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Consultation on

**UTILITIES REGULATION AND COMPETITION AUTHORITY
(URCA) CONSUMER PROTECTION REGULATIONS**

ECS 07/2013

Submitted to the

Utilities Regulation and Competition Authority

August 30, 2013

Submitted by

Cable Bahamas Ltd.



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Introduction

Cable Bahamas Limited and its affiliates Caribbean Crossings Limited and Systems Resource Group Limited, (collectively, "CBL") hereby provides its submissions in response to the Utilities Regulation and Competition Authority's ("URCA") Consultation Document ECS 07/2013, "Utilities Regulation And Competition Authority (URCA) Consumer Protection Regulations Consultation Document" (the "Consultation Document").

CBL has a number of concerns with the proposed Consumer Protection Regulations (the "Proposed Regulations"), and they are set forth in this submission. Some are high level concerns as to the need for the Proposed Regulations at this time; others are comments on specific wording. The following provides an overview of CBL's high level concerns:

- The Proposed Regulations, as they stand, are far too detailed, prescriptive and sweeping in nature. Rather than being targeted at a specific problem or set of problems, they unnecessarily and unjustifiably apply to every electronic communications service and service provider in The Bahamas. Such an approach is an inefficient and disproportionate extension of the safeguards that already exist to protect consumer interests in the electronic communications sector ("ECS") in The Bahamas.
- The Consultation Document fails to provide any substantive evidence to support the introduction of such comprehensive new regulations, referring only to generalized allegations of (i) lack of competition throughout the ECS and (ii) consumer complaints relating to ECS service quality and customer service.
 - There is no indication that any particular markets were examined or categories of consumers were surveyed, steps which should, at a minimum, be undertaken before engaging in such intrusive and burdensome regulatory action. No evidence of market failure was provided with respect to any specific market segment or service provider to justify the Proposed Regulations.
 - Secondly, although the Consultation Document makes generalized allegations of poor quality of service and customer care, no specifics are given as to the source, number, type of complaints or the specific services involved. Therefore, it is impossible for parties to respond to such undefined concerns. Moreover, these generalized allegations are directly contradicted by CBL's own experience, namely that it provides a high quality service that customers value.
 - With a formal complaints handling process in place as of early this year, it would have been preferable to observe the number and types of specific consumer concerns and complaints that arise through that process before introducing sweeping new regulations. CBL's experience with the first six months of the new complaints process is that very few complaints have been made.
- CBL notes that the Consultation Document fails to make any reference to section 5 of the Communications Act ("Comms Act") which stipulates that URCA must take into account

a variety of considerations before introducing new regulatory measures, including relying on market forces as much as possible as the means of achieving the electronic communications policy objectives. If measures are introduced, section 5 requires that URCA have due regard to the costs and implications of the measures on affected parties and also ensure that the regulatory and other measures are efficient and proportionate to their purpose. There is no evidence in the Consultation Document that these criteria were taken into account in developing the Proposed Regulations.

- To the extent that additional consumer protection regulations are introduced, the Proposed Regulations should be narrowed in scope. Specifically, they should be limited to those services for which URCA has found a service provider to possess significant market power ("SMP") and for which URCA has currently implemented *ex ante* price regulation – i.e. “Price-Regulated SMP Services”.
- The Proposed Regulations include a set of proposed Customer Quality of Service ("CQoS") standards. The Consultation Document accepts that exemptions to these CQoS standards are warranted under certain circumstances, for instance, (i) to the lack of infrastructure and/or (ii) credit checking delays in the case of a service application approval. In CBL's view, other exemptions are also warranted, including for (i) force majeure events and (ii) fault attributable to the customer (e.g., failure of the customer to provide access to a premises to repair a fault or activate a service).

The balance of CBL's submissions deal with the specific proposals and questions raised in the Consultation Document in more detail, focussing on the scope and wording of the Proposed Regulations. CBL first provides its general comments on the Proposed Regulations. CBL then provides detailed comments on each of the ten Parts and the Schedule included in the Proposed Regulations.

General Comments on the Proposed Regulations

The Proposed Regulations set out a comprehensive code of consumer protection provisions applicable to the ECS in The Bahamas. CBL does not object in principle to consumer protection regulations where they are needed to address legitimate market failures and where the resulting regulatory framework is both proportionate to its purpose and does not impose undue burdens on the corresponding service providers. As will be explained below, the Proposed Regulations fail to meet this regulatory standard in many respects.

As URCA is aware, section 5 of the Comms Act establishes several important policy criteria related to the imposition, process and nature of any URCA regulatory intervention:

5. All policy measures, decisions and laws to take effect in the electronic communications sector in The Bahamas shall be made with a view to implementing the electronic communications policy objectives and shall comply with the following guidelines —

(a) market forces shall be relied upon as much as possible as the means of achieving the electronic communications policy objectives;

(b) regulatory and other measures shall be introduced —

(i) where in the view of URCA market forces are unlikely to achieve the electronic communications policy objective within a reasonable time frame; and

(ii) having due regard to the costs and implications of those regulatory and other measures on affected parties;

(c) regulatory and other measures shall be efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and nondiscriminatory;

The first policy criteria established by section 5 is that market forces should be relied on as much as possible. This means that regulatory interventions should be restricted to circumstances where it is very evident that market forces are not working. Mere fear that problems may arise is not a proper justification for imposing regulation, given section 5. Hence, URCA's statement that the regulatory framework "should anticipate the type of issues consumers are likely to face"¹ implies a much greater degree of regulatory intervention than section 5 permits.

The second policy criteria is that regulatory measures must be proportionate to their purpose and respectful of the cost burden that is imposed on service providers. This means that regulation should be focussed on specific market failures where an efficient and cost-justifiable remedy can be developed. There should be no role for burdensome regulations that are duplicative of existing regulatory requirements or that address perceived problems that are minor in nature.

As noted in the Consultation Document, there are already numerous consumer protection measures in place in The Bahamas. Some are found in the Consumer Protection Act of 2006. Others are set out in the existing operating licences of service providers such as CBL, as well as the recently established Consumer Complaints Handling Procedures (2012). In CBL's view, these existing measures, as a whole, are sufficient to protect consumer interests for most, if not all, electronic communications services. As such, additional measures, such as the Proposed Regulations, covering the same ground are neither efficient nor justifiable.

Having regard to section 5, URCA should reflect on section 3.2 of the Consultation Document, which includes an explanation as to the purported need for the detailed and extensive Proposed Regulations. First, the Consultation Document states that:

Consumers in The Bahamas have limited, and in some cases no, choice in service provider because of the existence of market dominance in electronic communications services. Therefore, consumers in The Bahamas may be considered as vulnerable because of the lack of alternative service providers.

¹ Consultation Document, s. 3.1(1)

Thus, intervention is necessary to provide consumers with adequate information so that they are better able to make informed choices and to protect them against potential market failures such as high prices, poor service quality and slow repairs.

These broad and general statements refer to theoretically possible market problems, not real life issues that consumers and service providers actually face. Note in this regard, the language in the second sentence: “ ... consumers in The Bahamas may be considered as vulnerable”. There is no indication that URCA examined particular markets or surveyed categories of consumers, steps which should, at a minimum, be undertaken before engaging in intrusive and burdensome regulatory action.

