



URCA CONSULTATION PROCEDURE GUIDELINES

Statement of Results and Final Decision

URCA 05/2017

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1. Introduction

This Statement of Results and Final Decision contains the Utilities Regulation and Competition Authority's (URCA) review and final responses to the written submissions received on the "Draft URCA Consultation Procedure Guidelines" URCA 01/2016 ("The Consultation Document") issued by URCA on October 13, 2016. URCA as the independent regulator and competition authority for the Electronic Communications Sector (ECS) and the Electricity Sector (ES) in The Bahamas issues this Statement of Results and Final Decision pursuant to the Communications Act, 2009 (Comms Act) and the Electricity Act, 2015 (Electricity Act).

The Comms Act and the Electricity Act empower URCA to implement the Electronic Communications Sector Policy (ECSP), the National Energy Policy (NEP) and the Electricity Sector Policy (ESP), and in that regard to enforce the provisions of the Comms Act and the Electricity Act, respectively. This Statement of Results and Final Decision are part of the consultative process regarding the procedures which will be utilized by URCA to engage stakeholders in respect of various issues affecting the regulated sectors, licensees and consumers.

1.1 Purpose of this Statement of Results and Final Decision

This Statement of Results and Final Decision has been developed to:

- (i) summarize the written submissions received in response to the Public Consultation document;
- (ii) provide URCA's analysis of and responses on the submissions received from key stakeholders; and
- (iii) provide URCA's Final Decision.

URCA has published in a separate document the finalized text of the Consultation Procedure Guidelines alongside the publication of this Statement of Result and Final Decision

1.2 Background to the Consultation

Pursuant to section 11(3) of the Comms Act and section 41(3) of the Electricity Act, URCA has a statutory duty to publish its standard consultation procedures for seeking stakeholder participation in URCA's decision making processes. On 19 August 2009, URCA published Draft

Consultation Procedure Guidelines (ECS 01/2009)¹ for feedback from the public with the intent that it would have been finalized to address consultations in respect of URCA's then regulatory jurisdiction, the ECS. At the time of initial publication, URCA had recently transitioned from the Public Utilities Commission and had published other regulatory measures for public comment at the same time as publication of the Draft Guidelines and consequently did not receive any formal responses to the Draft Guidelines as anticipated. In the absence of responses, URCA did not proceed to complete the process in respect of the Draft Guidelines. While the Guidelines were not formally implemented, URCA informally adopted the procedures outlined therein when publishing regulatory and other measures for public consultation in the ECS.

The Draft Guidelines first published in 2009 in respect of the ECS only, were subsequently updated to take account of URCA's experience with publishing and consulting on regulatory and other measures in the ECS, and to accommodate any necessary changes related to URCA's assumption of regulatory responsibility for the Electricity Sector (ES). URCA published the revised Guidelines (ECS01/2016)² in furtherance of section 11(3) of the Comms Act and section 41(3) of the Electricity Act. The Guidelines were published in draft to give interested parties an opportunity to comment.

URCA has a statutory mandate to publish its standard procedure for seeking comments prior to issuing regulatory and other measures.³ The standard procedures serve as a statutory mechanism which URCA is obliged to follow, thereby providing a level of predictability in URCA's decision making process.

1.3 Overview and Responses to the Consultation

The URCA issued consultation provided the means through which members of the public, licensees and interested parties were able to make written submissions on the subject of the public consultation process. The period during which submissions could be made closed November 25, 2016 and URCA is now pleased to publish a summary of the responses to the Consultation Document, its analysis and comments on the responses, and its Final Decision. The full text of the responses received may be found on the URCA website at www.urbahamas.bs under the 'publications' tab.

URCA recognizes the importance of an open and transparent consultation process and is therefore satisfied that it has complied with its statutory duty under the Comms Act and Electricity Act by affording all persons having interest in the subject matter of the Consultation Document a reasonable opportunity to make submissions.

¹ <http://www.urbahamas.bs/publications-library.php?cmd=view&id=2&pre=y>

² <http://www.urbahamas.bs/consultations.php?cmd=view&article=421>

³ Section 9(2) of the Utilities Regulation and Competition Authority Act, 2009 (URCA Act)

The subject matter of the consultation will impact all sectors that URCA regulates, the licensees of those sectors and the public generally. URCA received submissions from:

- the Bahamas Telecommunications Company Ltd. (BTC);
- Cable Bahamas Ltd. (CBL) on behalf of itself and its affiliates Systems Resources Group (SRG) and NewCo2015 Limited (renamed BeAliv Limited)("BeAliv"); and
- Vincent Wallace Whitfield, Counsel and Attorney-at-Law.

