy.

Part 9: Compliance Reporting by URCA

Question 8:

- a) Do you agree with URCA's proposals in Part 9 of the draft Consumer Protection Regulations regarding how URCA will report on compliance monitoring on a regular basis to ensure the overall effectiveness of the Consumer Protection Regulations? If not, why not?
- b) Should any other provisions be included in Part 9 or any removed?

BTC

BTC advised that it has no objection to the periodic reports that URCA will publish online on its website in order to ensure the overall effectiveness of the Regulations. However, BTC raised the following questions regarding the publication of the reports:

- 1) How frequently will the reports be published?
- 2) Will the information at (c), (d) and (e) of Part 9.1.1 be published on an anonymous basis?

BTC recommended that the information at Part 9.1.1 (c), (d) and (e) all be published on an anonymous basis as the information could reveal important network information which should remain confidential.

BTC advised that no other provisions should be included in or removed from Part 9.

CBL

CBL indicated that it had no comments on Part 9 of the Regulations.

URCA's Comments

URCA clarifies that it will publish the progress reports quarterly on its website upon receipt and review of the Compliance Statements received by Service Providers. Publishing the reports quarterly will allow URCA time to monitor compliance with the Regulations, gather specific information relating to complaints and to better identify recurring issues that may need to be addressed in an effort to improve the overall effectiveness of the Regulations. URCA clarifies that only identified breaches of the Regulations and remedial action taken will be published on an anonymous basis, while the remaining information at Part 9.1.1 that is to be included in the

progress reports will be openly reported in the progress reports. URCA disagrees with BTC's position that important network information might be revealed as the progress reports will only contain information regarding Service Providers' compliance with the Regulations.

Part 10: Monitoring, Review and Amendments by URCA

Question 9:

- a) Do you agree with URCA's proposals in Part 10 of the draft Consumer Protection Regulations regarding how URCA will monitor compliance with the Regulations, and periodically review and amend the Regulations? If not, why not?
- b) Should any other provisions be included in Part 10 or any removed?

BTC

BTC commented that it generally has no objections to URCA's proposals in Part 10 of the Regulations. However, it notes that at Part 10.2.2 it is not clear at what stage of the industry compliance monitoring identification of non-compliance by the Service Provider would the Service Provider be notified by URCA. BTC argued that as soon as URCA is notified by the industry group it should notify the Service Provider of the Industry Complaint.

Further, BTC suggested that URCA clarifies at Part 10.7.2 that the Service Provider is not to address the Industry Complaint until URCA has been notified of the complaint. BTC indicated that it assumed that the order of action would be that it would take no steps until contacted by URCA with the compliance monitoring results.

Regarding possible sanctions available to URCA as outlined at Part 10.8.4, BTC proposed that some parameters are set for the imposition, in particular, of fines for breach of the Regulations in order to ensure that penalties are not imposed unfairly. BTC proposed that URCA commence a public consultation on the financial penalties to be imposed for breaches of the Regulations. BTC also suggested in instances where a Service Provider's licence may be suspended or revoked should be clearly outlined, after consultation with the industry. Also, regarding Part 10.10.2, BTC proposed that commercially sensitive information should be released only to URCA and that the other party should only be advised that the commercially sensitive information cannot be revealed because of its nature.

BTC advised that no other provisions other than what was already mentioned should be included in or removed from Part 10 of the Regulations.

CBL

CBL advised that it had no comments regarding URCA's monitoring, review and amendments proposed in Part 10 of the Regulations.

URCA's Comments

URCA clarifies for BTC that Part 10.2.2 of the Regulations concerns general industry compliance monitoring by URCA and is not related to the handling of specific industry Complaints outlined at Part 10.7. URCA has however amended Part 10.7.2 to specify that a Service Provider is not to address the industry Complaint until URCA has been notified of the Complaint. Part 10.7.2 now reads as follows:

"All industry Complaints regarding purported breaches of the Regulations shall be lodged directly with URCA and not the Service Provider. Where an industry Complaint is lodged with a Service Provider without evidence or indication that the Complaint has first been lodged with URCA, the Service Provider shall not address the Complaint, shall return the Complaint to the complainant and shall notify the complainant that any further contact regarding the Complaint should be from URCA and not from the Service Provider."