Moreover, these statements lump together different types of service providers with no regard to the different market characteristics and consumer issues. Most notably, although the paragraph starts with market dominance as the key rationale for consumer protection regulation, the Proposed Regulations apply to the entire ECS, including non-SMP designated service providers and services. Even for those markets with an SMP service provider, many are expected to become competitive in the near future – but this is ignored.

Second, the Consultation Document states that:

Further, the need for consumer protection regulation in the electronic communications sector in The Bahamas is also evidenced by recent complaints received from the public regarding poor quality of service and customer service provided by service providers. These complaints suggest that consumers are generally dissatisfied with the quality of service level and customer care received from service providers. These regulations are designed to appropriately address these concerns and to achieve URCA’s statutory objective of furthering the interests of consumers in The Bahamas.

The Consultation Document does not explain what evidence of "recent complaints" have been relied on to conclude that Bahamian consumers are "generally dissatisfied" with electronic communications services. No information was provided on the source, number, type of complaints or the specific services covered by these complaints. Accordingly, it is impossible for CBL and other parties to respond to these specific concerns. Principles of basic fairness suggests that service providers should be informed of the specific concerns that have prompted URCA to propose the intrusive and burdensome regulatory measures encompassed in the Proposed Regulations. However, the Consultation Document is silent on this score.

CBL takes its customer service very seriously, and provides a high quality of service to its customers. Over the years, CBL has invested greatly in its customer support systems and actually had a functioning complaints handling process in place long before the introduction of the Complaints Handling Procedures by URCA. CBL’s experience is that the number of consumer complaints is low, and that customer satisfaction is high. Since implementing its own formal

consumer complaints process in March of this year,² CBL can report that to date it has received 35 email submissions from CBL customers through the newly created process. Most of these were simple service-related inquiries, which were readily and immediately addressed by CBL to the customers' satisfaction. Only 13 required some additional follow-up (i.e., cases where an issue ticket was created). Again, these service issues were promptly addressed and resolved by CBL. As well, as an alternative to filing complaints electronically, and in compliance with the Complaints Handling Procedures, CBL has deployed complaints drop boxes in all of its commercial offices so that any customer with a complaint could file them in person in hard copy format. To date, CBL is yet to receive a single customer complaint through this avenue. Consequently, based on its own experience, including with these recent consumer complaints, CBL strongly rejects the negative characterization of its services, service levels and customer care as set out in the Consultation Document.

If “recent complaints” are indeed the driving force behind the Proposed Regulations, URCA’s recently mandated complaints handling procedures should be given a reasonable period to operate before initiating additional mechanisms to address such complaints. Industry participants have undertaken costly measures to implement these new procedures. In CBL’s case, this included significant costs to develop and implement customer complaint filing and response procedures, electronic and physical filing processes, tracking mechanisms and also ensure staff received adequate training with respect to the new measures and practices. Although CBL initiated the new complaints handling procedures in March of this year, some 6 months ago, URCA has not undertaken an assessment as to their effectiveness or ineffectiveness. Without data on actual, documented consumer complaints, and the procedures to handle them, it is difficult to justify and design additional consumer protection measures that, in effect, assume an understanding of the nature of the complaints and further assume that the new procedures are inadequate to address the complaints. In CBL’s view, URCA should, at a minimum, allow sufficient time to properly assess and evaluate the effectiveness of the newly established complaints handling regime –which was designed to enhance the consumer experience – before implementing more intrusive and burdensome consumer protection measures such as those enshrined in the Proposed Regulations.

To conclude these preliminary comments, CBL submits that URCA should recognize the relevance of section 5 of the Comms Act to the Proposed Regulations. It is noteworthy that, despite setting out the legal, policy and regulatory framework for the Proposed Regulations in great detail in section 2 of the Consultation Document, at no point does URCA mention section 5 of the Comms Act. This is a significant omission given the overriding importance of section 5 to the regulation development process.

When the specific criteria of section 5 are properly considered, it becomes readily apparent that the justifications for the Proposed Regulations, as set out in sections 3.1 and 3.2 of the Consultation Document, are simply inadequate. Accordingly, URCA should move cautiously in implementing consumer protections regulations. These should only be introduced where there is a clear need (as opposed to a generalized worry about the future), and where market forces are demonstrably ineffective. Measures should not be duplicative of existing measures in other

² Following the requirements set out by URCA in "Guidelines for developing Licensee Consumer Complaints Handling Procedures", Statement of Results and Final Determination, ECS 16/2012, June 6, 2012.

legislation or in licences. Measures should be efficient and proportionate to their purposes, as mandated by section 5(c) of the Comms Act.

The Proposed Regulations, as they stand, are far too detailed, prescriptive and sweeping in nature. Rather than being targeted at a specific problem or set of problems, the Proposed Regulations unnecessarily and unjustifiably apply to every electronic communications service and service provider in The Bahamas. Such an approach is an inefficient and disproportionate extension of the safeguards that already exist to protect consumer interests in the electronic communications services market in The Bahamas. Consequently, in CBL's view the Proposed Regulations should be narrowed considerably in scope and application, as further described below.

Part 1: Introduction

Part 1 deals with the scope and application of the Proposed Regulations, definitions, and the interpretation and effect of the Proposed Regulations, among other things. While parties were not specifically asked to comment on Part 1, CBL has several pertinent comments.

Scope of Regulation

Part1.2.1 of the Proposed Regulations states that:

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.

CBL submits that the Proposed Regulations (with the amendments as discussed below) should apply only to those services in which URCA has found a service provider to possess SMP and for which URCA has currently implemented *ex ante* price regulation – i.e. “Price-Regulated SMP Services”. There is no reason why other electronic communications services for which *ex ante* price regulation has not been implemented should be made subject to new consumer protection regulations, especially in view of the fact that no market analysis was conducted or supporting evidence provided to justify such regulatory obligations. URCA’s own statements point to market dominance as a key justification for the Proposed Regulations. Accordingly, services for which SMP is not an issue and/or *ex ante* price regulation is found to be unnecessary should be outside the ambit of the Proposed Regulations. Consequently, in CBL's submission the services covered by the Proposed Regulations should be limited to the following:³

- CBL's basic pay TV service,
- BTC's retail fixed voice products and access services (including domestic and international calling) and

³ As set out in URCA's "Obligations imposed on Operators with Significant Market Power (SMP) Final Decision", ECS 11/2010, 22 April 2010.

- BTC's retail mobile voice products and data access services.

Part 1.2.1 should be amended to state that the regulations shall only apply to those service providers that have been designated by URCA as having SMP in the provision of one or more electronic communications services and only with respect to a SMP designated retail electronic communications service for which URCA currently has implemented *ex ante* price regulation, as follows:

These Regulations shall apply to all SMP 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 but only with respect to retail Price-Regulated SMP Services.

Definition of “Consumer”

The proposed definition of a "Consumer" is provided in Part 1.3.1 on page 13 of the Consultation Document, and states that 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.

