



# **CONSUMER PROTECTION REGULATIONS**

**ECS 19/2013**

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# CONSUMER PROTECTION REGULATIONS

## Citation

These Regulations may be cited as the Consumer Protection Regulations, 2013.

## PART 1: INTRODUCTION

### 1.1 Scope of Regulations

1.1.1 The Utilities Regulation and Competition Authority (URCA) hereby issues the following Regulations in exercise of the powers conferred on it by section 45(2) of the Communications Act, 2009 (Communications Act), which provides for the issuance by URCA of general regulations relating to the protection of Consumers and the provision of Services by the holders of Individual Operating Licences and Class Operating Licences Requiring Registration in The Bahamas.

### 1.2 Application

1.2.1 These Regulations shall apply to all Licensees having been issued by URCA with either an Individual Operating Licence or a Class Operating Licence Requiring Registration in accordance with the Communications Act.

### 1.3 Definitions

1.3.1 In these Regulations, any word or expression to which a meaning has been assigned in the Communications Act has the meaning so assigned and, unless the context otherwise requires, the following terms will have the following meanings:

**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 for or obtain any Services or Products provided or supplied by the Service Provider.

**Bill** means a written or electronic message from a Service Provider which advises a Customer of the total of each Billed Charge.

**Billed Charge** means a charge that is due for payment by a Customer in respect of Services and Products provided by a Service Provider.

**Billing** means any one, or a combination of, the following activities:

- (a) calculating and assembling charges incurred by a Customer during a Billing period;
- (b) applying any debits or credits outstanding or discounts due against the charges, and calculating the net amount payable by the Customer;
- (c) issuing and delivering Bills to the Billing address;
- (d) handling Billing Enquiries; and
- (e) receiving and receipting payments made by the Customer.

**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.

**Closed**, when used in connection with a Complaint, means that the Complaint is no longer open in the Service Provider's complaint management system and either:

- (a) the Resolution has been implemented and no further work is required by the Service Provider; or
- (b) the Service Provider is unable to resolve the Complaint and Part 6.4.9 or Part 6.5.1 apply and have been complied with.

**Complaint** means an expression of dissatisfaction made by a Consumer to a Service Provider in relation to its Services, Products or the Service Provider's complaints handling process, and to which the Consumer expects a response or Resolution from the Service Provider.

**Consumer** means:

- (a) a person who requests, receives, acquires, uses or subscribes to Services for the primary purpose of personal or domestic use and not for resale; or
- (b) a business or not-for-profit organisation which requests, receives, acquires, uses or subscribes to one or more Services which are not for resale.

**Credit Management** means the process by which a Service Provider:

- (a) manages any credit risk to the Service Provider; and
- (b) collects outstanding debts from Customers.

**Customer** means a Consumer who has entered into a contract with a Service Provider.

**Customer Quality of Service** means the main parameters defined by URCA from time to time to measure the overall performance of an electronic communications network including the minimum standards a Service Provider is to maintain regarding customer service and customer satisfaction in the provision of its Services. Overall standards applicable to licensees' networks will be addressed by URCA in a separate document to be issued subsequent to these Regulations.

**Disconnection** means the termination by a Service Provider of a customer contract for a Service.

**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.

**Offer** means a current, standard in-market plan containing pricing and non-price terms and conditions that are made by a Service Provider for the provision of Services and/or Products, which is available to any individual Consumer or Consumers as a class.

**Product** means a physical item that is provided, or caused to be provided, by the Service Provider to a Customer and is required by the Customer to access or use the Service.

**Resolution** when used in connection with a Complaint, means the bringing of that Complaint to a conclusion in accordance with these Regulations.

**Restriction** means the temporary limitation of a Customer's access to Services provided by the Customer's Service Provider.

**Security Deposit** means a payment collected by a Service Provider from a Customer to mitigate any actual or perceived credit risk which the Service Provider assumes in providing Services to that Customer.

**Services** means electronic communications services and includes, where the context so requires, Products.

**Service Provider** means a licensee holding an Individual Operating Licence or a Class Operating Licence Requiring Registration.

**Suspension** means the temporary prevention of use of a Customer's Service by a Service Provider.

## **1.4 Interpretation**

1.4.1 In these Regulations, unless the contrary appears:

- (a) headings are for convenience only and do not affect interpretation;
- (b) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) words in the singular include the plural and vice versa;
- (d) words importing persons include a body whether corporate, politic or otherwise;
- (e) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) mentioning anything after include, includes or including does not limit what else might be included;
- (g) words and expressions which are not defined have the meanings given to them in the Communications Act; and
- (h) reference to a person shall include firms or companies.

## **1.5 Effect**

- 1.5.1 These Regulations shall have effect notwithstanding anything to the contrary in any contract between a Customer and a Service Provider.
- 1.5.2 Notwithstanding anything contained in these Regulations, nothing herein contained shall operate so as to limit or exclude, or is intended to operate so as to limit or exclude any legal rights or remedies of any Consumer or the access of any Consumer to the Courts or to any other appropriate dispute resolution forum.
- 1.5.3 Nothing in these Regulations shall remove or restrict the effect of or reliance on:
- (a) any written law or approved regulatory measure that imposes on the Service Provider a duty stricter than that imposed under these Regulations; or
  - (b) any term in any contract between a Customer and a Service Provider to the extent that the term:
    - (i) imposes a stricter duty on the Service Provider than that imposed under these Regulations; and
    - (ii) provides a remedy more advantageous to the Customer than the remedies provided under these Regulations.

## **1.6 Application of Regulations**

- 1.6.1 These Regulations will bind Service Providers as provided for under section 45(2) of the Communications Act.
- 1.6.2 These Regulations shall come into effect upon publication in accordance with section 12 of the Communications Act.

## **Part 2: CONSUMER SALES, CONTRACTS AND SERVICES**

### **2.1 Provision of Information**

- 2.1.1 Parts 2.2.3, 2.9 and 2.10 of these Regulations shall not apply to licensees holding Class Operating Licences Requiring Registration or to Individual Operating Licensees that have not been designated as having Significant Market Power (SMP) in the provision of electronic communications services.
- 2.1.2 A Service Provider shall provide Consumers with information on Services and Products that is accurate, true, up-to-date, in simple, clear language and adequate to ensure that the Consumer is aware of all material aspects of the Service and any matters which might reasonably be expected to impact upon the Consumer's decision to enter into a contract for the Service, or the Consumer's enjoyment of the Service.
- 2.1.3 A Service Provider shall ensure that the current service arrangements, including rates and terms and conditions for all Services and Products offered to the public are readily available and prominently displayed on any website through which the Service Provider does business with or provides information to the public, and at all retail outlets where the Service Provider's Services and Products are sold. Such information shall be provided by Service Providers free of charge to Consumers.
- 2.1.4 Where a Service Provider is required by these Regulations to inform a Consumer of matters under these Regulations, a Service Provider shall satisfy this obligation by means of any or all of the following:
- (a) providing the information to the Consumer verbally;
  - (b) providing the information to the Consumer in writing;
  - (c) prominently displaying the information at all retail outlets where the Service Provider's Services are sold and/or on websites where the Consumer enters into a contract with the Service Provider;
  - (d) providing the information to the Consumer electronically; and
  - (e) placing the information in any mass media.



2.1.5 Subject to Part 2.1.2, a Service Provider is not required to give a Consumer information under these Regulations if:

- (a) a Consumer's request for information is frivolous or would be unduly onerous upon the Service Provider;
- (b) the Consumer is not eligible for the Services;
- (c) the information is not relevant to the Consumer's period of use of the Services;  
and
- (d) it would breach obligations of confidentiality or otherwise be in contravention of any law.

## **2.2 Description of a Service**

2.2.1 Before entering into a contract for any Service, a Service Provider shall provide Consumers with a complete description of the Service in clear and plain language, avoiding unnecessary legal or technical terms. Where other Services are required in order to effectively utilise the Service, the Service Provider shall also similarly inform the Consumer of all such other Products and Services that might be required.

2.2.2 A Service Provider shall provide information on the contracted Customer Quality of Service for the Service offered, the waiting time for initial connection and any service areas and coverage maps if applicable.