URCA notes and rejects BTC's additional comments that URCA set some parameters for the imposition of penalties and fines for the breach of the Regulations and that URCA outlines instances where a Service Provider's licence may be suspended or revoked after consultation with the industry. URCA reminds BTC that prior to imposing sanctions on a licensee by way of an order, URCA is required under section 100 of the Communications Act to first issue the licensee a preliminary determination allowing the licensee an opportunity to make representations about the matters referred to in the preliminary determination and an opportunity to comply with the obligations referred to therein of which the licensee is in contravention.

URCA has considered BTC's comment that commercially sensitive information be released only to URCA and that the other party is only advised that the commercially sensitive information cannot be revealed because of its nature. URCA does not object to this recommendation and has amended Part 10.10.2 accordingly. Part 10.10.2 now states the following:

“Subject to these Regulations and any requirement under section 14 of the Communications Act or any other law, where URCA declares information disclosed by a party in connection with a Complaint as commercially confidential, URCA, in its discretion, may not disclose the commercially confidential information to the other party to the complaint and will advise that party that, aside from a redacted version, all of the information cannot be revealed because of its commercially confidential nature.”

Schedule – Customer Quality of Service Standards

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC’S POSITION	CBL’S POSITION	RODGER “DODGER’S” POSITION
<p>APPROVAL OF APPLICATION FOR SERVICE</p>	<p>No more than two (2) Business Days.</p>	<p>Agreed.</p>	<p>New Providence and Grand Bahama - ≤ 2 Business Days</p> <p>Eleuthera, Abaco, Exuma and Andros - ≤ 5 Business Days</p> <p>All other islands – Best Efforts</p> <p>These targets should only apply: a) where all necessary facilities to provide the service are in place or in immediate proximity to the applicants’ premises;</p> <p>b) no delay is encountered in the credit verification process; and</p> <p>c) no delay is encountered in the customer paying the requested security deposit.</p>	<p>No comment.</p>

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC'S POSITION	CBL'S POSITION	RODGER "DODGER'S" POSITION
SERVICE ACTIVATION AFTER APPROVAL	<p><u>Fixed Voice</u></p> <p>Customers in New Providence and Grand Bahama – No more than four (4) Business Days.</p> <p>Customers in all other islands – No more than seven (7) Business Days.</p>	<p>Customers in New Providence and Grand Bahama – No more than five (5) Business Days. This allows Service Providers a full week with the ability to fall back on the weekend in case of unexpected delays. It is important to caveat the time limits for each service with the proviso that the infrastructure is in place and weather permitting.</p>	<p>No need or basis to apply this standard to CBL's fixed voice services since CBL does not possess SMP in the fixed voice market.</p>	<p>No comment.</p>

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC'S POSITION	CBL'S POSITION	RODGER "DODGER'S" POSITION
	<p><u>Mobile Voice and Mobile Data</u></p> <p>No more than one (1) working hour for Customers in all islands.</p> <p><u>High Speed Data Services and Connectivity</u></p> <p>Customers in New Providence and Grand Bahama – No more than four (4) Business Days.</p> <p>Customers in all other islands – No</p>	<p>The European standard is twenty-four (24) hours.</p> <p>Customers in New Providence and Grand Bahama – No more than five (5) Business Days.</p>	<p>No comment.</p> <p>No need to apply this standard to high speed data services and connectivity since URCA has not found it necessary to impose ex ante price regulation on these services.</p>	<p>No comment.</p> <p>No comment.</p>

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC'S POSITION	CBL'S POSITION	RODGER "DODGER'S" POSITION
	<p>more than seven (7) Business Days.</p> <p><u>Pay TV</u></p> <p>Customers in New Providence and Grand Bahama – No more than four (4) Business Days.</p> <p>Customers in all other islands – No more than seven (7) Business Days.</p>	<p>Customers in New Providence and Grand Bahama – No more than five (5) Business Days.</p>	<p>New Providence and Grand Bahama - ≤ 4 Business Days</p> <p>Eleuthera, Abaco, Exuma and Andros ≤ 7 Business Days</p> <p>All other islands – Best Efforts</p> <p>This standard applies only to CBL's basic Pay TV service. CBL further argues that this standard should apply only to standard service activations and not to non-standard activations, which include cases where all necessary facilities are not readily available to provide the requested service.</p>	<p>No comment.</p>