CBL considers that part (b) of the definition should be amended to only target "small business and small not-for-profit organisations". There is no need to include larger businesses, not-for-profit organisations or government under the definition of a "consumer". These large entities are well able to negotiate terms and conditions with service providers. Indeed, many of the provisions included under the Proposed Regulations (e.g., mandated publication of prices online, billing and credit management procedures, and quality of service standards, among other things) would be impractical in the case of larger businesses, organizations or government entities where negotiated customer-specific arrangements are often the norm. The Proposed Regulations if applied - to electronic communications services provided to all businesses and not-for-profit organizations (including government), could well serve to lessen competition in this market segment.

There is ample precedent for restricting the scope of consumer protection legislation to individuals and small businesses. CBL's licence imposes consumer protection obligations in section 36 but only on Residential Customers and Small Business Customers – the later defined as a customer that is not a service provider and that has an annual turnover of less than \$250,000. CBL also notes that Australian Telecommunications Consumer Protections Code referenced in footnote 1 of the Consultation Document excludes from its consumer definition those enterprises that are expected to spend more than \$20,000⁴ per year.⁵

⁴ This amount is expressed in Australian dollars. One Australian dollar is approximately equivalent to 0.92 Bahamian dollars.

⁵ The Australian wording is as follows: "Consumer means:

Accordingly, CBL submits that the definition of Consumer should be amended to exclude large entities as well as other service providers. The definition of large entities should refer to the expected annual customer spend on services with the service provider, as this is more readily ascertainable by the service provider than the customer's annual turnover. CBL recommends that the threshold be set at less than \$12,000 annually, which in CBL's experience is a reasonable figure to distinguish large entities from small ones.

Definition of "Force Majeure"

The proposed definition of "Force Majeure" is provided on page 14 of the Consultation Document:

Force Majeure means an unforeseen or uncontrollable force or event, such as fire, flood, earthquake, storm or other disturbance, whether caused by the elements, an act of God, war, strike, lockout, riot, explosion, insurrection, governmental action or another event of the same kind, which is not reasonably within the control of a party

CBL notes that "acts or threats of terrorism" are not explicitly included in the proposed definition and hence CBL proposes to include same, as follows:

Force Majeure means an unforeseen or uncontrollable force or event, such as fire, flood, earthquake, storm or other disturbance, whether caused by the elements, an act of God, war, strike, lockout, riot, explosion, insurrection, acts or threats of terrorism, governmental action or another event of the same kind, which is not reasonably within the control of a party.

Definition of "Price-Regulated SMP Service"

Pursuant to the proposal above relating to the scope of the Proposed Regulations, CBL proposes to add the following definition for a Price-Regulated SMP Service:

Price-Regulated SMP Service means 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.

(a) an individual who acquires or may acquire a Telecommunications Product for the primary purpose of personal or domestic use and not for resale; or

(b) a business or non-profit organisation which acquires or may acquire one or more Telecommunications Products which are not for resale and, at the time it enters into the Customer Contract, it:

(i) does not have a genuine and reasonable opportunity to negotiate the terms of the Customer Contract; and

(ii) has or will have an annual spend with the Supplier which is, or is estimated on reasonable grounds by the Supplier to be, no greater than \$20,000.

Part 2: Consumer Sales, Contracts and Services

Part 2 of the Proposed Regulations covers a wide range of topics dealing with sales information, contracts and service provision. CBL questions the need for these new regulations. Market forces can be relied on to dictate sales and marketing practices, as contemplated by section 5 of the Comms Act. Should specific problems arise, they can readily be handled through the recently established consumer complaints handling process. In this way, URCA could address specific consumer protection measures where necessary on a case-by-case basis, rather than imposing intrusive and burdensome new regulations on virtually all aspects of service providers' sales and marketing practices.

However, to the extent the Part 2 of the Proposed Regulations are maintained in whole or part by URCA, CBL has a number of concerns with these proposals, most notably that they are unnecessarily detailed and prescriptive. If not eliminated entirely, they could be easily shortened significantly, more in line with the Consumer Summary document URCA issued in connection with the Consultation Document.

That said, CBL has the following comments on Part 2 of the Proposed Regulations:

Scope of Regulation

Part 2.1.1 states that:

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.

As discussed above, in CBL's view any new consumer protection regulations should only apply to SMP Service Providers and, further, only with respect to Price-Regulated SMP Services. Consequently, this paragraph can be deleted.

If URCA nevertheless decides to apply the Proposed Regulations to all retail electronic communications services – contrary to CBL's position – then, at a minimum, Part 2.1.1 should be revised to more clearly state which specific SMP Services would be subject to the provisions in the Parts 2.2.3, 2.9 and 2.10 of the Proposed Regulations. In CBL's view, they should be limited to Price-Regulated SMP Services (i.e., in CBL's case, basic pay TV).

Public Disclosure of Pricing, Terms and Conditions

Part 2.1.3 states, in part, that:

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. (emphasis added)

A service provider would typically provide fulsome pricing and service information on its website, as that is an important sales tool for any service provider. As such, regulatory intervention in this respect serves no purpose and is simply superfluous.

To the extent that any disclosure of service and pricing information must be mandated on a service provider's website, CBL recommends that the disclosure be limited to "Price-Regulated SMP Services". This is consistent with CBL's recommendation as to the scope of services to be covered by the Proposed Regulations.

Further, URCA should recognize that mandated disclosure would be harmful to service providers in the case of negotiated business services, many of which include confidential and competitively sensitive terms and conditions. Although the proposed language stipulates that only services "offered to the public" are covered, this is an imprecise phrase that could lead to unnecessary disclosures in certain circumstances. Accordingly, the language should be amended to read as follows:

A Service Provider shall ensure that the current service arrangements on Offer to Consumers generally, including rates and terms and conditions for such services arrangements, are readily available

This change will make it clear that only services provided to Consumers generally are covered. See in this regard the definition of the term "Offer" in Part 1.3, which refers to Consumers, and the CBL proposed definition of the term "Consumer" be amended to exclude large entities.

No Future Contact for Advertising Purposes

Part 2.5.4 states the following:

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.

CBL considers that this provision is unnecessarily broad. Each service provider must be able to contact its customers on a regular basis, at a minimum, for billing purposes. Often this is done by written communication delivered by the postal service. Billing inserts is one means to bring new services, service features and promotional offers to a customer's attention. Customers can of course easily ignore any such written advertising information if they so choose to. However, forcing service providers to modify their billing systems to accommodate customers who may wish to opt out receiving such information would be costly, unwarranted and disproportionate. Accordingly, Part 2.5.4 should be restricted to only cover unwanted voice or electronic communications for advertising purposes, but not print advertising, 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 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.

Contract Termination After Minimum Fixed Period

Part 2.5.6 states as follows:

Where a contract reaches the end of any minimum period, such contract shall thereafter be terminable by the Customer without notice at any time and without any penalty or other charge being made by the Service Provider (save in respect of any Services already provided to the Customer under the contract, but not including charges for Products purchased by the Customer in connection with the Services).

This provision allows a customer to terminate an ongoing contract after the initial term. It states that the customer can terminate “without notice at any time”. As presently drafted, this provision will be very prejudicial to service providers. It is only common sense that the customer must give some sort of notice to the service provider when the customer wishes to terminate the service. Otherwise the service provider will keep furnishing the service. A more logical approach would allow the customer to terminate the service at any time following the minimum period, upon reasonable notice to the service provider, given in writing.

