



The Broadcasting Corporation of The Bahamas

**Radio Bahamas ZNS-1 1540 AM – ZNS-2 1240 AM
ZNS-3 810 AM – Power 104.5 FM – ZNS Channel 13**

The Broadcasting Corporation of The Bahamas’

Response

To

URCA’s

**Content Regulation: Code Of Practice For The
Regulation Of Content Services And Audiovisual
Media Services**

Consultation Document

ECS 19/2011

December 15, 2011

Introduction:

The Broadcasting Corporation of The Bahamas (BCB) commend the Utilities Regulation and Competition Authority (URCA) for its consultative approach to designing a Code of Practice for the regulation of content and audiovisual media services in the Bahamas' rapidly developing media environment.

We are of the view that in opting for the development of a Co-regulatory system for the Bahamas URCA remains consistent with its stated policy of an inclusive self-regulatory approach.

We therefore wish to thank URCA for including the Corporation in the representative Working Group invited to participate in the development of the draft Code. As such we participated in setting out terms of reference, modus operandi, high level principles and categories for Codes. The Working Group included both private, commercial, cable and public broadcast representatives. As indicated in the consultation document the Working Group terms of reference consisted of the following:

Phase 1

1. Development of a full set of Codes of Practice covering Bahamian TV and radio channels.
2. Providing comments on URCA's proposed complaints handling procedures
3. Providing views on the consultation responses to assist finalization of the Codes.

Protection of Children

We are generally in agreement with the proposed Code of Practice for the regulation of content and audiovisual media services. We welcome, however, the opportunity to highlight and comment on a few areas of particular interest.

The proposed "Watershed" clause in the Code is significant as it seeks to provide protection for children by allowing certain content to be broadcast only after 9 p.m. the Watershed period. In addition to the scheduling of programmes it also speaks to the publishing of audience advisories and the publication of programme classifications for the benefit of the public and protection of children. Currently no television programme classification system is in place in the Bahamas. While there appears to be an escape clause for Cable, who are not generally in control of the programme content, the Code seeks to ensure the licensees are responsible for what airs. We therefore support this recommendation.

Relaxation of Advertising Limits

The new proposed Code relaxes the strict advertising and sponsorship rules previously set under the Broadcasting Act and allows licensees flexibility and the creativity to best schedule ads on their stations to increase revenue and maximize audience retention. This applies to commercial ads and political ads.

Unfair Competitive Advantage?

We wish to register concern over what we view as an unfair competitive advantage in the broadcast arena by Cable Bahamas Limited (CBL). CBL is an infrastructure – not a content provider. In its original license, the government required CBL to distribute ZNS and provide for a community access channel. Community access has since morphed into original programming, as well as free airtime for local producers. We do not see why CBL should be in the business of producing original content, rather than simply facilitating local content. It is an issue we believe that requires clarification.

The Cable 12 alliance with Charles Carter and Island FM during the Progressive Liberal Party administration was specifically aimed at cutting a deal with the government, in one form or another to enable CBL to run ads. At one time CBL envisioned splitting ad revenue with ZNS as a negotiating point with government. Now CBL is running ads on multiple cable channels at very low cost – equivalent of ‘dumping’ in the eyes of its competitors.

Free-to-air broadcast televisions do not have the same revenue base that CBL has. The question is should CBL be allowed to dramatically undersell ads on its various channels and does this amount to an unfair competitive advantage? We believe it is an issue that requires a full review by URCA.

Public Service Broadcasters

The Corporation has been designated a public service broadcaster and as such the Code appears to provide some distinctions between the public service broadcaster and commercial broadcast entities. These include a 16 minute per hour limit on television and radio programmes for the public service broadcaster compared to no limit on advertising and sponsorship by commercial broadcasters.