This Statement of Results and Final Decision provides a summary of the comments received from BTC, CBL and Mr. Wallace Whitfield along with URCA's responses to those comments and its final decision.

While URCA has sought to respond directly to comments and representations received during the consultation process, URCA expressly states that any failure by URCA to respond in this document to any issue raised in any submission does not necessarily signify agreement in whole or part with said issue, that it has not considered the comment or that it considers the comment to be without merit. The publication of the said Statement of Results and Final Decision brings to an end URCA's public engagement on the consultation.

URCA thanks those who responded in writing to The Consultation Document. URCA is satisfied that the finalized Consultation Procedure Guidelines conform to relevant Bahamian law and international best practice. As such, an effective consultation should:

- involve, as far as possible, who wish for their voices to be heard, whether small or large companies, industries, consumer and community groups or individuals;
- explain fully the different options being considered by the regulator before a decision is made;
- assist those with views to respond fully and in an informed manner; and
- listen to those responses and use them to help to understand the effect of any action to be taken.

While URCA will generally adhere to the Consultation Procedure Guidelines being proposed, it recognizes the need for the procedure to be sufficiently flexible and dynamic to address the exigencies of the relevant regulated sectors and of particular circumstances. URCA proposes to update the guidelines from time to time to take account of experience and industry best practice. Although the guidelines set out the approach URCA expects to take, they do not have binding legal effect. Therefore, should URCA find it necessary to depart from the guidelines, URCA will inform the public of its reasons for doing so.

2. Summary of Comments Received and Urca's Responses

In this Section, URCA summarizes and responds to the general and specific comments raised by the respondents in their submissions, as follows:

- Section 2.1 - Summary of and Responses to General Comments
- Section 2.2- Summary of and Responses to Specific Comments

2.1 Summary of and Responses to General Comments

BTC's Comments

BTC was generally supportive of URCA's Consultation Procedure Guidelines. BTC noted that section 11, of the Comms Act, imposes an obligation on URCA to consult on matters of public significance impacting persons carrying on activities in those areas "where URCA has functions under this Act (which would include the electronic communications sector) and or matters that would have a significant impact on the general public in The Bahamas." BTC also noted that section 12 of the Act imposes a duty on URCA to publish documents, including the results of public consultations where such documents or determinations are of public significance.

BTC was of the view that URCA had taken a very pragmatic approach in its design of the consultation process, to ensure that views of a wide cross section of interest groups were obtained. BTC accepted that the use of research to understand the view, needs and behavior of stakeholders involved or concerned about the electronic communications and electricity sectors was important to ensure regulatory measures are effective and efficient. BTC also acknowledged the importance of including the views of persons who ordinarily would not have the resources available to provide a structured response to URCA's public consultation and thought the use of face to face meetings is likely to be an effective tool to accomplish that objective.

CBL's Comments

CBL thanked URCA for the opportunity to provide comments on the consultation document. CBL made reference to URCA's statement regarding the delay in the closure in the earlier consultation process which began with the publication of the Consultation document on August 19, 2009 and terminated due to lack of response. CBL contended that the publication of the final Guidelines should not have been hindered or delayed by lack of response. Further, CBL expressed concern that seven (7) years had passed since the initial publication of the Consultation Document and was unsatisfied with the explanation provided by URCA for the delay since.

CBL was of the view that URCA should make provision in the Consultation Procedures for the timely publication and implementation of regulatory and other measures that have been consulted on but for which no responses or comments have been submitted in order to minimize the likelihood of significant delay in finalizing consultations.

Wallace Whitfield's Comments

Mr. Wallace Whitfield also expressed concern that URCA had taken such a lengthy time to address the consultation procedures, and was unsatisfied with the explanation proffered by URCA.

URCA's Responses to Comments Received/Final Decision

The delay in the republication of the draft procedures document or issuance of a statement of results in relation to the same was an anomalous occurrence and such circumstances are unlikely to recur. Further, notwithstanding, the non-publication of a statement of results the same has not had an adverse impact on the ECS for which the 2009 draft consultation guidelines were prepared or on the ability of URCA to regulate the sector.