The provision also states in the last parenthetical phrase that the service provider cannot claim for charges for products previously purchased by the customer for use with the terminated service. If this provision is intended to mean that the service provider cannot claim for product purchases that have not yet been fully paid for, then CBL objects. For example, a customer should not be permitted to purchase but not fully pay for a modem or other product for use with a service, and then terminate the service, keep the product and not pay anything further for it. If the phrase is intended to exclude fully paid up product purchases, then it is redundant. Obviously, a service provider cannot charge twice for the same purchase. Accordingly, the last parenthetical phrase should be removed.

In this context, CBL proposes that Part 2.5.6 be revised as follows:

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

Contract Termination After Amendment by Service Provider

Section 2.5.7 states 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 for 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.

This provision allows a customer to terminate a contract where the service provider unilaterally changes a contract with the customer. The provision is unclear in that it fails to set out the mechanics of how the customer may terminate the contract. It should stipulate that the customer must give notice in writing. It should also stipulate the customer must give such notice to the service provider prior to the date that the modification, amendment or variation to the contract comes into effect, failing which the termination right expires. Thus the Customer will have one month in which to exercise this termination right – a period of time that will be sufficient for the Customer to make its decision.

Accordingly, CBL proposes that Part 2.5.7 be revised 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 for any Service or Product, (whether approved by URCA or not) which is likely to be of material detriment to the Customer. If the proposed modification, amendment or variation is not acceptable to the Customer, the Customer may terminate the contract by written notice to the Service Provider given prior to the effective date of the modification, amendment or variation to the contract. Termination by the Customer shall be effective as of the date specified in the Customer's notice to the Service Provider and shall be without penalty or charge other than in respect of any Services or Products already provided to the Customer under the contract. 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, amendment or variation is not acceptable to the Customer.

Security Deposits

Part 2.6.1 relates to the issue of Security Deposits. In part it states that:

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.

While CBL accepts that a security deposit of no more than three months of anticipated charges would generally be appropriate for most customers, a higher security deposit may be required in a limited number of cases including where a customer has a poor credit rating and/or a history of repeat non-payment of service fees and repeated non-compliance with the terms and conditions for services. Consequently, Part 2.6.1 should be amended by adding at the end of the quoted sentence: "other than in exceptional cases as determined by the Service Provider".

Notwithstanding the foregoing, a security deposit of more than three months may be necessary if the proposed 90-day disconnection period for non-payment remains unchanged in Part 5.13. Later in this submission, CBL explains that the proposed process to handle non-payment of bills, notably the 90-day disconnection period, is flawed and should be amended.

Provisioning of Services

Part 2.9 of the Proposed Regulations outlines conditions under which exemptions from the CQoS standards set out in the Schedule of the Proposed Regulations would apply in the provisioning of services. They include services provision delays attributable to (i) lack of infrastructure and (ii) credit checking.

CBL recommends two additional exemptions that justify a service provider failing to meet the CQoS standards. The first is an event of Force Majeure. Clearly, a service provider cannot be expected to meet CQoS if the islands are struck by a hurricane or some other Force Majeure event takes place. The second is where the Customer is at fault in meeting its obligations that are a prerequisite to the service provider meeting its obligations. For example, where the service provider must gain entry to the customer's premises to provide service, the customer must permit such entry in a timely manner. If the customer fails to do so, the service provider cannot be faulted for failure to meet the applicable CQoS standard for service provisioning. Suggested language to address these two exemptions is included in the discussion of the CQoS Schedule found later in this submission.

CBL notes that in cases where the provisioning of services is delayed, the lack of infrastructure is the most common reason of such delays. However, the time required to build out the necessary infrastructure can vary widely and often involves factors outside of the service provider's control (e.g., approval to dig or acquiring access to necessary third-party facilities, etc.). Moreover, timing is very much dependent on which island within The Bahamas where the required infrastructure must be deployed. Consequently, flexibility is required when setting service provisioning standards. CBL provides further comments on the proposed service provision-related CQoS standards (and associated exemptions) in the Schedule discussion found below.

Fault Repair and Service Interruption

Part 2.10.2 states that:

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.

As in the case of the service provisioning CQoS standards just discussed, this provision should also be qualified to indicate that exceptions to the fault repair CQoS standards apply, most notably in the case of an event of Force Majeure or where the Customer is at fault. Proposed language is included in the discussion of the CQoS Schedule later in this submission.

Part 2.10.4 states:

Where an event of Force Majeure causes an outage or disruption to any Service, the Service Provider shall, immediately upon 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.

CBL notes that when Force Majeure event takes place, it is typically not possible to give immediate notice to all affected customers as called for in this provision. For example, a hurricane can knock out service to customers, but the very lack of service hobbles the ability of a service provider to notify them about the outage. In such circumstances, the customers will fully understand why service is out, and the giving of notice is hardly necessary. Further, the service provider has every incentive to rectify the situation as promptly as possible. Saying so in the Proposed Regulations serves no useful purpose. Consequently, Part 2.10.4 should be removed from the Proposed Regulations.

If removal is not acceptable to URCA, the language of Part 2.10.4 should be amended to state that the service provider shall give notice to customers “as soon as reasonably practical after becoming aware of the disruption or outage”, and not “immediately upon becoming aware of the disruption or outage”. In order to avoid addressing minor disruptions (e.g., a cable cut affecting five houses), the language should also stipulate that the notice requirement should only apply where the outage is expected to last more than two days and to affect more than 1,000 customers. Revised Part 2.10.4 would then state as follows:

Where an event of Force Majeure causes an outage or disruption to any Service that the Service Provider expects will last for more than two days and affect more than 1,000 Customers, the Service Provider shall, as soon as reasonably practical 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

Part 3 of the Proposed Regulations sets out various obligations that would apply to customers of service providers covered by the Proposed Regulations. CBL has no comments on the provisions set out in this Part.

Part 4: Advertising

Part 4 of the Proposed Regulations sets out various provisions relating to the advertising of standalone and bundled products and services covered by the proposed regulations. Here again, in CBL's view, this Part of the Proposed Regulations is unnecessary and, given the existing Consumer Protection Act, redundant.⁶ There is also considerable overlap with this Part and Part 2 of the Proposed Regulations.

That said, CBL notes that many of the provisions in this Part of the Proposed Regulations can only practically be applied to print or web-based advertising – e.g., provisions relating to disclaimers (Part 4.1), availability of services (Part 4.2) and information disclosure requirements (Part 4.6). Radio and television advertising is not compatible with detailed prescriptions as to disclaimers, service limitations or offer limitations. It is sufficient that such advertisements not be misleading – which of course is already required under the Consumer Protection Act. Accordingly, Part 4 should be amended to exempt radio and television advertising.

Part 4.5.2(b) states that:

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. (emphasis added)

In CBL's view, this provision would establish a standard that is impossible to meet. There is always a possibility that an individual consumer or some small percentage of consumers may misunderstand or misinterpret a comparative advertisement no matter that it is entirely clear. This provision should therefore be revised to state "...shall be so designed such that Consumers generally are not likely to be misled as a result ...".

Part 5: Billing and Credit Management

Part 5 of the Proposed Regulations sets out various provisions relating to various billing and credit management practices, including policies relating to the non-payment of bills.