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC'S POSITION	CBL'S POSITION	RODGER "DODGER'S" POSITION
CUSTOMER SCHEDULED APPOINTMENTS	<p>All customer appointments should be honoured.</p> <p>A Service Provider may reschedule an appointment by first notifying the Customer at least eight (8) working hours prior to the scheduled appointment.</p>	Agreed.	<p>All customer appointments should be honoured, provided that the customer also honours the appointment.</p> <p>Service Providers to notify a Customer at least four (4) hours prior to a scheduled appointment in the event that the Service Provider has to reschedule the agreed appointment time. This notice should include leaving a message at the customer's contact number in the event the customer did not answer the technician's phone call.</p>	<p>Consumer must also honour the appointments that they agree with the Service Provider. If the Consumer dishonours the appointment then the Consumer should be made to reschedule the appointment for the next day or within the next forty-eight (48) hours.</p>
RESPONSE TO CUSTOMER COMPLAINTS	<p>All complaints are to be acknowledged in writing within five (5) Business Days of</p>	Agreed.	No comment.	

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC'S POSITION	CBL'S POSITION	RODGER "DODGER'S" POSITION
	receipt.			
CONSUMER COMPLAINT RESOLUTIONS	All complaints are to be resolved within thirty (30) Business Days of receipt.	Agreed.	No comment.	No comment.
REPEATED LOSS OF SERVICE	Faults should not reoccur within thirty (30) days of repair of first incident of loss of service.	Agreed.	This standard should not be imposed as it is not a standard that other jurisdictions commonly apply. When repeated loss of service occurs, it can be the result of factors outside of the Service Provider's control such as adverse weather conditions, power outages and third party actions (for example, cable cuts). If this standard remains, it should be	No comment.

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC'S POSITION	CBL'S POSITION	RODGER "DODGER'S" POSITION
			amended to state that the cause of any specified repeated loss of service must be solely attributable to the Service Provider.	
FAULT REPAIR TIME	<p>Customers in New Providence and Grand Bahama – No more than two (2) Business Days.</p> <p>Customers in all other islands – No more than four (4) Business Days.</p>	<p>Customers in New Providence and Grand Bahama – No more than six (6) Business Days.</p> <p>Customers in all other islands – No more than six (6) Business Days.</p> <p>A proviso should be included for force majeure events.</p>	<p>Customers in New Providence and Grand Bahama - ≤ 3 Business Days.</p> <p>Customers in Eleuthera, Abaco, Exuma and Andros - ≤ 7 Business Days</p> <p>Customers in all other islands – Best Efforts</p> <p>CBL argues that this standard should apply only to CBL's Basic TV services and that it should on apply a) where access to the customer's premises is not delayed or impeded and b) where weather conditions have not</p>	No comment.

CUSTOMER QUALITY OF SERVICE STANDARDS	TARGET	BTC'S POSITION	CBL'S POSITION	RODGER "DODGER'S" POSITION
			led to a large number of faults being reported at the same time.	
WRONGFUL DISCONNECTION	Reconnection within one (1) working hour of notification.	Reconnection within two (2) working hours after notification.	Reconnection within one (1) Business Day. The Service Provider typically requires more than one (1) working hour to investigate a claim of wrongful disconnection.	No comment.
RECONNECTION AFTER DISCONNECTION FOR NON-PAYMENT	Reconnection of the Service should occur within eight (8) working hours of acknowledgement of payment.	Agreed.	Reconnection of the Service should occur within one (1) Business Day of acknowledgement of payment.	No comment.