URCA reminds stakeholders of the obligation imposed on URCA as regulator to consult on certain matters which have the potential to affect the sectors and the interest of stakeholders and consumers in general. As URCA and stakeholders continue to address a number of regulatory concerns, in the electronic communications sector, and given the assumption by URCA of regulatory oversight for the electricity sector, the time was appropriate for the reintroduction of the consultation document and formalization of the consultative process. The resumption has garnered valuable contributions not achieved when the consultation was first introduced.

URCA takes notice of CBL's suggestion in respect of re-publication of documents in instances in which public response is non-existent. URCA notes CBL suggestion. However, there is no need to amend the process to include for there to be publication of final Guidelines where there is a delay or absence of responses to a consultation by stakeholders and other interested parties.

2.2 Summary of and Responses to Specific Comments Received

In this Section URCA addresses the specific comments submitted by the respondents. The comments have been carefully considered and have each assisted URCA in making its decision. Where URCA has decided to pursue any original proposition expressed in the Consultation Document, it has done so because URCA has not been persuaded by the respondents' arguments to the contrary and believes its Final Decision is consistent with the Comms Act and

Electricity Act and its statutory functions for the development of the electronic communications and electricity sectors in The Bahamas.

2.2.1 Consultation Procedure Guidelines Objectives

BTC's Comments

BTC did not provide any specific comment on the procedure guidelines objectives.

CBL's Comment

CBL noted that in accordance with section 11(3) of the Comms Act URCA's procedures would/should also include guiding principles for determining when URCA may derogate from its standard procedures. CBL argued that the inclusion of such guiding principles in the Guidelines is not only statutorily compulsory, but arguably necessary to provide stakeholders with regulatory certainty as to the circumstances in which URCA may depart from the Guidelines.

Vincent Wallace Whitfield's Comment

Mr. Wallace Whitfield raised concerns about URCA's commitment to generally adhere to the guidance principles established in the procedure document advising that the legislative framework requires URCA to specify in the standard procedures/guidelines, its "guiding principles for determining when it may derogate from the standard procedures". He was of the view that URCA's statement in the consultation document that it will inform the public of its reasons for derogation from the standard procedure does not promote the regulatory certainty as to the process by which consultations will be conducted.

URCA's Responses to Comments Received/Final Decision

URCA is of the view that the guidelines are fit for purpose as they clearly define the primary path of consultation and the use of alternative or secondary means. The section 11(3)(d) of the Comms Act contemplates that there may be instances in which a regulator making rules for the management of consultations may exercise a discretion to depart from strict application of those rules. The provision also anticipates that where there is derogation from standard procedure governing principles for the derogation should be established. The Guidelines detail the consultation process, including the timescales for responses, and establishes written responses as the primary means for a respondent communicating contributions. The guidelines also stipulate that where an informal process of obtaining information and feedback will be employed (town meetings, oral hearings and surveys) and the avenues through which the views of interested parties will be solicited. It is URCA's considered view that the guidelines demonstrate the requisite flexibility in the consultation process. They are effectively a codification of the practice which is in place historically and from which there has been no departure. URCA recognizes that guidelines, while embodying general principles which may be applied in determining when the regulator may derogate from the consultation procedures, cannot anticipate all scenarios that may arise. By way of example, URCA may find it necessary to depart from the guidelines where a matter involves issues of national emergency or where a set of circumstances may be financially or commercially detrimental to a stakeholder or the

sector as a whole. It should be noted however, that the foregoing are examples only and are not an exhaustive list of circumstances for which URCA may derogate from the consultation procedure guidelines.

2.2.2 Notification of Consultation

BTC's Comment

BTC did not provide any specific comment on notification of consultation.

CBL's Comment

CBL was of the view that URCA could improve on the information available to stakeholders and the public on forthcoming consultations. CBL said that often the first time that persons are aware of the consultation is the appearance of the consultation document on URCA's website and noted that stakeholders and communities may need time and resources to prepare a considered response.

CBL suggested that URCA consider:

- Publishing an update of its annual work plan each quarter, so that that stakeholder and others are better aware of URCA's work in progress, and possible timing of future public consultations; and
- Using a "Call for Evidence" stage, in which URCA would outline the policy area for consideration and invite stakeholders to submit initial contributions. This would assist URCA's identification of the main issues and sources of information at the start of the process. However, the company did not think the Call for Evidence stage which it proposed would be appropriate for all public consultations though it would be for areas of policy and significant public impact.

In respect of publication of consultation CBL made note of the proposal to publish notification of the launch of a consultation process and suggested that such publication should be in the daily newspapers which are circulated nationwide. CBL thought the publication of the notifications in the daily newspapers would assist in increased public awareness of the public consultations and may lead to increased responses from the public, CBL thought.