Once again, in CBL's view much of this Part of the Proposed Regulations is unnecessary and, moreover, effectively amounts to micro-managing service providers' billing credit management

⁶ See the following sections of the Consumer Protection Act:

- 31. Misleading or deceptive conduct.
- 32. Misleading public as to the nature, etc., of goods or services.
- 33. False or misleading representation.
- 35. Advertising
- 36. Advertised delivery date

practices. There is no indication of what specific concern(s) are being addressed by such detailed and prescriptive billing and credit management regulations.

That said, CBL provides comments on the following provisions included in Part 5.

Billing and Information about Bills and Charges

CBL notes that Part 5.6.1 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. 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.

A three month cut-off on the recovery of any unbilled amounts from prior billing periods is arbitrary and unnecessary. It is unclear to CBL what problem this provision is meant to address as the Consultation Document provides no rationale for the provision. 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. However, there is no prejudice to a customer if a billing error is corrected more than 3 months after a billing period.

The three month cut-off is also inconsistent with Part 5.11.1 of the Proposed Regulations which stipulates that a service provider must provide customers, when requested, with up to three years of historical billing information. Presumably one use of such information would be to address possible billing errors in the past.

Based on CBL's experience, billings errors relating to either possible under or overcharges are not common and should be addressed on a case-by-case basis when they occur. There is no need to place arbitrary limits on the recovery of undercharges as contemplated in this Part of the Proposed Regulations. Hence, CBL recommends that the Part 5.6.1 be deleted.

Process to Handle the Non-Payment of Bills

In Part 5.13, the Consultation Document sets out a proposed 3-step process for handling cases where bills are not paid on time:

- i) when payment of an outstanding and undisputed balance has not been received within 30 days of the payment due date, the service(s) in question may be "restricted";
- ii) when payment of the outstanding and undisputed balance has not been received within 60 days of the payment due date, the service(s) in question may be "suspended"; and
- iii) when payment of the outstanding and undisputed balance has not been received within 90 days of the payment due date or when the customer's security deposit is exhausted, the service(s) in question may be "disconnected".

CBL has a number of serious concerns with the proposed process for handling non-payment of bills set out in the Proposed Regulations:

- CBL already has a well-established process for handling non-payment of bills in place, one that has worked effectively for many years and is well understood by its customers. No explanation is provided to justify the need for the proposed bill non-payment process or why the proposed process would be preferable to established practice. What is clear is that the proposed new process for handling non-payment of bills would require extensive and costly billing system and practice changes to be implemented by CBL, for no identified benefit.
- The implementation of a mandated minimum 90 day period from the bill due date until disconnection will inevitably lead to extra burdens on customers. Some customers will likely seek to game the new deadlines, and CBL will have no choice but to implement measures to protect itself including the use of increased security deposits. The extended disconnection deadline could also lead to higher service rates generally to offset greater losses attributable to unrecoverable unpaid accounts.
- The proposed process provides a significant loophole in that any "disputed" balances would free a customer from the responsibility to pay an outstanding balance and the possibility of service disconnection. In CBL's view, legitimate billing disputes can be investigated and resolved on a case-by-case basis relatively quickly. However, the customer should be required to pay all outstanding non-disputed balances on or before the payment due date. A customer should not be allowed to rely on frivolous billing disputes to avoid or delay outstanding balance payments or the possibility of service disconnection. The Proposed Regulations would open the door to abuse of the bill non-payment process.
- CBL does not presently have in place the technical means to "restrict" or "suspend" customers' services as contemplated under the proposed bill non-payment process. CBL would incur significant upfront and ongoing network and system costs to implement such technical measures, neither of which is defined in the Proposed Regulations. No justification or rationale for mandating the implementation of costly new technical regulatory measures was provided by the Consultation Document. Indeed, it is not obvious that any consideration whatsoever has been given to the potential costs of the proposed new measures.
- CBL faces considerable challenges with bill non-payment issues and losses, and this very real problem will be exacerbated by extending the time limit before service disconnection for non-payment would be permitted. A 90-day period before disconnection will expose CBL to a potential loss of four months of service charges. In CBL's view, the key factor dictating possible disconnection timing in the case of unpaid bills should be the exhaustion of the typical security deposit a customer may have provided the service provider. This would not exceed the expected typical fee for three months of service and, in many cases, would often be less. Consequently, to the extent that any disconnection time limit is mandated, it should be reduced from 90 days to 60 days past payment due date, consistent with CBL's current long-standing practice.

CBL's disconnection policy in the case of the non-payment of bills is set out in the following table:

Table 1: Process to Handle Non-payment of Bills

Consequence of Non-payment of Bills	Minimum Number of Days from Payment Due Date
Late Payment Fee included on bill for subsequent month of service	10
First Notification of overdue bill payment (by email)	30
Second Notification of overdue bill payment (by email)	45
Third Notification of overdue bill payment (by email)	60
Final Notification of impending disconnection (by email and telephone)	62
Disconnection	63

Following CBL's established non-payment of bills process, customers who fail to pay their outstanding service fees receive multiple notifications of outstanding balances and impending service disconnections. They are given ample opportunity to bring their service accounts into good standing to avoid disconnection.

On a monthly basis, CBL has many accounts (i.e., in the thousands) classified as overdue. These are further divided into chronic overdue accounts (i.e., those that have been subject to 5 disconnections over the course of the last 24 months) and other non-chronic overdue accounts. The non-payment of bills process used by CBL has been carefully developed and modified overtime to address the market realities it faces with respect to overdue accounts. In contrast, the proposed process in the Consultation Document is largely arbitrary in nature, and lacks any supporting rationale or evidence.

To the extent URCA insists on including a section on non-payment of bills in the Proposed Regulations, in CBL's submission any such provisions should be limited to stipulating that service providers put in place clear and reasonable service disconnection policies in the case of customers who fail to pay their service fees on a timely basis. They need not be and should not be as detailed and prescriptive as those in the Proposed Regulations. In this respect, CBL considers that the non-payment of bills process it currently has in place is clear and reasonable and, therefore, should not be subject to the arbitrary and costly changes contemplated in the Proposed Regulations.

Universal Services

Part 5.13.6 calls for proposals relating to bill management and disconnection schemes for "Universal Services". It states:

Service Providers that have responsibility for providing “Universal Services” shall, within six (6) months of the coming into effect of these Regulations, develop and submit to URCA for approval a Disconnection policy for such “Universal Services” that may include schemes to assist vulnerable customers in managing their bill payments so as to avoid disconnection (such as a prepay

scheme). Such schemes shall be actively promoted by Service Providers to ensure that Customers are aware of the alternatives to Disconnection available to them.

CBL notes that this paragraph does not represent a specific proposed consumer protection regulation, but rather a call for comments on possible further consumer protection regulations in the future. Consequently, in CBL's view it does not belong in the Proposed Regulations and, therefore, should be deleted.

Without prejudice to any submissions CBL may make in response to a future consultation on this question, CBL notes that URCA has already conducted an extensive consultation on Universal Service Obligations ("USO"). One aspect of URCA's established USO policy is the requirement for designated Universal Services to be "affordable" not just for Bahamian households in general, but to all Bahamian households, including those falling into the lowest household income decile. Consequently, if designated Universal Services are by definition affordable to virtually all Bahamian households, there should be no reason to introduce further measures to accommodate customers who fail to pay their Universal Service bills.