2.2.3 The Service Provider shall provide specific information regarding any compensation, discount, rebate, refund or other arrangements which may apply if contracted Customer Quality of Service levels are not met, along with the procedures and methods for resolving disputes in respect of a Customer's contract.

2.2.4 Where Services are subject to upgrade or migration options, Consumers shall be provided with clear and complete information regarding the upgrade or migration terms, including any changes in Customer Quality of Service and, where applicable, any URCA-approved or other fees or charges resulting from the upgrade or migration.

## **2.3 Pricing Information**

2.3.1 Before entering into a contract for Services, a Service Provider must inform a Consumer of:

- (a) all applicable rates or charges, including international roaming charges if applicable for calls, text messages and data usage;
- (b) what the charges include; and
- (c) each part or element of an applicable charge, and the method of its calculation.

## **2.4 Packaging, Tying or Bundling of Services**

2.4.1 Where Services are packaged, tied or bundled with one or more other Services or Products, before entering into a contract for those tied or bundled Services and/or Products, a Service Provider shall provide the Consumer in relation to each Service or Product:

- (a) a description of each component Service or Product, and where the Service Provider sells the Service or Product component separately, the price that the Service Provider would charge for each component on a stand-alone basis; and
- (b) for Services that are packaged, tied or bundled with Services from third parties, Service Providers shall be fully responsible for the effective performance of the entire package, tied Offer or bundle including service support, warranties, maintenance, complaints handling, dispute resolution and other administrative requirements.

2.4.2 Where savings or discounts are applicable, a Service Provider must, before entering into a contract, inform the Consumer of such savings and indicate any condition that may apply to qualify for those savings, such as what Products and/or Services the Consumer must acquire to be eligible for a particular saving.

## **2.5 Contract Terms and Termination**

2.5.1 Where applicable, before a contract is entered into, a Service Provider must inform the Consumer of:

- (a) the duration of the contract, which shall be for no more than twelve (12) months if the Consumer so elects and for not longer than twenty-four (24) months if the Service Provider is designated by URCA as SMP in the provision of that particular Service;
- (b) any specific provision which states that the Customer must pay a termination fee if the contract is terminated prior to the minimum duration; and
- (c) the minimum period for notification of termination a Customer is required to give, if applicable.

2.5.2 Every contract must contain clear, unambiguous terms and conditions regarding the following:

- (a) the commencement date and, if applicable, the term of the contract;
- (b) provisions regarding the manner in which the contract may be terminated, including any requirements for the giving of notices under the contract;
- (c) any applicable minimum contract period;
- (d) where the contract has a minimum contract period, the situations or events in which early termination is possible and the relevant termination procedures;
- (e) the amount or method of calculating any charges payable for early termination and in what circumstances such charges are payable;
- (f) renewal of the contract, if applicable;
- (g) Disconnection and reconnection, and any charges applicable in respect of Disconnection or reconnection;
- (h) the terms and conditions under which any Security Deposit is held by the Service Provider, including provisions relating to the refund of any such deposit and any penalty or other charges applicable;

- (i) specifying all situations (including but not limited to situations of breach of contractual terms, non-payment, fraud, etc.) that may give rise to the Suspension or Disconnection of the Service;
- (j) delivery, installation and/or activation of Products and/or Services;
- (k) the procedures and manner in which any term and condition of the contract may be varied or changed by the Service Provider;
- (l) details of how the consumer is to be notified of changes to the contract;
- (m) the availability of complaint handling procedures and methods for initiating such procedures;
- (n) definitions of Services provided, the Customer Quality of Service levels offered in respect of each Service, as well as the time for initial connection;
- (o) details of any applicable compensation or refunds if the Customer Quality of Service levels specified in the contract are not met; and
- (p) whether there are any penalties in the contract, the nature of the penalties and the circumstances in which a penalty would be imposed on the Customer.

2.5.3 The terms and conditions of every contract must be consistent with the provisions of these Regulations.

2.5.4 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.

2.5.5 A Service Provider shall supply or make available to the Customer a signed or accepted (where the contract was entered into other than by physical signature) copy of his or her contract for the provision of Services at the time of entering into the contract. Additional copies of contractual terms must be supplied to the Customer upon request.

The Service Provider may levy a reasonable fee for additional copies delivered in print form.

- 2.5.6 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).
- 2.5.7 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 any 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 the 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.

## **2.6 Security Deposit**

- 2.6.1 In the event that a Security Deposit is required by a Service Provider, the Service Provider must provide the Consumer with information about the terms of that Security Deposit, including the circumstances in which the Security Deposit may accrue interest, be forfeited or be repaid. The security deposit required must be reasonable and in any event should not exceed three (3) months of the reasonably anticipated charges for the Services to be provided by the Service Provider to the Consumer.
- 2.6.2 A Service Provider must take the following actions to enable the outcome stated at 2.6.1 above:
- (a) base the requirement (if any) for a Security Deposit on the outcome of a credit assessment conducted in relation to the Consumer and the Service or Product to be acquired by the Consumer;

- (b) obtain the Consumer's prior agreement as to the circumstances in which the Security Deposit or part thereof will be forfeited. In the absence of such agreement, the Service Provider may decline to supply to the Consumer the relevant Service or Product;
- (c) within ten (10) Business Days of the Service Provider receiving the Security Deposit, advise the Consumer in writing of repayment and interest arrangements (if any) and the account to which the Security Deposit will be applied; and
- (d) repay to the Customer the amount of the Security Deposit (or the balance then remaining), and interest accrued in relation to it, within ten (10) Business Days of the Customer:
  - (i) satisfactorily completing the terms of the Security Deposit arrangement; or
  - (ii) ceasing to receive the relevant Service or Product from the Service Provider.

## **2.7 Spoken Communications of Prices, Terms and Conditions**

2.7.1 "Spoken Communication" means verbal communication of information on the price, terms and conditions of Services by a Service Provider to a Consumer during the course of:

- (a) telemarketing calls to Consumers;
- (b) door-to-door sales;
- (c) direct personal sales; and
- (d) sales through authorised representatives.

2.7.2 Where a Consumer has entered into an agreement with a Service Provider for the purchase, lease or supply of any Product or Service as a result of any Spoken Communication, the Service Provider shall allow the Consumer up to five (5) Business Days from the Spoken Communication to cancel the agreement by calling a specific telephone number (without any charge) unless the Product or Service has by that time been supplied to and used by the Consumer.

2.7.3 In any Spoken Communication, a Service Provider must promptly:

- (a) tell a Consumer the identity or brand name of the Service Provider and the name of the person making the Spoken Communication;
- (b) give a clear indication of the primary purpose of the Spoken Communication;
- (c) during the sales part of the Spoken Communication, give:
  - (i) a description of the Services;
  - (ii) the charges if any; and
  - (iii) the nature of any special Offer, discount, or package.
- (d) inform the Consumer of the specific telephone number to call in the event the Consumer wishes to cancel the agreement for the purchase, lease or supply of any Product or Service.

## **2.8 Product warranties and maintenance**

2.8.1 Before entering into a contract to provide Services, a Service Provider must inform the Consumer whether there is a contractual warranty relating to any Product (if any) supplied for use in connection with the Service, how to obtain warranty service if needed and what the Consumer's rights of redress are should the contractual warranty be breached. Where a copy of the warranty and rights of redress are not provided in writing with the Product, the Service Provider must inform the Consumer how and where it is available.

2.8.2 A Service Provider shall provide Consumers with information regarding any maintenance services offered by them and any fees or charges for such services.

## **2.9 Provisioning of Services**

2.9.1 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; and
- (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 fulfil his or her obligation in order for a Service Provider to provide the Service.

2.9.2 Where the time to provide any Service is delayed beyond the period permitted by Part 2.9.1 above, the Service Provider shall advise the Customer and shall keep the Customer informed of the progress being made. The Service Provider shall also credit the Customer's account with such compensation as provided for in Part 2.2.3 of these Regulations, which compensation shall be given whether requested by the Customer or not.

## **2.10 Fault repair and Service interruption**

2.10.1 Every Service Provider shall implement such facilities and processes as are necessary and appropriate to enable Consumers to report faults and the Service interruptions twenty-four (24) hours a day, 365 days per year.

2.10.2 Every Service Provider shall repair all faults in respect of its Services in accordance with the relevant fault repair standards set out in the Quality of Service provisions of these Regulations.