CBL also urged URCA to consider utilizing the community pages of local television stations and radio advertisements and announcements for notifications to ensure that a wider segment of the population is reached.

CBL was of the view that a more flexible approach should be taken in notifying stakeholders of consultation and there should be face-to-face discussions which may encourage more

responses and that smaller operators with limited budgets and resources may benefit from face to face discussions and be better positioned to share their views, raise questions and gain knowledge from the consultation exercise.

Wallace Whitfield's Comments

Mr. Wallace Whitfield also commended URCA on its intention to give notice of public consultations through newspaper and radio announcements and suggested the use of television advertisements, social media and other messaging and mass communication technology.

In respect of the requirements to set up a database to notify the public of public consultations, Mr. Wallace Whitfield noted that the Comms Act and Electricity Act require URCA to ensure that its website includes a notification system for registered users. He thought persons should be able to register with URCA's website their interest in receiving notifications related a particular sector. He thought that URCA's request that the public email URCA to register for the database appeared to be an attempt by URCA to shift the burden to the public to register.

Mr. Wallace Whitfield raised concerns that the proposed Guidelines had vested URCA with a discretion which the legislation did not intend. He said URCA had indicated items that "should" be included a notification of a consultation but submitted that the enabling legislation required URCA to publish procedures which were mandatory as opposed to a set of guidelines to which adherence is discretionary. Mr. Wallace Whitfield argued that draft guidelines should indicate what URCA will do in accordance with the mandatory wording of the statutes thereby ensuring regulatory transparency, certainty and objectivity, protection of the public interest and strengthening understanding, participation and confidence in the regulatory process.

URCA's Response to Comments Received/Final Decision

URCA is committed to encouraging the participation of the public in the consultation process and believes that the process delineated, in which the primary and formal means of submission is by written documents with oral submissions where a town meeting or oral hearing is arranged by URCA, is fit for purpose. The primary means of communication should be in writing, with oral submissions in particular circumstances. URCA encourages interested parties to ensure that their contributions and concerns are properly articulated and addressed. The introduction of a practice of face-to-face discussions as a primary means of consultation would not achieve the accuracy of record keeping, and airing of issues by interested parties which is intended to and will be captured by a process for which written submissions are the first instance medium of communication. Oral submissions will therefore only be utilized as originally contemplated.

URCA commends and thanks CBL for the suggestion of the expansion of the engagement process to include the Call for Evidence process. While URCA has proposed an informal process of consultation through town meetings and public hearings in the draft procedures guidelines, there was no reference to the informal information gathering process which may be a precursor to a formal consultation process. In practice, URCA has sought the views of stakeholders in informal settings and invited them to raise issues of concern for review by URCA and which had the potential to develop into a public consultation on an issue facing stakeholders and the sector. This process, however, has not been captured in a formal request for papers or submissions by the sector generally, however. URCA considers that such a process may provide the sectors with an avenue and opportunity to raise issues which have the potential to affect stakeholders and bring to the attention of the regulator and policymakers sector developmental and regulatory concerns. URCA agrees that this is an appropriate time to develop a call to evidence process and has included the same in the guidelines.

The system in which person's interested in having their names added to URCA's mailing and notification list contact URCA by email was developed for ease of access of the public. URCA is in the process of redesigning its website to ensure it is user-friendly and makes information easily accessible and readily available to the public. The site will also include avenues through which the public may indicate an interest in obtaining information about URCA.

With respect to the discussion of the mandatory or discretionary nature of the draft procedure guidelines, it should be noted that section 11 of the Comms Act and 41 of the Electricity Act impose obligations on URCA to consult on regulatory measures and other measures of public significance. Subsection (3) of each of the relevant legislative sections provides that URCA shall as soon as practicable after the coming into force of the legislation publish standard procedures for seeking comments. Those procedures are to include details of how consultation will be published, the minimum time for responding to the same, how comments or summaries are to be published and guiding principles for determination when it may derogate from the established guidelines. The guidelines are not intended to be overly prescriptive in nature but designed to allow flexibility in the consultation process of addressing a fluid developing market in which novel issues arise. Informal face-to-face meetings, and public meetings are therefore effective alternatives to the written submission process.

2.2.3 Method of Consultation

BTC's Comments

BTC did not provide any specific comment on the method of consultation.