Furthermore, CBL notes that it is unclear how a service provider would identify a "vulnerable" customer. For instance, would such a customer who was at risk of disconnection for bill non-payment be required to provide evidence of household income? Clearly this type of customer classification requirement enters a realm best addressed by government, not electronic communications service providers.

In addition, it is not clear what form of "prepay schemes" would be attractive to so-called vulnerable customers and might also limit their likelihood of disconnection. Once a customer's prepay account is exhausted, the related service is typically terminated or disconnected (for instance, as in the case of a mobile prepaid service). How would such a prepay scheme mitigate the risk of service disconnection? Furthermore, CBL does not currently offer prepay services (such as prepay cable TV). Introducing such services would involve significant new technology and operating costs, all of which would be incurred without any evidence of demand for such services or prospect of recovering the costs of introducing such a service. In any case, these are matters best left for a future USO review process. For all these reasons, CBL recommends that Part 5.13.6 should be deleted.

Part 6: Consumer Complaints Handling

Part 6 of the Proposed Regulations covers the consumer complaints handling process established in 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.

CBL has one recommendation for amendment. In Part 6.8.1, the language contemplates that no restriction, suspension, disconnection or other credit management action will be taken while a complaint is being processed. This leaves open the possibility that some customers could submit frivolous billing complaints solely for the purpose of avoiding payment and then delaying remedial action by the service provider. Accordingly, the language should be amended to

exempt from the scope of Part 6.8.1 those complaints that are clearly frivolous or intended primarily to avoid payment obligations.

As the provisions in this Part of the Proposed Regulations effectively reflect URCA's Statement of Results and Final Determination in ECS 16/2012, CBL does not have any other comments on the proposed provisions relating to the handling and resolving of complaints or the proposed requirements for managing, monitoring, analysing and reporting complaints. CBL would point out, however, that it and other service providers have moved forward to implement URCA's new complaints handling process in the absence of the Proposed Regulations. Incorporating the complaints protocol in the Proposed Regulations is thus duplicative and unnecessary.

Part 7: Customer Quality of Service

Part 7 of the Proposed Regulations deals with CQoS standards and related obligations. Part 7.1.1 of the Proposed Regulations states that:

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.

As discussed above, CBL is of the view that any proposed CQoS standards should apply solely to Price-Regulated SMP Services. Therefore, this Part of the Proposed Regulations should be limited to such services namely: (i) CBL's basic pay TV service, (ii) BTC's retail fixed voice products and access services (including domestic and international calling) and (iii) BTC's retail mobile voice products and data access services.

Further, as discussed above, failure to meet CQoS standards should be excused where the failure is caused by a Force Majeure event or due to the fault of the customer.

Part 8: Compliance and Monitoring by Service Providers

Part 8 of the Proposed Regulations deals with proposed compliance and monitoring requirements placed on service providers. Part 8.1.1 of the Proposed Regulations states that:

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.

CBL submits that the proposed 6 month time frame for implementing the Proposed Regulations is unrealistically short. If the Proposed Regulations are enacted largely without change, CBL would require at least 18 months to implement the Proposed Regulations. This would allow for a reasonable period of time to implement the many changes contemplated under the Proposed Regulations including: billing system changes and associated staff training; system and network

changes required to potentially restrict and suspend services for overdue accounts; the collection of increased security deposits from existing customers to correspond to the new proposed process for handling unpaid bills; implementation of new system processes and staff practices arising from the proposed CQoS standards; and the implementation of new customer complaint and CQoS standard monitoring and reporting requirements.

If the Proposed Regulations are narrowed and modified consistent with CBL's proposals, they could be implemented more quickly.

Part 9: Compliance Reporting to URCA

Part 9 of the Proposed Regulations deals with URCA's proposed reporting and monitoring plans. CBL has no comments on this Part of the Proposed Regulations.

Part 10: Monitoring, Review and Amendments by URCA

Part 10 of the Proposed Regulations deals with URCA's proposed compliance monitoring, amendment process plans and investigations and complaints handling processes. CBL has no comments on this Part of the Proposed Regulations.

Schedule – Consumer Quality of Service Standards

The Schedule to the Proposed Regulations includes a set of nine proposed CQoS standards intended to apply to SMP Service Providers in the provision of fixed voice, high speed data services and connectivity, mobile voice and mobile data services and pay TV services.

At the outset, CBL submits that the proposed CQoS standards should only apply to Price-Regulated SMP Services. URCA has provided no market analysis or evidence in support of the introduction of new regulatory obligations in the case of (i) CBL's or BTC's high speed data services and connectivity, (ii) CBL's non-basic pay TV services or (iii) CBL's fixed voice services. Accordingly, to the extent that the CQoS standards are implemented, in CBL's submission they should be limited to retail Price-Regulated SMP Services only, namely:

- 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 reiterates its position that exemptions to the CQoS standards should apply in the case of a Force Majeure event or where the customer is at fault.⁷ This language should appear in the Schedule although it could also appear in applicable locations in the body of the Proposed Regulations. CBL proposes the following language:

A Service Provider is excused from failing to meet a Customer Quality of Service Standard where such failure is caused by an event of Force Majeure, fault of the Customer or malfunction of Customer-supplied equipment.

In what follows, CBL provides its comments on each of the proposed CQoS standards and the qualifications that should apply in each case.

Approval of Application for Service

URCA has proposed a target of 2 business days for the approval of an application for service. It noted that this proposed CQoS standard refers to the time that it should take for a service provider to approve a completed application form for service from the date of submission of the application.

CBL considers this to be a generally reasonable target for most service applications; however, it may not be able to be met the target in certain cases. URCA recognized this reality in the language of Part 2.9 of the Proposed Regulations. The impracticality of achieving a 2-day target in all circumstances is explained in the following:

- i) **Location / Availability of Facilities Determination Process:** An investigation must be conducted to determine whether suitable facilities and infrastructure are available to provide the requested service. This may be straightforward in many cases but, in some instances, a technician would have to be deployed to determine the suitability of existing facilities for provisioning the requested service. Depending on location, this requirement could take more than 2 business days – a reality that is explicitly recognized in Part 2.9.1(a). Local technical staffing varies significantly by island. In the case of some islands, where a local technician is not available, a technician would need to be ferried or flown in to determine whether the necessary facilities are available for the requested service. Depending on ferry schedules and/or flight schedules this could take up to a week or more. Accordingly, service application approval targets should take into account the location of the requested service in view of the fact that facilities investigations would generally take longer than 2 days in more remote locations. Where the necessary facilities are not available, the service provider would reserve the right to deny a service application.⁸

⁷ These exemptions are recognized in Barbados. See for example sections 6 and 7 of Barbados – Fair Trading Commission Decision: Standards of Service for Cable & Wireless (Barbados) Limited 2010-2013.

⁸ CBL notes that, in such instances, it also has procedures in place which provide potential customers with the option to share in the capital costs of deploying of the requested service to a customer's premises when the customer's premises is located outside the footprint of CBL's network facilities. An approval of a service application in such cases would require additional time for CBL to develop a cost estimate for the required network facilities and for the customer to review and agree to the cost sharing proposal.