URCA's Comments

1. Approval of Application for Service

URCA notes CBL's recommendations pertaining to the approval of a Customer application for service in the Family Islands, particularly CBL's recommendation to divide The Bahamas into three (3) geographic zones for the purposes of setting Customer QoS standards. URCA is cognisant of the challenges Service Providers face in reaching its Customers in the Family Islands, particularly the more remote islands, due to the limited availability or lack of local technical staff as well as the limited availability of flights and ferries to various Islands. URCA also notes the responses received at various town meetings from Customers in the Family Islands expressing their concerns on being subject to longer wait times for many of the Customer QoS standards. URCA however does not object to the three (3) geographic zones proposed by CBL for some of the Customer QoS standards.

URCA however disagrees that "best efforts" should be the target for all other islands for this standard. URCA is of the view that the Customer QoS standards must be measurable in order for Consumers to ascertain whether or not they are entitled to compensation or a refund if the standard is not met. In considering a new application for service from a Customer residing on a remote Family Island, a Service Provider should be able to ascertain whether that Customer is able to receive a service based on whether the Service Provider currently provides service to that particular area. Moreover, based on industry experience, a Service Provider should be aware of all of the areas where the necessary facilities exist for the provision of its services. URCA notes that the Service Provider's approval of the Customer's application and the actual provisioning of the service are distinct. Once a Service Provider is able to ascertain whether its services are available in a particular area on a particular island and the Customer's credit verification is complete, there should be no delay on the Service Provider's part in approving the Customer's application for service. Therefore, URCA considers that "no more than two (2) Business Days" is sufficient time for a Service provider to approve an application for service for Customers on all islands throughout The Bahamas.

Further, taking CBL's concerns into account, URCA has modified the definition of this standard to allow for a Service Provider to determine the availability of its service in a particular location. The "Approval of Application for Service" standard will now be defined as follows:

“This Standard refers to the time that it should take for a Service Provider to approve a completed application for service from the date of submission of the application through to the applicant’s payment of a security deposit and (if necessary) the Service Provider completing a Customer credit verification process and confirming for itself whether the relevant service is available in the applicant’s area.”

2. **Service Activation After Approval**

Fixed Voice

URCA does not object to allowing Service Providers five (5) Business Days for service activation in the event of unexpected delays for fixed voice in New Providence and Grand Bahama as proposed by BTC. In response to CBL’s position that there is no need or basis for applying this standard to its fixed voice services since it does not possess SMP in the fixed voice market, URCA reiterates that the Customer QoS standards apply to Service Providers that have been determined to have SMP in the provision of fixed voice, high speed data services and connectivity, mobile voice and mobile data services and pay TV services.

URCA has also set a target for Customers in Abaco, Eleuthera, Exuma and Andros of “no more than six (6) Business Days” and for Customers in all other islands of “no more than seven (7) Business Days”.

Mobile Voice and Mobile Data

While BTC noted that the European standard for this Customer QoS standard is twenty-four (24) hours, BTC did not object to the target of no more than one (1) working hour for Customers in all islands. URCA agrees with BTC that this target is achievable and this target will remain.

High Speed Data Services and Connectivity

URCA does not object to BTC’s proposal of allowing Service Providers five (5) Business Days for service activation for this Customer QoS standard for Customers in New Providence and Grand Bahama. Further, for this standard, URCA has also set a target for Customers in Abaco, Eleuthera, Exuma and Andros of “no more than six (6) Business Days” and for Customers in all other islands of “no more than seven (7) Business Days”.

URCA disagrees with CBL’s position regarding high speed data services and connectivity and reiterates that all of the Customer QoS Standards will apply to all Service Providers that have been determined to have SMP in the provision of this service as the Customer QoS standards are not based on the *ex ante* price regulation of a particular service.

Pay TV

URCA does not consider that Service Providers would require more time to activate Pay TV services than they would for fixed voice services and high speed data services and connectivity. Therefore, URCA does not object to BTC's proposal of allowing Service Providers no more than five (5) Business Days for service activation for Pay TV services in New Providence and Grand Bahama. URCA however objects to CBL's position that service activation for Pay TV in Eleuthera, Abaco, Exuma and Andros should be completed within seven (7) Business Days and has set this target for "no more than six (6) Business Days". Further, URCA disagrees with CBL that "best efforts" should be the target for service activation for Pay TV in all other islands. URCA considers that a target of "no more than seven (7) Business Days" for service activation for Pay TV for Customers in all other islands is fair and reasonable. URCA will also specify that the time for service activation commences when the Service Provider has ascertained that all necessary facilities are in place or in immediate proximity to the Customer's premises and when the Service Provider has access to the Customer's premises.