We also agree with the obligation imposed on the Public Service Broadcaster to broadcast emergency messages relating to hurricane warnings, floods, fires, national and local emergencies or disasters and other similar safety messages emanating from national or local government and national or local emergency service organizations free of charge. The Corporation has no difficulty with and indeed we have always provided emergency broadcast messages and disaster coverage at no cost. Other licensees are encouraged to provide the broadcast messages free of charge.

Public service advertisements similarly are to be aired free providing publicity for government agencies and registered charitable or community service organizations that primarily inform and educate the public, “by changing public opinion and raising awareness for a problem (such as safe driving, obesity, smoking, fitness, education, gambling addiction, alcoholism, drug addiction or safe sex) rather than sell a product or service.” We support this and currently air these types of advertisement free.

Additionally we note the relatively new requirement for public service broadcasters to provide access services such as signing or close caption for the hearing and visually impaired during news programmes. In conjunction with the Ministry of Education and Culture’s Disability Unit the Corporation has been providing a signing component during its nationally televised news programme since 2009.

Complaint

We believe that the public will appreciate having a recognizable complaint handling process that involves publication by licensees of the complaints handling procedure along with time lines. URCA has sought to ensure that the licensee has an opportunity to first resolve Code complaints and only if dissatisfied or unresolved, the complainant is free to take it to the next level and ultimately referring it to URCA for resolution. However URCA is free to step in and investigate complaints without referral.

The requirement for licensees to keep a written record of all Code Complaints and report same quarterly imposes additional record keeping responsibilities on all licensees. This seems to indicate that regulation of Content will be complaint driven as URCA has no means to monitor licensees' content independently.

Review

We also agree with the period review of the Code to ensure that adjustments can be made on a timely basis.

BCB's Responses to Consultation Questions

PART 1 INTERPRETATION, PURPOSE AND APPLICABILITY

Question 1:

Do you agree with URCA's proposals in Part 1 of the draft Code of Practice regarding definitions and interpretation, purpose of the Code, the regulatory framework, compliance with the Codes and review of the Code? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: Yes we agree.

The definitions and interpretation of terms in Code are generally acceptable. We would like an explanation as to whether or not Cable Companies will be held to the same "Watershed" rule given that they generally have no control over the times when foreign/international programmes which may often the Code are aired?

We also agree generally with outline of the Purpose of the Code, Regulatory Framework, Requirement to Comply and Review clauses.

We note under section 1.4 (3) that the Code "does not apply to content which is delivered solely via the internet, and which is available for access by any person situated within or outside The Bahamas via the Internet unless that content is targeted at persons within The Bahamas by virtue of it being promoted or advertised within The Bahamas." We would respectfully seek further clarity as to the purpose of the exception and as to whether in fact this means the URCA will seek to regulate internet sites of its licensees? How does it apply to individuals who may not be licensees but are operating internet broadcast sites?

PART 2: OPERATIONAL AND TECHNICAL RULES

Question 2:

Do you agree with URCA's proposals in Part 2 of the draft Code of Practice regarding positive rules, operational and technical rules? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: We agree with the Operational and Technical rules as necessary for the regulation of broadcasting, given URCA's commitment to a co-regulatory system in The Bahamas. Further the standards appear in keeping with normal best practices in the industry.

PART 3: UNDERLYING PRINCIPLES FOR BROADCASTING IN THE BAHAMAS

Question 3:

Do you agree with URCA's proposals in Part 3 of the draft Code of Practice regarding underlying principles and positive rules? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: We agree with the underlying principles governing standards of taste and decency. We are of the view that it is sufficiently broad to accommodate Bahamians changing views on what they find acceptable or in good taste.

PART 4: HARM AND OFFENCE

Question 4:

Do you agree with URCA's proposals in Part 4 of the draft Code of Practice regarding preservation of law and order, harmful and offensive content, religious programming and contests and promotions? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: We agree because the preservation of law and order is critical to society and is in keeping with the finest traditions of established media. We also note the proposed Code is careful in seeking to provide "appropriate editorial judgment in the reporting of, and the pictographic images of, violence, aggression or destruction" while at the same time cautioning against licensees exaggerating or exploiting situations of aggression, conflict or confrontation noting "they shall be equally careful not to sanitize the reality of the human condition."