- ii) **Credit Verification Process:** Typically a credit check is also conducted as part of a service provider application review process. Normally this process can be completed within the proposed 2 business day time frame. However, this process is not within the direct control of the service provider and, consequently, it should not be held responsible for delays arising from third-party processes. This exemption from the CQoS standard is recognized in Part 2.9.1(b). Where creditworthiness concerns arise, the service provider would also reserve the right to deny a service application.
- iii) **Security Deposit Payment:** A security deposit is typically required for the provision a service to a new customer. Approval of an application for service would also depend on the applicant's payment of any necessary security deposit. The service provider should not be held accountable for any delays in the approval of a service application that are due to delays in an applicant's payment of a required security deposit.

As in the case of several of the following CQoS standards discussed below, CBL proposes that the established CQoS targets for service application approvals should be set based on the location or island in question. Factors that should be taken into account for the purpose of establishing appropriate CQoS standards by island in this case (as well as other CQoS standards discussed below) include:

- i) remoteness of the island,
- ii) availability of local technical staff and related resources on the island, and
- iii) travel time to/from the island (including via ferry or air).

Taking these factors into account, CBL considers that three geographic zones should be established for the purposes of setting CQoS standards. The first geographic zone would include New Providence and Grand Bahama where technical staff are readily available and travel times to customer locations are generally not an issue. The second geographic zone would include the islands of Eleuthra, Abaco, Exuma and Andros. The availability of technical staff in these cases is more limited and travel to customer locations can be challenging. For instance, a technician is scheduled to travel to by ferry only one day per week in the case of many cays within these islands. In Green Turtle Cay, for example, that scheduled day may be Tuesday; however, if a resident applies for a service on Wednesday (or contacts CBL for some other purpose requiring a technician on site), that resident would have to wait until the following Tuesday before a technician could be on site. The third geographic zone would include all other islands where CBL provides service. Importantly, in these latter cases, local technical staff would not be available and travel times to customer locations could often be lengthy and dictated by local ferry and flight schedules outside of CBL's control. In the case of all other more remote islands, CBL is of the view a "best efforts" rather than fixed time standard should apply with respect to this as well as other proposed CQoS standards, as discussed below.

In CBL's view, the following table appropriately reflects the local operating conditions applicable to approvals of applications for CBL's basic pay TV service:

Table 2: Basic Pay TV Service Application Approval Targets

No.	Geographic Zone	Proposed Targets (business days)
1.	New Providence and Grand Bahama	≤ 2
2.	Eleuthera, Abaco, Exuma and Andros	≤ 5
3.	All other Islands	Best Efforts

In addition, CBL notes that these proposed targets would only apply: (a) where all necessary facilities to provide the requested serve are in place or in immediate proximity to the applicants' premises, (b) no delay is encountered in the credit verification process, and (c) no delay is encountered in the customer paying the requested security deposit.

CBL also reiterates that, in its submission, the Proposed Regulations, including the proposed CQoS standards, should only apply to Price-Regulated SMP Services – i.e., in CBL's case, basic pay TV service. If URCA nevertheless decides to apply the proposed CQoS standards to any additional services offered by CBL, then CBL recommends that the same targets proposed above should also apply to those other CBL services.

Service Activation after Approval

URCA has proposed various service activation target time frames. In this case, the proposed CQoS standard pertains to the time it should take between approval of an application for service and the actual provision of the service.

CBL notes that URCA has provided proposed target service activation timelines for fixed voice, mobile voice and data, high speed data services and connectivity, and pay TV services. For the reasons already explained above, CBL considers that there is no need or basis for applying this proposed CQoS standard to CBL's fixed voice services since it does not possess SMP in the fixed voice market. In addition, there is no need or basis for applying this proposed CQoS standard to high speed data services and connectivity since URCA has not found it necessary to impose *ex ante* price regulation on these services. Moreover, in the case of pay TV services, the proposed CQoS standard should be limited to basic pay TV service, which is currently a Price-Regulated SMP Service.

CBL considers service activation targets should only apply to "standard" service activations (i.e., those granted standard service application approvals). "Non-standard" service activations should not be subject to the proposed CQoS standards. Non-standard service activations would include cases where all necessary facilities are not readily available to provide the requested service – the merit of such an exemption from the CQoS standard is recognized in Part 2.9.1(a). Non-standard service activations would include such requirements as gaining access to third-party support structures, rights-of-way and buildings in order to connect the service applicants' premises to the service provider's network. As well, they can also depend on the provision of services (e.g., power) by third parties. Consequently, the timing of service activations in such cases is not fully under the control of the service provider. In such cases, service applicants would be provided by the service provider with an estimate of the expected service activation time frame.

For pay TV service, URCA has proposed that (i) service activations in New Providence and Grand Bahama be completed within 4 business days and (ii) in the case of other islands, within 7 business days. While CBL considers that these targets are generally acceptable for standard service activations, there are factors outside of CBL's control that can result in service activation delays:

- i) **Customer Location:** Depending on the location of the customer, considerable differences in standard service activation time frames could arise due to differences in available network facilities and availability and proximity of technical resources required to effect service activations (e.g., including considerations such as travel time for required technicians to reach the location in question in an efficient and timely manner and the availability of any equipment and/or materials required for the service activation). Consequently, while a 4 day target in the case of New Providence and Grand Bahama may be reasonable, a blanket 7 day target for the rest of the islands in The Bahamas is not.

- ii) **Access to the Customer's Premises:** In many cases, standard service activations require that the service provider's technician gain access to the customer's premises to complete a service activation. The arrangement of an acceptable time for an installation appointment depends on the customer's availability and, once an appointment is set, the presence of the customer at the location where the service is being activated. This process can result in service activation time frames that exceed the targets proposed by URCA and are outside of CBL's control.

For the same reasons discussed above in the case of service application approvals, CBL considers that three geographic zones should be used for setting CQoS targets for standard service activation time frames. Based on CBL's experience, it considers the following standard service activation targets would be reflective of local conditions in the case of CBL's basic pay TV service:

Table 3: Basic Pay TV Standard Service Activation Targets

No.	Geographic Zone	Proposed Targets (business days)
1.	New Providence and Grand Bahama	≤ 4
2.	Eleuthera, Abaco, Exuma and Andros	≤ 7
3.	All other Islands	Best Efforts

In addition, CBL proposes that the established targets for standard service activations should make it clear that such targets only apply where: (a) where all necessary facilities to provide the requested service are in place or in immediate proximity to the applicants' premises, and (b) where access to the customer premises is not delayed or impeded.

CBL also reiterates that, in its submission, the Proposed Regulations, including the proposed CQoS standards, should only apply to Price-Regulated SMP Services – i.e., in CBL's case, basic pay TV service. If URCA nevertheless decides to apply the proposed CQoS standards to any additional services offered by CBL, then CBL recommends that the same targets proposed above should also apply to those other CBL services.

Customer Scheduled Appointments

This CQoS standard pertains to customer scheduled appointments, which are defined as scheduled pre-arranged visits by a service 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. The proposal under this CQoS standard is that (a) all customer appointments should be honoured and (b) a service provider may reschedule an appointment by first notifying the customer at least 8 working hours prior to the scheduled appointment.