3. Customer Scheduled Appointments

URCA notes CBL's concerns that it may not always be possible for Service Providers to notify Customers eight (8) working hours in advance of the rescheduling of an appointment and the concerns of CBL and Rodger "Dodger" that Customers should be available at the premises at the scheduled time to honour the appointment with the Service Provider. URCA does not object to these recommendations and has therefore amended the target for Customer Scheduled Appointments to four (4) working hours prior to the scheduled appointment with the added requirement that all customer appointments should be honoured provided that the Customer also honours the scheduled appointment time.

4. Repeated Loss of Service

URCA disagrees with CBL's position that this standard should not be imposed on Service Providers because it is not a standard in other jurisdictions. URCA notes that this standard is applied in other jurisdictions and within the region as both the Fair Trading Commission in Barbados and the Eastern Caribbean Telecommunications Authority (ECTEL) have adopted this as a QoS standard for the industry. While URCA notes that these standards were originally applied to telecommunications and not Pay TV services, URCA considers that Customers subscribing to such services should nonetheless be guaranteed reliable service of a high quality with minimum incidence of disruption.

However, URCA will specify that the cause of the repeated loss of service must be solely attributable to faults on the Service Provider's network.

5. Fault Repair Time

URCA has considered BTC's and CBL's proposals in relation to this standard and has increased the fault repair time for Customers in New Providence and Grand Bahama to "no more than three (3) Business Days" and Customers in Eleuthera, Abaco, Exuma and Andros to "no more than four (4) Business Days". URCA considers a target of "no more than five (5) Business Days" for Customers in all other islands as a reasonable one to ensure that those Customers are guaranteed efficient and timely restoration of services due to a service fault on the Service Provider's network, equipment or systems.

6. Wrongful Disconnection

URCA notes BTC's and CBL's suggestions to increase the timeframe for reconnection of a Customer's service after wrongful disconnection. While URCA recognises that a Service Provider would require time to investigate a claim for wrongful disconnection, URCA does not agree that one (1) Business Day is required to do so. URCA considers that a more reasonable period for a Service Provider to reconnect a Customer's services after wrongful disconnection is four (4) working hours having regard to the Customer being disadvantaged through no fault of their own.

7. Reconnection after Disconnection for Non-payment

URCA notes CBL's comments that the term "working hour" was not defined in the Regulations and that it assumed that eight (8) working hours is equivalent to one (1) Business Day. URCA clarifies that the term "working hour" should be given its normal meaning, referring to the Service Provider's hours of operation in a given Business Day. As each Service Provider will have different operating times, and in some cases open for longer than eight hours per day, one (1) Business Day is not to be interpreted as the equivalent of eight (8) working hours.

4. Conclusion and Next Steps

Having considered the responses to the Consultation Document as expressed within this Statement of Results, URCA has published its Consumer Protection Regulations (ECS xx/2013). Along with establishing the framework for the protection of Consumers' rights, the Regulations have placed obligations on the relevant Service Providers to ensure compliance. In particular, Service Providers are required to:

- a) within three (3) months of the publication of the Regulations, submit to URCA for approval its compensation and refunds packages payable to Customers for failure to meet the defined targets for the relevant Customer QoS targets;
- b) within six (6) months of the publication of the Regulations, submit to URCA a Compliance Statement as provided in Part 8.1.3 of the Regulations; and
- c) within six (6) months of the publication of the Regulations, comply with all other stipulated obligations outlined in the Regulations.

URCA anticipates that the Regulations will be reviewed every three (3) years and otherwise as required based on monitoring the effectiveness and compliance with the standards herein. Where in URCA's view amendment to the Regulations is necessary, URCA will seek comments from consumers, licensees and all relevant stakeholders prior to publishing the proposed amendments.