2.10.3 A Service Provider shall, in accordance with the Schedule, give advance notice to Customers of all planned or anticipated disruptions and outages, including details of the date and time of the disruption or outage, the Services and service areas affected and any applicable compensation or other remedies available to Customers.

2.10.4 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**

### **3.1 Acceptance of Service Provider terms**

- 3.1.1 Consumers shall be bound by a Service Provider's terms of service upon acceptance of the Customer's contract which may be indicated by signing a document outlining the terms and conditions of the contract, or by expressly accepting the terms and conditions by any form of electronic communications that has been established by the Service Provider for that purpose. Consumers shall also be deemed to accept a Service Provider's terms and conditions of Service on any commencement of use of the Service by the Consumer that follows adequate communication by the Service Provider of its terms and conditions in accordance with Part 2 of these Regulations.
- 3.1.2 In a contract, a Service Provider must inform a Customer of the Customer's obligations, and the repercussions to the Customer arising from a breach of such obligations.

### **3.2 Access for maintenance**

- 3.2.1 A Customer shall grant the Service Provider or its authorised representatives, without charge, access to premises, equipment or facilities as reasonably required for any provisioning or maintenance of the Services, equipment or facilities subject to reasonable, prior notice given to the Customer by the Service Provider.

### **3.3 Tampering with equipment**

- 3.3.1 A Customer shall not use any equipment or related facilities provided by a Service Provider for reasons other than for the normal and acceptable use of the Service determined by the Service Provider, and shall not do anything that interferes with the functioning of such equipment or facilities, without prior written authorisation from the Service Provider. A Customer shall be responsible for any loss of or damage to equipment or facilities that result from use by the Customer of the equipment or facilities in a manner which is contrary to the terms and conditions of the Service, contrary to any usage guidelines notified to the Customer by or on behalf of the Service Provider, or these Regulations.
- 3.3.2 Equipment owned by the Service Provider and connected to an electronic communications network may not be moved to a location other than the location where the Service was installed without prior authorisation from the Service Provider. This

restriction shall not apply to any equipment that is expressly designed to be supplied for a mobile service or in respect of which Disconnection and reconnection is consistent with its normal use.

3.3.3 Modification of a Service Provider's equipment or facilities is prohibited without prior written authorisation from the Service Provider.

3.3.4 No Customer-owned equipment or device may be installed by or on behalf of any Consumer that interferes in any way with the normal operation of an electronic communications service or electronic communications network.

3.3.5 No Customer-owned equipment or device may be installed on either the Customer's wiring or the Service Provider's facilities that intercepts or assists in intercepting or receiving any Service offered by the Service Provider

#### **3.4 Reselling services without authorisation**

3.4.1 A Consumer shall not resell any Service provided by a Service Provider to other persons, or permit the same to be taken by other persons, except as expressly permitted by the Customer's contract (and subject to any applicable licensing or authorisation by URCA pursuant to the Communications Act).

#### **3.5 Misuse of a public electronic communications or carriage service**

3.5.1 A Consumer shall not misuse public electronic communications or carriage services, including by:

(a) dishonestly obtaining electronic communications or carriage services; or

(b) possessing or supplying equipment that may be used to obtain such Services dishonestly or fraudulently; or

(c) using Services to send messages that are obscene, threatening or otherwise contrary to applicable laws or regulations.

### **3.6 Dishonest churning**

- 3.6.1 Where a Consumer has accumulated payment arrears with one Service Provider and selects the Service of another Service Provider without settling the account arrears with the previous Service Provider, the Service Provider may rely on the Consumer's unsettled debt with the previous Service Provider as basis for refusing to provide Services to the Consumer.

### **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**

### **4.1 Disclaimers**

4.1.1 A Service Provider shall clearly state any disclaimers to an Offer it provides:

- (a) next to the Offer; or
- (b) linked to the Offer by an asterisked footnote in proximity to the Offer; or
- (c) for television and radio Advertisements, as part of the Advertisement.

4.1.2 A Service Provider must ensure that a disclaimer used in any Advertisement for its Services and/or Products that it provides is:

- (a) clearly indicated and visible;
- (b) legible;
- (c) of a reasonably legible font size having regard to the type of font used; and
- (d) readily understandable, having regard to the nature of the advertisement, the medium used to convey it and its likely audience.

4.1.3 A Service Provider must not use a disclaimer to negate any material part of the message of an Advertisement or Offer.

4.1.4 A Service Provider must advertise in such a manner that the Customer is clearly able to distinguish contractual terms and conditions from marketing and promotional activities.

### **4.2 Availability of Services**

4.2.1 A Service Provider shall make clear in Advertisements that promote the availability of a Service whether there are any geographical or technical limitations on the availability of the Service to Consumers which:

- (a) substantially affect the performance of the Services; and

(b) are known to the Service Provider.

4.2.2 A Service Provider shall make clear in any Advertisement which promotes a special Offer any limitations in the Offer which restrict it:

(a) to a particular group of people (i.e., limited classes of eligible Consumers);

(b) to a particular zone, region, island or other geographical area within The Bahamas (i.e., geographical limits);

(c) to a particular period of time (i.e., time limits on availability); or

(d) through the limited availability of equipment, facilities or other materials (i.e., limited availability of stock).

#### **4.3 Savings Claims**

4.3.1 “Savings Claim” means a statement to the effect that Consumers will spend less money by taking a particular Service or using a particular Service Provider than they would otherwise have to spend. Savings Claims shall include free Offers, special Offers below market price and free usage Offers, subject to SMP Service Providers’ obligation to remain compliant with Retail Price Rules.

4.3.2 A Service Provider must not make a representation in any Advertisement that Consumers would make any savings unless it is true, and each reasonable inference from the Advertisement as to savings can be substantiated by the Service Provider.

4.3.3 A Service Provider must make clear in any Advertisement any precondition a Consumer must satisfy in order to qualify for any saving.

4.3.4 In the event that savings apply only to specific groups of Consumers, the Service Provider must clearly state this fact in any Advertisement regarding the savings and specify all the qualifications of the specific group.

4.3.5 If access to a Service is promoted in any Advertisement as provided for free or below market price, but additional charges apply to use the Service, a Service Provider must disclose all additional charges in the Advertisement.

- 4.3.6 A Service Provider must not advertise a Service as "free" unless all conditions required to qualify for the free Offer are disclosed in the Advertisement.
- 4.3.7 The Service Provider shall not inflate the price of any Service accompanying an Offer of savings to cover some or all of the cost of the Offer.
- 4.3.8 Where an Offer is for free Services which must be utilised within a specific period of time, that period must be clearly specified in any Advertisement of the Offer.

#### **4.4 Advertising of Packaged, Tied or Bundled Services**

- 4.4.1 Where a Service Provider represents in an Advertisement that a Service is provided as part of a package, tied Offer or bundle, the Service Provider shall ensure it is able to supply all the components of the Service package, tied Offer or bundle. In the event the Service Provider is or may be unable to supply any component of the package, tied Offer or bundle, a disclaimer to this effect must be included in the Advertisement.
- 4.4.2 Where an Advertisement indicates the price of a component of a Service package, tied Offer or bundle, a Service Provider shall:
  - (a) include in the Advertisement a statement of the minimum total charge of the package, tied Offer or bundle; and
  - (b) indicate any conditions that may apply to obtain the component at the stated price.

#### **4.5 Comparative Advertisements**

- 4.5.1 A comparative advertisement means an Advertisement in which the Service Provider on whose behalf the advertisement is published compares one or more of its Services with competing Services for the purposes of encouraging Consumers to select the Service.
- 4.5.2 The following governing principles and guidelines apply to comparative advertising by a Service Provider:
  - (a) Advertisements containing comparisons with other Service Providers' Services or Products are permissible in the interest of vigorous competition and public

information, provided they comply with the terms of this Part 4.5.2 and Part 4.6.1 of these Regulations.