We also favor the prohibition by licensees of material that promotes or glamorizes any aspects of violence against women, specific groups and animals.

PART 5: PROTECTION OF YOUNG PERSONS

Question 5:

Do you agree with URCA's proposals in Part 5 of the draft Code of Practice regarding the protection of young persons and a television programme classification system? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: We agree and support the appropriate scheduling to protect children from unsuitable programme material inclusive of sexual themes, nudity and pornography as well as the audience advisories and programme classifications clauses.

PART 6: POLITICAL BROADCASTS AND POLITICAL ADVERTISEMENTS

Question 6:

Do you agree with URCA's proposals in Part 6 of the draft Code of Practice regarding election broadcasts and advertising, other aspects of election broadcasts and political advertisements and operational matters in elections, referendums and political broadcasts? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: We agree with the standards for the broadcast of political advertisements and election programmes paid for by potential candidates, actual candidates, and political parties both outside of election periods and during election periods. This includes the requirement for news or current affairs programming to "treat all political parties equitably".

PART 7: ADVERTISING AND SPONSORSHIPS

Question 7:

Do you agree with URCA's proposals in Part 7 of the draft Code of Practice regarding advertising and sponsorships? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: We agree with the advertising and sponsorship Code. The proposed Code relaxes the stringent 12 minutes of ads per hour limits previously placed on advertising for private commercial licensees while only public service broadcasters are restricted to a reasonable 16 minutes of advertising per hour.

The proposal also prohibits the broadcast of tobacco products, gambling, sexual services and pornography.

PART 8: NEWS AND FACTUAL PROGRAMMES

Question 8:

Do you agree with URCA's proposals in Part 8 of the draft Code of Practice regarding accuracy and impartiality, fairness and privacy, national emergencies and disasters, miscellaneous news and factual material in news and factual programmes? If not, why not? Should any other provisions be included in this Part of the Code or any removed?

Answer: We agree because the Code seeks to ensure that news, current affairs and factual programmes are presented accurately and impartially and represent a fair description of events. Licensees are required to clearly distinguish comment and analysis of news or current affairs and factual information from commentary and opinion.

We note section 8.26 "Public Service Advertisements" which call for such announcement to be either free or at a nominal charge. The Code also prohibits airing more than two public service announcements in any hour and exclude the publicizing of commercial services.

PART 9: ACCESS SERVICES

Question 9:

Do you agree with URCA's proposals in Part 9 of the draft Code of Practice regarding the provision of access services by broadcasters for members of the audience who are visually and hearing impaired? If not, why not? Should any other provisions be included in this Part of the Codes or any removed?

Answer: We agree. We do wish to note that the Broadcasting Corporation of the Bahamas currently provides a signing component during ZNS national news hour. We therefore support the inclusion of a provision for access to broadcast services for people with hearing or visual impairments for Public Service Broadcasters and the encouragement of all broadcasters to provide access for persons with hearing or visual impairments. It may, however, have some financial implications for some stations.

PART 10: COMPLAINTS HANDLING PROCESS

Question 10:

Do you agree with URCA's proposals in Part 10 of the draft Code of Practice regarding the complaints-handling process, monitoring compliance, reporting complaints and Code administration? If not, why not? Should any other provisions be included in this part of the Code or any removed?

Answer: We agree and note that previously there was no set procedure for the handling of complaints. We believe that the public will appreciate the set time limits for broadcasters to respond to complaints inclusive of the referral process to URCA in instances where a complaint may not have been satisfactorily resolved. We also note URCA's requirement for 360 annual broadcasts by licensees to alert members of the public to the Code and its complaints procedure.

Question 11:

Do you have any further comments to make on the proposals in this consultation document that are not covered or raised by the other consultation questions?

Answer: Please refer to our introduction.