Annex – Summary of Comments at Town Meetings

This Annex summarizes the main questions and comments raised by members of the general public at the town meetings organized by URCA are as follows:

1st Town Meeting – Abaco – June 17, 2013

- Consumer protection is overdue and URCA's initiative is a positive one.
- CBL has no office in Abaco where their customers can go in to pay their bills and there is also no representative for the company based on the island. An office is needed on the island to improve overall customer experience.
- Why is there only one service provider for cable at this time?
- Cable Bahamas is the worst provider of cable service and treats Abaco residents worse than outside children. The service is bad and the consumer is not getting value for their money. A presence is needed on the island where the consumer can voice their complaints face to face. Why are there no other service providers on the island?
- Customers are paying a premium price for an inferior product (cable).
- Why is there no competition for CBL?
- CBL is providing services to customers in Abaco at a high cost for stolen feeds.
- Why is there only one cellular provider in The Bahamas and what is the date for the opening of the airwaves.
- Why are the service providers only required to retain complaints for a 12 month period?
- How long does URCA retain its records?
- There may have been many instances where the consumer had to go up against the big corporations. The big corporations have the financial capacity to retain legal counsel whereas the small consumer doesn't. Will URCA assist the consumer with legal support or in any other capacity?
- The name URCA – Utilities Regulation & Competition Authority – would suggest that it regulates all of the utility companies including BEC & Water & Sewerage. How is it that URCA does not regulate these other 2 entities?
- Why can't international companies compete? There needs to be less red tape for the entrance of international companies into the market.

Key questions and concerns raised at meeting with the Rotary Club of Abaco on June 18, 2013:

- When will the Regulations come into effect?
- What protection do customers have in relation to data protection and privacy rights?

- When will BEC come under URCA?
- To what degree have the Regulations been discussed with BTC and CBL?

2nd Town Meeting – New Providence – June 26, 2013 in collaboration with We The People

- Is CBL required to have closed captioning for hearing impaired customers?
- If a customer service complaint is not dealt with within 30 days, what roles does URCA play in this regard?
- When will consumer protection regulations be applicable with regard to the other utility service providers?
- Why is it that customers who have services on a pre-paid basis are not entitled to the same services as those who have post-paid services?
- Most consumers would have signed a contract with the Service Provider which limits the Service Provider's liability. If a situation arose where the customer felt that they needed additional recourse, then does URCA have the right to give that customer any recourse? An example was given of the nationwide blackout last year with BTC. Did anyone have the right to claim? How does URCA deal with this?
- What rights do consumers have when the Service Provider decided across the board that they are introducing a new type of service which requires upgrades to the consumer's television and box sets. A tremendous cost has to be borne by the consumer to accommodate this upgrade. What are the rights of the consumer in this regard?

3rd Town Meeting – Eleuthera – July 11, 2013

- Are the service providers required to have an office presence on the islands where their service is available?
- With regards to churning for new applicants, will there be a mandatory credit check? How would the service provider find out if the customer has bad debt?
- The proposals for the customer QoS standards timeframes are different for the Family Islands than Nassau and I would have a serious objection to that because the rates are the same throughout The Bahamas. If customers in the Family Islands are not getting the benefit of lower rates then we should not be penalised with longer wait times for services or service repairs.
- There is no reason why the timeframes cannot be the same for Eleuthera as New Providence due to the close proximity to the nation's capital and the population size of consumers on the island.
- CBL and BTC have technicians on the islands so there should be no reason why there is a distinction between New Providence and the other islands.
- Is there a limited amount of competitive service providers already approved by URCA?

- Should service providers still charge customers the same amount for service after a natural disaster, such as a hurricane, when there is no service for the entire month?
- BTC's warranty period is unfair. When BTC replaces a product under a warranty, it does not apply a new warranty period for the replacement product. The warranty for the replacement product will be the period remaining on the warranty for the initial product.
- URCA should make sure that there are more service providers and that BTC's monopoly doesn't continue beyond 2014.