- (b) All comparative advertisements shall respect the principles of fair competition and shall be so designed that there is no likelihood of Consumers being misled as a result of the comparison, either about the Service or Product advertised or that with which it is compared.
- (c) The subject matter of a comparison shall not be chosen in such a way as to confer an artificial advantage upon the advertiser or so as to suggest that a better bargain is offered than is truly the case.
- (d) Points of comparison shall be based on facts which can be substantiated and should not be unfairly selected. In particular:
  - (i) The basis of comparison shall be the same for all the Services or Products being compared and shall be clearly stated in the advertisement so that it can be seen that like is being compared with like.
  - (ii) Where items are listed and compared with those of a competitor's Services or Products, the list shall be complete or else the advertisement shall make clear that the items are only a selection.

## **4.6 Information Disclosure**

4.6.1 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 address, 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.



## **Part 5: BILLING AND CREDIT MANAGEMENT**

### **5.1 Customer Billing, Charging, Collection and Credit Practices**

5.1.1 A Service Provider shall at all times:

- (a) ensure that Customers are able to obtain information relevant to their current Bill or any item contained in the Bill without any charge;
- (b) ensure that Billing accuracy is verifiable;
- (c) ensure that Billings are accurate and timely;
- (d) ensure that sufficient information is on the Bill or otherwise readily available to the Customer for verification of the Bill without any charge;
- (e) ensure that, upon a bona fide request from a Customer, the Customer is informed or provided with timely options relevant to that Customer; and
- (f) retain records of a Customer's Bill for a minimum period of three (3) years.

5.1.2 A Service Provider shall ensure that, at a minimum, the following information is included in all Bills issued by it or on its behalf:

- (a) the Customer's Billing name;
- (b) the Customer's Billing address;
- (c) the Service Provider's current business name, address and contact information;
- (d) a unique way of identifying the Bill (e.g., Bill reference and/or Customer Account Reference);
- (e) the Billing period;
- (f) description of the charges (and credits) for which the Customer is billed;

- (g) the total amount billed, applicable credits, payments or discounts, and the net amount payable by the Customer (or repayable by the Service Provider);
- (h) the date on which the Bill is issued;
- (i) the payment (or refund) due date;
- (j) methods of bill (or refund) payment;
- (k) methods of contacting the Service Provider for Billing Enquiries;
- (l) methods of contacting the Service Provider to lodge Complaints; and
- (m) the amount (if any) of call or other charges applicable for Complaints and Billing enquiry calls.

## **5.2 Format of Billing Media and Bill Presentation**

- 5.2.1 A Service Provider must offer its Customers the ability to receive a Bill and any Billing information in a Billing Media that the Customer is able to store and reproduce.
- 5.2.2 A Service Provider shall ensure that:
  - (a) Bills are laid out and formatted in such a way that Customers can easily read and understand the contents of the Bill; and
  - (b) Bills have sufficient and clear descriptions of items and categories being billed.

## **5.3 Verification of Billed Charges and Payments**

- 5.3.1 A Service Provider shall put into place the necessary internal systems and safeguards to ensure that inaccuracies are minimised in charges billed to Customers.
- 5.3.2 Customers shall be responsible for verifying that charges billed to them are consistent with:
  - (a) the Service Provider's published or contracted prices and discounts; and

(b) what the Customer has requested, utilised or contracted to receive.

5.3.3 A Service Provider shall ensure that Customers are able to verify their Bill payments by acknowledgement of payment on the next Bill issued, telephone confirmation by calling a specified number, or such other methods as may be made available by the Service Provider.

#### **5.4 Itemisation of Charges**

5.4.1 A Service Provider must ensure that Customers have access to itemised details of all charges in relation to the Services provided either on the Bill or on a separate statement provided by the Service Provider upon request.

5.4.2 Unless otherwise requested by or agreed with the Customer, a Service Provider must provide itemised details during the current Billing period. Where applicable, the Service Provider must inform Customers of the notice period required to obtain itemised Billings.

5.4.3 A Service Provider shall not charge Customers for Bills issued or Billing-related information, except where the Consumer requests information not required to be provided under these Regulations. A Service Provider shall first inform Customers of any applicable charges arising from the Customer's Billing request and shall obtain the consent of the Customer to such charge before it is imposed.

#### **5.5 Timeline for Issuance of Bills**

5.5.1 Except in the circumstances provided for in this Part 5.5, a Service Provider must process and issue Bills within thirty (30) days of the closure of each Billing period. The circumstances in which a Service Provider may exceed the specified number of days are:

(a) where there is a delay resulting from the suspension of disputed charges; or

(b) where a Billing system or processing problem has occurred, in which case the problem shall be rectified and Bills issued without undue delay and in accordance with any time periods identified by URCA; or

(c) where Billing is delayed by circumstances beyond the Service Provider's reasonable control, such as an event of Force Majeure.

## **5.6 Timeliness of Billed Charges**

- 5.6.1 A Service Provider shall ensure that all charges relating to each Billing period are incorporated in the current Bill for that Billing period. Where a Service Provider has failed to bill a Customer for charges relating to a certain Billing period, the Service Provider may not bill the Customer for that period after the expiry of three (3) months from the end of the Billing period.
- 5.6.2 In the event that a Service Provider is unable to or will not meet the requirements provided for in Part 5.4 or Part 5.5, the Service Provider must notify the Customer accordingly and inform the Customer of the arrangements being made by the Service Provider to rectify the situation.

## **5.7 Changes to Billing Media**

- 5.7.1 If a Service Provider proposes to change its Billing Media, it must provide the Customer with thirty (30) days' advance written notice of:
- (a) the proposed change to the Billing Media; and
  - (b) any options open to the Customer in relation to that change.

Such advance notification to be at least equal to two (2) of the Service Provider's

- 5.7.2 Prior to levying any charge for the issuance of a Bill in additional Billing Media, or in Billing Media different from the Service Provider's usual Billing Media for that Customer, in addition to complying with Part 5.6, the Service Provider nevertheless must inform the Customer of the amount of the charge and its method of calculation.

## **5.8 Payment Options**

- 5.8.1 A Service Provider shall inform Customers about the various options available to Customers to pay their Bills as well any terms and conditions associated with each option.
- 5.8.2 A Service Provider must offer at least one method of payment for its Services and Products that is free of any processing or administrative charges.

## **5.9 Billing Frequency**

5.9.1 A Service Provider shall provide Consumers with advance written notification of any proposed changes in Billing periods, such advance notification to be at least equal to two (2) of the Service Provider's otherwise applicable Billing periods (e.g., at least 2 months in advance where the Billing period being changed is normally monthly).

## **5.10 Billing Enquiries**

5.10.1 A Service Provider must state clearly on the Bill a contact point (by telephone number or electronic address) for Customers to make Billing enquiries, lodge Complaints, requests for clarification or express dissatisfaction. A Service Provider must also state clearly on the Bill the hours of operation of the contact point, and charges for each Billing enquiry, if any.

## **5.11 Charging for Bills**

5.11.1 Following a Customer's request and irrespective of whether the Billing information was previously made available on a Bill or otherwise, a Service Provider must provide to Customers all Billing information related to that Customer's Service for a period of up to three (3) years prior to the date the information is requested, in a format that is able to be read and understood and:

- (a) that Billing information must be provided through one medium free of charge (e.g., in paper form sent by regular post, via email, or online via the Service Provider's website or a Customer portal) for the period of up to twelve (12) months prior to the date the Billing information request is received by the Service Provider;
- (b) for requested information which is older than twelve (12) months and up to three (3) years from the date the Customer request is received by the Service Provider, the Service Provider may impose a charge for the provision of this information; and
- (c) where requested, the Service Provider must include itemised details of all charges associated with the Service.

5.11.2 If the Service Provider applies a charge for providing Billing information provided in accordance with Part 5.11.1(b) above, such charge must be limited to the cost of accessing and providing the information.

5.11.3 If a Service Provider provides access to its Billing enquiry point by telephone, it must provide such access free of charge.

5.11.4 If a Service Provider makes information from, or about a Bill available in an electronic form, it must offer at least one method of accessing that information that does not involve charges being imposed by that Service Provider.

## **5.12 Access to Information about Payment and Debt Collection Processes**

5.12.1 A Service Provider must, at no cost, provide Customers with timely access to such information as is necessary to allow a Customer to be informed of a Service Provider's payment and debt collection processes.

5.12.2 A Service Provider must:

(1) at the time of, or before the issuance of the first Bill to the Customer, advise Customers in general terms of:

(a) the time they have to pay for Services;

(b) their obligation to pay Bills for Services by the due date; and

(c) any processes the Service Provider has for:

(i) interim Billing or changes in the Billing period; and

(ii) following up overdue Bills.