CBL's concern with this proposed CQoS standard relates to the latter requirement pertaining to appointment rescheduling. CBL notes that although a "working hour" is not defined, an 8 working hour notification period appears to call for notification to reschedule an appointment on the day before the scheduled appointment. In CBL's view, this is often not possible. A technician would typically have a number of appointments booked on every working day. Some appointments can take longer than anticipated to complete (e.g., faults that require more time than average to repair). In such cases, the technician would alert other customers with scheduled appointments later that same day as to likely delays or the need for appointment rescheduling. However, providing 8 working hours of advance notice would not be possible in many cases. Consequently, CBL considers this proposed CQoS standard to be unreasonable. It should be reduced to no more than 4 hours' notice prior to a scheduled appointment. Also, notice in this case should include leaving a message at the customer's contact number in the event the customer did not answer the technician's telephone call to reschedule the appointment.

It is worth adding that for the service provider to honour a scheduled appointment the customer must also be available at the location of the appointment at the scheduled time of the appointment. It is CBL's experience that scheduled appointments are frequently missed not due to the CBL's fault, but rather the fact that the customer or a representative of the customer is not available when the technician arrives for the scheduled appointment.

Accordingly, CBL proposes that the 8 working hour target for notification to reschedule a customer scheduled appointment be amended to 4 hours. The requirement that "All customer appointments should be honoured" should be amended to add the qualification "provided that the customer also honours the appointment".

Response to Customer Complaints

This CQoS standard pertains 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. In this case, all complaints are to be acknowledged in writing within 5 business days of receipt.

CBL has no comments on this proposed CQoS standard.

Consumer Complaint Resolution

This CQoS standard pertains to the time frame for a service provider to resolve complaints received from consumers. In this case, all complaints are to be resolved within 30 business days of receipt.

CBL has no comments on this proposed CQoS standard.

Repeated Loss of Service

This proposed CQoS standard relates to recurrences of a fault of the same nature within 30 days of occurrence of the original fault on the service provider's network. URCA has proposed in this case that faults should not reoccur within 30 days of repair of first incident of loss of service.

In CBL's view, the 30 day target proposed for this CQoS standard is an entirely arbitrary and should not be imposed as a CQoS standard. It is not a standard that other jurisdictions commonly apply. While repeated losses of service are rare (at least in the case of CBL's services), when they do occur they can be a result of factors outside of the service provider's control – e.g., adverse weather conditions, power outages, third-party actions (such as cable cuts) and tampering with service provider facilities or equipment, among other things. To the extent this proposed CQoS standard is retained in the Proposed Regulations, it should be qualified to state that the cause of any specific repeated service fault must be solely attributable to the service provider.

Fault Repair Time

This proposed fault repair time CQoS standard relates to the difference between the time a service provider receives a fault report and the time at which service is fully restored. The Consultation Document proposes that fault repair times should be (a) no more than 2 business days for customers in New Providence and Grand Bahama and (b) no more than 4 business days for customers in all other islands.

CBL considers these targets to be a generally acceptable in most standard fault cases; however, there numerous factors outside of the service provider's control that can result in fault repair delays:

- i) **Volume of Faults:** Severe weather conditions can significantly increase the number of reported faults and, as a result, affect fault repair times.
- ii) **Location:** As noted above, depending on the location of the customer with a service fault, considerable differences in fault repair times arise (especially with respect to the availability and proximity of the technical staff and resources required to effect fault repairs). A 2 day target in the case of New Providence and Grand Bahama may be acceptable, but a blanket 4 day target for the rest of the islands in The Bahamas is not realistic.

iii) **Access to the Customer's Premises:** As also noted above, fault repairs often require that the service provider's technician gain access to the customer's premises. Arrangement of a time for a fault repair appointment depends on the customer's availability and, once an appointment is set, the presence of the customer at the location where the fault occurred. This process can easily result in fault repair time frames that would exceed the proposed targets.

Again, and for the same reasons discussed above, CBL considers that three geographic zones should be used for setting CQoS targets for fault repair times. Based on CBL's experience, it considers the following fault repair time targets would be reflective of local conditions in the case of CBL's basic pay TV service:

Table 4: Basic Pay TV Fault Repair Time Targets

No.	Geographic Zone	Proposed Targets (business days)
1.	New Providence and Grand Bahama	≤ 3 (to take into account high fault volume periods)
2.	Eleuthera, Abaco, Exuma and Andros	≤ 7
3.	All other Islands	Best Efforts

In addition, CBL proposes that the established targets for fault repair should be amended such that it only applies: (a) where access to the customer premises is not delayed or impeded, and (b) where weather conditions have not led to a large number of faults being reported at the same time.

Once again, CBL also reiterates that, in its submission, the Proposed Regulations, including the proposed CQoS standards, should only apply to Price-Regulated SMP Services – i.e., in CBL's case, basic pay TV service. If URCA nevertheless decides to apply the proposed CQoS standards to any additional services offered by CBL, then CBL recommends that the same targets proposed above should also apply to those other CBL services.

Wrongful Disconnection

The proposed CQoS standard relates to situations where customers are deprived of service due to system errors by the service provider. This CQoS standard is not applicable where disconnection occurs as a result of an overdue amount, specifically the service provider's non-acknowledgement of payment. For this CQoS standard, the Consultation Document proposes that reconnection must be made within 1 working hour of notification.

In CBL's view this proposed CQoS standard is unreasonable. When notification is received from a customer that they believe they wrongfully disconnected, the service provider typically requires more than 1 working hour to investigate the claim. Once confirmed as a wrongful disconnection, additional time would be required to reconnect the customer. The service

provider would of course make every effort to reconnect the customer as quickly as possible; however, the proposed CQoS standard should be set at a more reasonable level. In CBL's submission, the target should be set at 1 business day.

Reconnection after Disconnection for Non-Payment

The final proposed CQoS standard relates 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 provider's acknowledgement of receipt of payment. Under the Proposed Regulations, reconnection of the service should occur within 8 working hours of acknowledgement of payment.

CBL notes that, in this case, the customer should not only be required to complete the payment of any overdue amount but also, where necessary, top-up the security deposit balance associated with the customer's account before reconnection occurs. The target should reflect this additional conditionality.

The term "working hour" is not defined in the Proposed Regulations. CBL assumes that 8 working hours is equivalent to 1 business day, a much more readily ascertainable time period. If so, CBL considers a target of 1 business day to be an acceptable standard.

Conclusion

CBL reiterates that it considers the Proposed Regulations to be far too detailed, prescriptive and sweeping in nature. Rather than being targeted at a specific problem or set of problems, they unnecessarily and unjustifiably apply to every ECS service and service provider in The Bahamas. Such an approach is an inefficient and disproportionate extension of the safeguards that already exist to protect consumer interests.

Moreover, the Consultation Document fails to provide any substantive evidence to support the introduction of such comprehensive new regulations. CBL considers that URCA should have allowed time for the newly established complaints handling process to work as intended – i.e., a tool to address customer concerns and complaints. It also would have been preferable to observe the number and types of specific consumer concerns and complaints that arise through that process before introducing sweeping new regulations.

To the extent URCA proceeds with the implementation of new consumer protection regulations, CBL considers that they should be narrowed in scope considerably both in terms of prescriptive detail and the services to which they are applied. As explained above, CBL considers that, at most, they should only apply to Price-Regulated SMP Services (i.e., in CBL's case, basic pay TV service).

Respectfully submitted,

Cable Bahamas Ltd.