4th Town Meeting – Cockburn Town, San Salvador – July 17, 2013

- Why do complaints take so long to be resolved?
- There is no CBL representative on the island to complain to about quality of service.
- There are too many stations provided by CBL in Spanish.
- CNN is not offered as part of the cable line up.
- The audio for the ZNS night news is low, yet the commercials are loud.
- A local office for CBL is needed.
- A local office is needed in the outer settlements. BTC has a local office, but when customers from the outer settlements go to make payments, the office is closed.
- Mr. Jones shared his experience with the audience and made the following comments:
 - While making a long distance call on his cellphone, his call was disconnected in the middle of the conversation. Yet, at the end of the month, BTC charged him a hefty fee. He is receiving poor service and paying heavily for it. He understands the government's position to try to regain ownership of BTC as this is the worst service that they have provided to customers in any lifetime. The residents of San Salvador deserve better in terms of communications, whether it is by telephone or television.
- There are business persons bringing in cellphones to San Salvador, but the quality of service is very poor.
- Service Providers need to revisit their billing processes.
- Billings need to be simplified, particularly so that the elderly can understand what they are being charged for.
- The 5 day notice period before Suspension of an account is insufficient time in the Family Islands and a longer period is needed.
- Who will pay for the investigation of a billing dispute?
- BTC's billings were previously simplified by showing number called, length of the call and charges, but now customers only receive a summary of their charges that do not detail what the individual charges are on the bill.

- Seven (7) day activation for fixed voice services in the Family Islands is too long.
- Eight (8) hours for reconnection for non-payment of bills is too long.
- BTC's local office has only 2 employees. If one of the employees goes to the bank then the office is closed. There is only one technician and if he is sick then no work is done.

5th Town Meeting – Nicholl's Town, Andros – July 17, 2013

- It is unfair that BTC requires customers to pay for a phone service despite the service being disconnected.
- BTC is quite aware that it is unnecessarily charging customers. Vibe phone seldom works forcing customers to make long distance calls using landline phone.
- Expectation that the outcome of the consultation will be better prices and better services for customers.
- Cable customers in Andros only get 53 channels while customers in Nassau get more additional channels.
- There is no cable TV in the South Andros area. CBL says that there are not enough occupied houses in the area for them to extend the service.
- Cable Bahamas does not have a local office. When a payment is made at the bank, a bill is generated with a late fee even though the payment was made at the bank by the 21st of the month.
- If CBL disconnects a subscriber, then ZNS TV should still be available. ZNS should be mandatory and available whether a bill is paid or not.
- If a modem is damaged, is the service provider or the subscriber required to replace the modem?
- What is the purpose of paying a security deposit? Will I get interest on my security deposit?
- CBL provides cable TV to the school and they have the TV in the office area, but I believe that it should be available in other areas of the school.
- BTC should notify customers how much roaming charges are while abroad.
- If you want BTC to investigate charges on your bills, they charge \$10 or \$15 to carry out the investigation.
- BTC is short staffed and it takes too long for repairs to be carried out.
- What about loss of business due to the phone line being out of service because of the service provider's fault and outages?

6th Town Meeting – Grand Bahama – July 17, 2013

- What areas of Grand Bahama were CBL meant to cover when first established?
- The services in the Southern Bahamas are not up to par.

- Churches are considered as business customers and they should not be considered as such.
- There should be no late fee and no disconnection/reconnection fee for CBL services.
- Customers in Grand Bahama are still being charged a Bell South rental fee of \$1.25.
- Customers in Grand Bahama frequently lose signal with many of the cable channels.
- Internet service keeps dropping and this happens too often for the amount of money paid to service providers.
- What happens to the interest on the security deposit paid to the service providers?
- Unused cell phone minutes should roll over or be credited to customers' accounts.
- There should be a "cooling off" period without a penalty imposed on customers who purchase cell phones or other devices from service providers.
- Compensation for failure to meet Customer Quality of Service standards should be automatic. Customers should not have to write in for compensation.
- Reference to business days should be omitted.
- If a bill payment is due on a non-business day then the payment due date should be moved to the following day.
- There should be no reconnection fees as it does not require much from the service provider to reconnect a service and no costs are incurred for reconnection by the service provider.
- There should be no fees charged to customers while their services are disconnected.
- There should be no late fees imposed on customers when a service provider requires advance payment of bills.