(2) the effect of part payment of a Bill and any method used by the Service Provider for allocating amounts received; and

(3) the fact that non-payment or repeated late payment of Bills may have an effect on the provision of current or future Services to the Customer.

### **5.13 Non-payment of Bills**

- 5.13.1 Where a Customer has not paid the Service Provider all or part of a Bill for Services provided by the Service Provider, any measures taken by the Service Provider to effect payment shall be proportionate and not unduly discriminatory.
- 5.13.2 A Service Provider shall ensure that its Customers are provided with a reasonable payment window without being subject to any applicable late payment penalty. Such payment window shall be a minimum of one half of the length of the Service Provider's Billing cycle, subject to a minimum of fourteen (14) days.
- 5.13.3 Where a Service Provider has not received payment of the outstanding and undisputed balance on the Customer's account within thirty (30) days of the payment due date, the Service Provider may Restrict the Customer's access to its Services by for example, in the case of voice Services, barring the Customer from making outgoing calls or the Service Provider may provide a first notification to the Customer of the overdue bill payment.
- 5.13.4 Where a Customer has failed to pay the outstanding and undisputed account balance for forty-five (45) or more days after the due date, the Service Provider may Suspend the Customer's Services or provide a second notification to the Customer of the overdue bill payment.
- 5.13.5 Prior to suspending the Customer's Services, the Service Provider shall provide the Customer with a minimum of five (5) Business Days' notice of the proposed Suspension.
- 5.13.6 The notice of Suspension must clearly state the amount owed, the total amount required to be paid to avoid suspension of the Services and the date and place where such payment must be made. The notice of Suspension must also advise the Customer of any on-going or additional charges that will still apply while the Services are Suspended.
- 5.13.7 Where a Customer has failed to pay the outstanding and undisputed account balance for sixty (60) or more days or after the Customer's Security Deposit has been exhausted, the Service Provider may Disconnect the Customer's Services provided that the Service Provider has given the Customer at least five (5) Business Days' notice of the proposed Disconnection.

5.13.8 The notice of Disconnection must clearly state the total amount owed, the total amount required to be paid to avoid disconnection of the Services and the date and place where such payment must be made. The notice of Disconnection must also advise the Customer that, after Disconnection has occurred:

- (a) the Customer’s Service plan and/or Product (and/or, where applicable, telephone number), may no longer be available;
- (b) the debt may be passed to a collection agency; and
- (c) legal action may be taken to recover the unpaid debt.

**Table 1: Non-payment of Bills**

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>

**5.14 Late payment and Reconnection fees**

5.14.1 Where a Service Provider charges its Customers a late payment fee or reconnection fee in consequence of late or non-payment of Bills, such late payment fees and reconnection fees shall be reasonable, proportionate to the costs incurred by the Service Provider as a result of the late or non-payment and shall not represent or cause an inordinate burden to Customers.

**5.15 Fair Credit Management Process**

5.15.1 A Service Provider must ensure that Customers are treated with fairness in relation to the Credit Management process.

5.15.2 A Service Provider must:



- (a) following a Customer's request, review any decision to Restrict, Suspend or Disconnect the Service(s) and inform the Customer of the outcome of that review. If the review is not undertaken and completed by the Service Provider at the time of the Customer's request, the Service Provider must notify the Customer at that time when the review will be completed;
- (b) following a review as referred to in Part 5.15.2(a) above, if the Customer remains dissatisfied with the outcome of the review, advise the Customer of how they can make a Complaint;
- (c) not impose a reconnection charge following Restriction, Suspension or Disconnection if it resulted from the Service Provider's mistake;
- (d) not impose Credit Management charges unless the charges are a reimbursement of the Service Provider's costs and the Customer is advised of its amount or method of calculation; and
- (e) resolve any Billing complaint or Service issues even where it arises after the relevant debt has been sold or assigned to a third party.

## **5.16 Credit Management for Disputed Amounts**

### **5.16.1 A Service Provider must:**

- (a) not take Credit Management action in relation to a specified disputed amount that is the subject of an unresolved Complaint in circumstances where the Service Provider is aware that the dispute has not been resolved to the satisfaction of the Consumer and is being investigated by the Service Provider, URCA, the UAT or a relevant recognised third party;
- (b) advise the Customer when the Service Provider will commence any Credit Management action after that dispute has been resolved;
- (c) take steps to ensure that debts sold or assigned to third parties do not include any specified disputed amounts that are the subject of an unresolved Complaint; and

- (d) where part of an amount on a Bill is the subject of an unresolved Complaint, advise the Customer that Credit Management action may be taken in relation to those amounts which are not the subject of that unresolved Complaint.

## **5.17 Debt Collection**

5.17.1 A Service Provider must ensure that its arrangements with debt collection agents include provisions which comply with the requirements of legislation and debt collection guidelines as determined from time to time by recognised bodies such as the Central Bank of The Bahamas.

5.17.2 A Service Provider must:

- (a) ensure that Credit Management is carried out in accordance with the requirements of this Part 5 prior to referring the Customer's debt to a debt collection agency or selling the debt;
- (b) while it is in force, comply with any guidelines issued by the Central Bank of The Bahamas when collecting amounts due; and
- (c) notify the Customer in writing within fifteen (15) Business Days that the debt has been sold, or arrange for the purchaser of the debt to do so.

## **Part 6: CONSUMER COMPLAINTS HANDLING**

### **6.1 Complaint Handling System – General**

- 6.1.1 The provisions of this Part 6 shall be read in conjunction with URCA’s Statement of Results and Final Determination on “Guidelines for Developing Licensee Consumer Complaints Handling Procedures” [ECS 16/2012] issued on June 6, 2012.
- 6.1.2 These provisions refer to the processing of non-written Complaints (i.e., by telephone and from walk-in Customers) and written Complaints (i.e., by e-mail, fax, post, online or written Complaint form or otherwise) received by Service Providers.
- 6.1.3 A Service Provider must implement Complaints handling procedures that are free of cost to Consumers, other than as expressly provided for in this Part of these Regulations.

### **6.2 Information to Consumers**

- 6.2.1 A Service Provider shall publicise the availability of its Complaint handling procedures to Consumers and to the Service Provider’s sales representatives. A Service Provider’s sales representatives shall include persons employed or contracted, directly or indirectly by a Service Provider to sell, offer to sell, or otherwise promote a Service Provider’s Services and Products on behalf of that Service Provider, other than a person whose activities on behalf of the Service Provider are limited to the sale of Pre-paid Services to the Service Provider’s existing Customers.
- 6.2.2 A Service Provider shall provide information about its Complaint handling procedures that is easily understood, transparent and easily accessible in various media and formats, including as specifically directed by URCA from time to time, and at a minimum on any website through which the Service Provider does business with or provides information to the public, and at all retail outlets where the Service Provider’s Services and Products are sold.
- 6.2.3 A Service Provider shall ensure that Consumers can easily identify how to lodge a Complaint, either at a Service Provider's premises or using identified forms of electronic or other communications, including a toll free or local access number, e-mail, toll free or local access telefax number, mailing address or Internet webpage form. A Service

Provider shall ensure that Customers can easily identify where to lodge a Complaint within a Service Provider's premises through the "Customer Service" department.

6.2.4 Information on the Complaints handling procedures shall contain information:

(a) to Consumers about their right to complain;

(b) on how to contact the Service Provider in order to make a Complaint; and

(c) on the types of supporting information, including documents, the complainant needs to furnish when making a Complaint.

6.2.5 All Complaints will be recorded by Service Providers, and processed in accordance with identified practices and procedures.

### **6.3 Special Needs**

6.3.1 All Service Providers are encouraged to make adequate provisions to ensure that elderly persons and persons with physical disabilities are able to access the Service Provider's Complaint handling process, including ensuring that such Customers can be easily represented by their Authorised Representative in order to make a complaint.

6.3.2 In cases where Consumers specifically request assistance in lodging Complaints (e.g., due to foreign language problems or physical disability), Service Providers are encouraged to provide reasonable assistance to such Consumers.

### **6.4 Complaint Management Processes**

6.4.1 Consumers who make a Complaint to a Service Provider should be treated with fairness and courtesy, and their Complaint should be dealt with objectively and efficiently by the Service Provider.

6.4.2 Verbal Complaints shall be immediately acknowledged by the Service Provider where the Consumer makes the Complaint by telephone or in person.

6.4.3 A Service Provider shall formally acknowledge written and verbal Complaints in writing within five (5) business days of receiving such Complaints.

6.4.4 Where possible, a Service Provider shall seek to resolve a Complaint on first contact with Consumers, including:

- (a) ensuring relevant staff are aware of the potential remedies available to resolve a Complaint;
- (b) tailoring any remedy offered to address the root cause of the Complaint and to address the individual circumstances of the Consumer where these have been advised to the Service Provider;
- (c) where the Complaints are indicative of a wider problem or issue, addressing the root cause of the problem or issue; and
- (d) resolving Billing errors in current Bills.

6.4.5 A Service Provider shall advise Consumers of the proposed Resolution of their Complaint within thirty (30) Business Days from the date the Complaint is received.

6.4.6 Where a Service Provider has not resolved a Complaint within thirty (30) Business Days, the Service Provider shall immediately escalate the Complaint to URCA.

6.4.7 A Service Provider shall:

- (a) advise Consumers of any delays to proposed timeframes;
- (b) provide a means for the Consumer to monitor the Complaint's progress;
- (c) advise Consumers in everyday language of the Resolution of their Complaint, as soon as practicable after the Service Provider completes its investigation of the Complaint;
- (d) complete all necessary actions to deliver the Resolution offered within ten (10) Business Days but not more than twenty (20) Business Days of the Consumer's acceptance of that Resolution unless:
  - (i) otherwise agreed with the Consumer; or

(ii) the actions are contingent on actions by the Consumer that have not been completed;

(e) only Close a Complaint with the consent of the Consumer where the consumer has indicated that he or she no longer wishes to pursue the complaint or the Consumer and the Service Provider have agreed a course of action, which if taken, would resolve the complaint to the satisfaction of the Consumer; and

(f) where a Complaint is Closed with the consent of the Consumer, provide a written confirmation of the Resolution of that Complaint to be sent the Consumer within five (5) Business Days.

6.4.8 Where a Consumer informs the Service Provider that he or she is dissatisfied with a Service Provider's decision or Resolution of a Complaint, the Service Provider shall inform the Consumer about the option of pursuing an identified internal escalation process whereby the decision may be examined by a suitably qualified senior manager or other person in the Service Provider's organisation.

6.4.9 In the event that a Service Provider has not resolved a Complaint to the Consumer's satisfaction, including use of any escalation process, within thirty (30) Business Days of receiving the Complaint, the Service Provider shall inform the Consumer that the Consumer may refer the Complaint to URCA.

## **6.5 Frivolous Complaints**

6.5.1 If, after careful consideration and appropriate internal escalation, a Service Provider concludes that a Complaint is frivolous or vexatious and that it can do nothing more to assist the Consumer or that, in view of the Consumer's behaviour, the Service Provider chooses not to deal with the Consumer any further, it must inform the Consumer in writing of the reasons and tell them about the options for external dispute resolution including referring the matter to URCA. A Service Provider is not then required to accept any further Complaints from that Consumer on the same or similar issues other than in the course of an external dispute resolution process.

## **6.6 Attempts to Contact Consumers**

6.6.1 If a Service Provider is unable to contact a Consumer to discuss his or her Complaint, or to advise of the proposed Resolution of the Complaint, the Service Provider must write to the Consumer at the last known address, state that they were unable to contact the

Consumer, provide details of those contact attempts and provide an invitation to contact the Service Provider to discuss the Complaint within a specific timeframe of not less than ten (10) Business Days.

## **6.7 Charges**

6.7.1 A Service Provider shall provide Complaint handling procedures to Consumers free of charge. However, a Service Provider may impose a reasonable charge for Complaint handling procedures where investigation of a Complaint requires the retrieval of records more than twelve (12) months old, and where that retrieval results in any incremental expense or significant inconvenience to the Service Provider. Any such retrieval charges shall be identified and agreed to by the Consumer before being incurred.

6.7.2 The Service Provider must tell the Consumer about the options for external dispute resolution by URCA before levying any charge under this Part 6.7.

## **6.8 Suspension of Disputed Charges**

6.8.1 Where a Consumer makes a Complaint about a Service or disputes a Billing, the Service Provider shall avoid imposing any Restriction, Suspension, Disconnection or other Credit Management action to that Service while investigating the Complaint or the dispute. The Service Provider shall inform the Consumer that, while the Complaint or Billing dispute is being investigated, the Customer is obliged to make payment on any outstanding amount other than the disputed amount.

6.8.2 A Service Provider shall not take Credit Management action in relation to a specified disputed amount that is the subject of an unresolved Complaint in circumstances where the Service Provider is aware that the Complaint has not been resolved to the satisfaction of the Consumer and is being investigated by the Service Provider, URCA, or a third party engaged in an alternative dispute resolution scheme approved by URCA under section 15 of the Communications Act.

6.8.3 A Service Provider shall delay commencement of any legal proceedings while a Complaint is being handled internally or where the Complaint is being considered by URCA for Resolution.

## **6.9 Internal Data Collection and Analysis**

6.9.1 A Service Provider shall implement processes, procedures or systems to identify and address recurring problems and systemic issues. A Service Provider must:

- (a) classify and analyse Complaints at least every three (3) months to identify recurring problems and issues including areas of non-compliance with these Regulations;
- (b) monitor Complaints to identify emerging issues requiring specific attention and address those as soon as practicable; and
- (c) monitor and record progress to address areas requiring attention.

6.9.2 A Service Provider shall ensure there is a process for the rapid and effective management of, and notification to appropriate senior management of any significant Complaints or Complaint issues.

## **6.10 Record Keeping**

6.10.1 A Service Provider must keep records of Complaints which:

- (a) include identification of the Consumer making the Complaint, the nature of the Complaint, the steps taken to address the Complaint and the Resolution, if any of the Complaint; and
- (b) enable the Service Provider to manage, monitor, analyse, record and report on Complaints, including:
  - (i) a unique reference number or such other means as will ensure the Service Provider's ability to subsequently identify the Complaint and its subject matter;
  - (ii) the issues raised as part of the Complaint;
  - (iii) the requested Resolution;



- (iv) the due date for a response;
- (v) the results of any investigation;
- (vi) the proposed Resolution of the Complaint including any associated commitments and the date this is communicated to the Consumer;
- (vii) the Service Provider's reasons for proposing its Resolution;
- (viii) the Consumer's response to the proposed Resolution of the Complaint, any reasons given by the Consumer and if they have requested the Resolution in writing, that this request has been made;
- (ix) the implementation of any required actions;
- (x) the underlying cause of the Complaint; and
- (xi) copies of any correspondence sent by or to the Consumer.

6.10.2 A Service Provider must:

- (a) monitor the progress of a Complaint and any commitments made to the Consumer in relation to a Complaint;
- (b) be able to report compliance with the Complaints management timeframes set out in Part 6.4 above;
- (c) subject to the requirements of the Data Protection (Privacy of Personal Information) Act, 2003 ensure Personal Information concerning a Complaint is not disclosed except as required to manage a Complaint with URCA or with the express consent of the Consumer.

**6.11 Retention of Records**

6.11.1 A Service Provider shall retain information collected and recorded as part of the Complaint handling process for a period of twelve (12) months following the Resolution of the Complaint (whether resolved by the Service Provider or referred to URCA).

## **6.12 Reporting to URCA**

6.12.1 A Service Provider shall report to URCA on a quarterly basis the number of complaints received by the Service Provider for the previous quarter, the nature of each complaint, current status of each complaint (including whether the complaint has been resolved) and the number of complaints that have been escalated to URCA.

6.12.2 A Service Provider shall submit the report referred to in 6.12.1 to URCA within ten (10) Business Days after the end of each quarter.

## **Part 7: CUSTOMER QUALITY OF SERVICE**

### **7.1 Application**

7.1.1 The Customer Quality of Service standards provided in these Regulations shall apply to all Service Providers determined by URCA to have Significant Market Power (SMP) in the provision of fixed voice, high speed data services and connectivity, mobile voice and mobile data services and pay TV services, as appropriate.

7.1.2 The Customer Quality of Service standards are set out in the Schedule to these Regulations.

### **7.2 Obligations of SMP Service Providers**

7.2.1 An SMP Service Provider may, in addition to the standards set out herein, adopt additional Customer Quality of Service standards or parameters to determine its quality of service.

7.2.2 Where an SMP Service Provider adopts additional Customer Quality of Service standards in accordance with Part 7.2.1, it shall notify URCA at least thirty (30) calendar days prior to the intended introduction of the standards.

7.2.3 In addition to the publication of the additional Customer Quality of Service standards, SMP Service Providers shall establish and publish the levels of compensation and refunds payable to Customers if the Customer Quality of Service standards adopted by SMP Service Providers and the Customer Quality of Service standards set out herein are not met by the SMP Service Providers. It is accepted that compensation is not meant to penalise Service Providers or to unjustly enrich Customers. As far as possible, Customers are to be placed in the same position they were in prior to the breach.

7.2.4 Compensation and refunds packages may be monetary or non-monetary and may take the form of rebates, waivers, free activation, etc., as URCA considers appropriate. Within three (3) months of the coming into effect of these Regulations, SMP Service Providers shall submit to URCA for review and approval the levels of compensation and refunds payable to Customers under Part 7.2.3 prior to any proposed publication thereof.

7.2.5 An SMP Service Provider shall, before it concludes a contract with a Customer, provide to that Customer clear and up-to-date information on its Customer Quality of Service standards, including those standards set out herein, and levels of compensation and refunds payable if the Customer Quality of Service standards are not met by the SMP Service Providers.

### **7.3 Record Keeping**

7.3.1 An SMP Service Provider shall retain Customer Quality of Service data as well as all measurements and related records for a minimum period of eighteen (18) months after the end of the reporting period or until such time as URCA shall direct.

### **7.4 Reporting to URCA**

7.4.1 Each SMP Service Provider shall submit to URCA on a quarterly basis a report on its achievements for each of the Customer Quality of Service standards set out in the Schedule to these Regulations for the last reporting quarter.

7.4.2 SMP Service Providers shall submit the report referred to in Part 7.4.1 to URCA within ten (10) Business Days after the end of each quarter.

7.4.3 Where a SMP Service Provider has not attained the standards set out in the Schedule hereto, the SMP Service Provider shall state the reasons therefore and the time period within which it shall attain the required Customer Quality of Service standards.

## **Part 8: COMPLIANCE AND MONITORING BY SERVICE PROVIDERS**

### **8.1 Compliance Framework**

8.1.1 All Service Providers must implement and comply with the obligations applicable to them provided for in these Regulations within six (6) months of the coming into effect of these Regulations.

8.1.2 All Service Providers must promote the awareness of the Regulations to their Customers to ensure that they are aware of the Consumer safeguards and obligations included in the Regulations. All Service Providers must also communicate the requirements of the Regulations to their staff and ensure that relevant staff are trained regarding the requirements of the Regulations.

8.1.3 All Service Providers must have processes and systems in place to ensure compliance with the requirements of the Regulations, and must provide to URCA prescribed statements regarding compliance with the Regulations, which statements are to be prepared and provided to URCA in the manner and times set out in this Part 8.1.3, including taking the following actions to enable this outcome:

(a) submit a first Consumer Protection Regulations Compliance Statement to URCA which has been endorsed by the chief executive officer or other executive officer of the Service Provider within six (6) months of the publication of these Regulations on URCA's website and then quarterly thereafter within one (1) month after the end of each quarter;

(b) ensure that the Consumer Protection Regulations Compliance Statement includes:

(i) confirmation that a review has been undertaken by the Service Provider regarding its compliance with the Regulations;

(ii) confirmation of the Service Provider's compliance with the Regulations;

(iii) an assertion that the Service Provider's Consumer Protection Regulations Compliance Statement has been prepared in a manner consistent with the principles and guidance provided in these Regulations; and

- (iv) other than in relation to the first Consumer Protection Regulations Compliance Statement, a report on the Service Provider's compliance with these Regulations during the preceding quarter, including details of any significant changes to the Service Provider's business structure and operations that are relevant, and any feedback to URCA regarding suggested improvements to the Regulations Compliance Framework and/or the compliance requirements of these Regulations.

## **8.2 Compliance Monitoring Requests**

8.2.1 All Service Providers must respond to a Compliance Monitoring Request received by them from URCA in relation to these Regulations and provide an Action Plan if required by URCA.

8.2.2 To enable the outcome in Part 8.2.1, a Service Provider shall take the following actions:

- (a) respond to Compliance Monitoring Requests from URCA by the date specified by URCA for such a response;
- (b) if a Service Provider's response to a Compliance Monitoring Request indicates that the Service Provider cannot comply with all or part of the relevant aspects of the Regulations that are the subject of that Compliance Monitoring Request, provide an Action Plan to URCA (within the time required by, and with contents and in a form acceptable to URCA) detailing the actions to be taken by the Service Provider to address any compliance failure or other issues identified through the Compliance Monitoring Request, including the expected time for completion of those actions. The Service Provider must include in the Action Plan details of planned remedial measures; and
- (c) if the Service Provider provides an Action Plan to URCA, monitor progress and report regularly on its progress under the Action Plan to URCA.

## **8.3 Service Providers Obligations to URCA**

8.3.1 A Service Provider must:

- (a) comply in a timely manner with all directions given by URCA to the Service Provider pursuant to the obligations in these Regulations; and

(b) where relevant, ensure that third parties who are working together with the Service Provider in the provision of any Services are aware of and comply with the provisions of these Regulations.

## **Part 9: COMPLIANCE REPORTING BY URCA**

### **9. Publication of Reports**

9.1.1 URCA shall publish periodic progress reports online on its website to assist it in its on-going monitoring and review of Service Providers' compliance with these Regulations. The progress reports will document:

- (a) identified breaches of these Regulations and the remedial action taken (on an anonymous basis);
- (b) publicity and education programmes;
- (c) identified recurring complaints and steps taken to address these;
- (d) statistics on complaints and their resolution, outlined in appropriate detail;
- (e) steps taken by Service Providers in the development of in-house compliance systems; and
- (f) improvement in principles and administration of these Regulations.

9.1.2 URCA's annual report shall contain a summary of all progress reports for the relevant calendar year.



## **Part 10: MONITORING, REVIEW AND AMENDMENTS BY URCA**

### **10.1 Monitoring**

10.1.1 URCA shall maintain a Complaints handling database to record and monitor the following information in respect of Consumer and industry Complaints arising under these Regulations.

#### **(a) Complaints Handling**

- (i) number of Complaints by subject matter;
- (ii) number of Complaints lodged by Consumers and against Service Providers;
- (iii) number of Complaints determined by URCA to be outside the scope of these Regulations and the reasons for matters being registered as such.

#### **(b) Compliance**

- (i) number of Service Providers found to be in breach of these Regulations;
- (ii) number of Service Providers complained against and found not to be in breach of these Regulations;
- (iii) number of Service Providers in breach of these Regulations who implemented rectification strategies;
- (iv) number of Service Providers in breach of these Regulations who did not implement rectification strategies;
- (v) type and number of Consumers who appeal to URCA and the outcome.

#### **(c) Sanctions**

- (i) number and type of sanctions imposed and the outcome of rectification.

### **10.2 Compliance Monitoring**

10.2.1 Compliance monitoring will be undertaken at regular intervals and will be performed on Service Providers' practices within the scope of these Regulations and will be conducted by various methods, including, but not limited to, requests for information on a Service Provider's compliance status.

10.2.2 Where industry compliance monitoring identifies an individual instance of noncompliance, a confidential notification will be issued by URCA to notify the Service Provider of the compliance monitoring results and encourage their compliance with these Regulations. An invitation to the Service Provider to discuss the issue confidentially with URCA will be provided.

### **10.3 Review of Regulations**

10.3.1 These Regulations will be reviewed at least every three (3) years or earlier if circumstances so require. In addition, URCA may initiate a review of these Regulations as a result of Regulations monitoring activities.

### **10.4 Amendment of the Regulations**

10.4.1 As a result of a review of these Regulations, URCA may propose amendment to the Regulations. URCA will have the final responsibility for amendments to the Regulations as part of its duties under section 45(2) of the Communications Act.

10.4.2 Prior to publishing amendments in final form, public consultation of the proposed amendments will be conducted by URCA.

### **10.5 Jurisdiction**

10.5.1 Complaints about non-compliance with these Regulations will arise in two broad categories, Consumer Complaints and industry Complaints.

10.5.2 URCA shall administer appropriate and impartial processes for the investigation and resolution of both Consumer and industry Complaints.

10.5.3 If URCA finds that a Complaint does not fall within its jurisdiction, URCA will so advise the parties and endeavour to refer the parties or the matter to the appropriate body.

### **10.6 Consumer Complaints**

10.6.1 All Complaints by Consumers against a Service Provider must first be lodged and dealt with by the relevant Service Provider in accordance with Part 6.4.

## **10.7 Industry Complaints**

10.7.1 Industry Complaints are those Complaints made by a voluntary or non-profit group or organisation representing Consumers or a minimum of two (2) Service Providers against another Service Provider for alleged breach of these Regulations.

10.7.2 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 also 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.

## **10.8 Investigations, Complaints Handling and Sanctions by URCA**

10.8.1 URCA will oversee compliance with and administration of these Regulations.

10.8.2 URCA will analyse and investigate Consumer and industry Complaints against Service Providers to determine whether there has been a breach of the Regulations. If URCA finds there has been a breach of the Regulations, URCA will consider the following factors in arriving at a decision on the remedial actions or penalties to be imposed:

- (a) seriousness of the breach;
- (b) past conduct of the Service Provider regarding compliance with the Regulations;
- (c) representations made by the Service Provider regarding the alleged breach and related circumstances; and
- (d) in the case of a breach of Customer Quality of Service standards, any compensation offered by the Service Provider to Consumers affected by the breach.

10.8.3 URCA may issue a notice to a Service Provider with no record of past breaches of these Regulations, identifying remedial measures to be undertaken but imposing no other penalties or sanctions.

10.8.4 Continuing or repeated breaches of these Regulations by a Service Provider shall be reviewed by URCA to determine if such breaches constitute a breach of the Service Provider's applicable Licence Conditions warranting regulatory action to be taken by URCA against the Service Provider. The possible sanctions available to URCA include a decision to:

- (a) issue an order under section 95 of the Communications Act;
- (b) issue a determination pursuant to section 99 of the Communications Act;
- (c) impose a financial penalty under section 109 of the Communications Act; and
- (i) suspend or revoke the Service Provider's licence under section 109 of the Communications Act.

10.8.5 Unless otherwise specifically identified by URCA, the parties to a Complaint shall be responsible for their own costs or expenses associated with the Complaint. URCA shall also identify any circumstances in which any costs or charges will be payable to URCA in connection with its involvement in the resolution of any complaint, prior to a party incurring the payment obligation.

## **10.9 Appeals Process**

10.9.1 If a decision by URCA arising from a Consumer or industry Complaint is not accepted by a party to the decision, that party will have the right to appeal the decision to the Utilities Appeal Tribunal pursuant to Part XVIII of the Communications Act, in accordance with the practices and procedures described therein.

## **10.10 Confidentiality**

10.10.1 Confidential information disclosed in the course of any Complaint or compliance proceeding under these Regulations may only be protected if URCA forms the view that it is commercially confidential information as provided for under section 14 of the Communications Act.

10.10.2 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

The following Customer Quality of Service Standards shall 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.

<b>CUSTOMER QUALITY OF SERVICE STANDARDS</b>	<b>TARGET</b>
<p><b>APPROVAL OF APPLICATION FOR SERVICE</b></p> <p>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.</p>	<p>No more than two (2) Business Days.</p>
<p><b>SERVICE ACTIVATION AFTER APPROVAL</b></p> <p>This Standard refers to the time it should take between approval of an application for service and the actual provision of the service.</p>	<p><b><u>Fixed Voice</u></b></p> <p>Customers in New Providence and Grand Bahama – No more than five (5) Business Days.</p> <p>Customers in Abaco, Eleuthera, Exuma and Andros – No more than six (6) Business Days.</p> <p>Customers in all other islands – No more than seven (7) Business Days.</p>

<p style="text-align: center;"><b>CUSTOMER QUALITY OF SERVICE STANDARDS</b></p>	<p style="text-align: center;"><b>TARGET</b></p>
	<p><b><u>Mobile Voice and Mobile Data</u></b></p> <p>No more than one (1) working hour for Customers in all islands.</p> <p><b><u>High Speed Data Services and Connectivity</u></b></p> <p>Customers in New Providence and Grand Bahama – No more than four (5) Business Days.</p> <p>Customers in Abaco, Eleuthera, Exuma and Andros – No more than six (6) Business Days.</p> <p>Customers in all other islands – No more than seven (7) Business Days.</p> <p><b><u>Pay TV</u></b></p> <p>Customers in New Providence and Grand Bahama – No more than five (5) Business Days.</p> <p>Customers in Abaco, Eleuthera, Exuma and Andros – No more than six (6) Business Days.</p> <p>Customers in all other islands – No more than seven (7) Business Days.</p>
<p><b>CUSTOMER SCHEDULED APPOINTMENTS</b></p> <p>Customer Scheduled Appointments are scheduled pre-arranged visits by a Service</p>	<p>All customer appointments should be honoured provided that the customer also honours the scheduled appointment time.</p>

<p style="text-align: center;"><b>CUSTOMER QUALITY OF SERVICE STANDARDS</b></p>	<p style="text-align: center;"><b>TARGET</b></p>
<p>Provider’s representatives to install a service, correct faults on the Service Provider’s network up to and including the network interface device, where access to the Customer’s premises is necessary but restricted.</p>	<p>A Service Provider may reschedule an appointment by first notifying the Customer at least four (4) working hours prior to the scheduled appointment.</p>
<p><b>RESPONSE TO CUSTOMER COMPLAINTS</b></p> <p>This Standard refers to the time frame for a Service Provider to acknowledge a Customer’s complaint relating to Billing, network malfunctions, quality of service or similar issues.</p>	<p>All complaints are to be acknowledged in writing within five (5) Business Days of receipt.</p>
<p><b>CONSUMER COMPLAINT RESOLUTIONS</b></p> <p>This refers to the time period for a Service Provider to resolve Complaints received from Consumers.</p>	<p>All complaints are to be resolved within thirty (30) Business Days of receipt.</p>
<p><b>REPEATED LOSS OF SERVICE</b></p> <p>This Standard refers to the recurrence of a fault of the same nature within thirty (30) days of occurrence of the original fault on the Service Provider’s network.</p> <p>The cause of the repeated loss of service must be solely attributable to the faults on the Service Provider’s network.</p>	<p>Faults should not reoccur within thirty (30) days of repair of first incident of loss of service.</p>
<p><b>FAULT REPAIR TIME</b></p>	<p>Customers in New Providence and Grand Bahama – No more than three (3) Business</p>

<p style="text-align: center;"><b>CUSTOMER QUALITY OF SERVICE STANDARDS</b></p>	<p style="text-align: center;"><b>TARGET</b></p>
<p>Fault Repair Time is the difference between the time a Service Provider receives a fault report and the time at which service is fully restored.</p>	<p>Days.</p> <p>Customers in Abaco, Eleuthera, Exuma and Andros – No more than four (4) Business Days.</p> <p>Customers in all other islands – No more than five (5) Business Days.</p>
<p><b>WRONGFUL DISCONNECTION</b></p> <p>This Standard refers to situations where customers are deprived of service due to system errors by the Service Provider.</p> <p>This Standard is not applicable where disconnection occurs as a result of an overdue amount, specifically the Service Provider’s non-acknowledgement of payment.</p>	<p>Reconnection within four (4) working hours of notification.</p>
<p><b>RECONNECTION AFTER DISCONNECTION FOR NON-PAYMENT</b></p> <p>This Standard refers to the timely reconnection of a Customer’s Service after payment of an overdue amount following notification of the payment to the Service Provider, where appropriate, and the Service Providers’ acknowledgement of receipt of payment.</p>	<p>Reconnection of the Service should occur within eight (8) working hours of acknowledgement of payment.</p>