CBL's Comments

Noting URCA's intent to use the URCA website and social media to obtain feedback from the public on consultations, CBL was of the view that use of those means of communication would result in increased submissions. CBL proposed the use of an electronic consultation feedback submission form to facilitate receipt of responses electronically. CBL encouraged the use of one or all of the informal consultation methods proposed by URCA in all public consultations.

Wallace Whitfield's Comments

While the Comms Act and Electricity Act require URCA to publish standard procedures for seeking comments on regulatory and other measures of public significance, Mr. Wallace Whitfield suggested such publication should include URCA's standard procedures for all categories and types of regulatory and other measures of public significance regardless of the nature of the decision, subject, matter of parties potentially affected by the decision, impact on public and consumers and consultations with interested parties as well as special procedures for determination and adjudication.

URCA's Responses to Comments Received/Final Decision

URCA notes CBL's suggestion in respect of submission of responses to consultation documents through use of a submission forms. At this time interested parties make submission of documents by direct mail allowing for an immediacy of communication between the contributor and URCA. Further, as there are no constraints on the nature and details that a contributor may include in a submission, the process promotes an environment in which there is a thorough airing of all issues and concerns. It was not immediately clear from CBL's submission whether the form it proposed is intended to contain the entire response or contribution by the interested party or to be a summary which is submitted with the substantive presentation. Nevertheless, a form, as suggested by CBL may not provide sufficient opportunity for a stakeholder to address issues arising in the consultation. Further, if the form was intended to accompany a substantive submission, such document may prove superfluous, if it summarizes the contents of the response document. It should be noted that (as the Guidelines provide) oftentimes, consultations include a series of questions addressing salient points in the consultation and to which stakeholders and other interested parties may submit responses. The list of questions is intended to facilitate the submissions by respondents.

URCA has taken note of Mr. Wallace Whitfield's Comment. The Comms Act and Electricity Act prescribe the timeframes within which URCA is to publish certain documents and advise of decisions and URCA is guided accordingly. In respect of the suggestion that the standard procedures document should have included URCA's procedures for all categories and types of regulatory and other measures of public significance, URCA reminds stakeholders that this was not the intent of section 11(3) of the Comms Act and section 41(3) of the Electricity Act. The provisions relate specifically to the creation of procedures for stakeholder involvement in

URCA's decision making process through consultation. As regulations and procedures are developed (e.g. consumer protection regulation) the procedure and any timescale for publication or response to document or requests are published as part of the consultation document, but as these may vary depending on the circumstances of the specific consultation it would be impractical and unduly prescriptive to seek to establish these without the necessary context. Stakeholders may wish to note also that where it is appropriate to do so, procedures have been established in relation to specific categories of regulatory measures under the Comms Act, including but not limited to merger analysis, *ex post* competition investigation, numbering, licensing, spectrum administration and management, and the Significant Market Power (SMP) methodology and analysis.

2.2.4 Responses to Consultation

BTC's Comments

BTC did not provide any specific comment on responses to consultation.

CBL's Comments

CBL did not provide any specific comment on responses to consultation.

Wallace Whitfield's Comments

Mr. Wallace Whitfield asked that URCA clarify whether the proposal for oral responses to consultation at town hall meeting and oral hearing are intended to supplement the procedures for written responses to public consultation or is intended as a stand-alone response process. He advised that should the oral evidence be a stand-alone process it was incumbent on URCA to ensure the production of an accurate transcript of the comments received.

URCA's Responses to Comments Received/Final Decision

Oral hearings will be auxiliary to the formal written submission process, should an issue being considered be of general impact or a matter of public education or one on which the widest public discussion is necessary. As oral hearings and town hall meetings are not appropriate for all matters under consideration they will be used when circumstances suggest they may be an effective means of engagement.

2.3 Confidential Responses to Consultation

BTC's Comments

BTC expressed support for the draft procedure guidelines particularly those provisions that related to (i) confidential responses to public consultations. BTC was in favour of provision for persons making submissions having the option to have portions of their contributions redacted. BTC supported URCA's proposal that such information of a contributor's submissions should be redacted if URCA is satisfied that publication of the material may lead to some harm or

damage. It was in favour of the broad proposal of consideration that would generally consider information submitted confidential where it is: (a) trade secret; (b) of a financial or technical nature and is normally treated as confidential; (c) if disclosed, is reasonably certain to result in significant financial loss or gain; and (d) if disclosed, is likely to result in significant competitive advantage or disadvantage.

CBL's Comments

CBL encouraged URCA to publish response to its consultation documents within five (5) days of receipt to avoid inadvertent omission of publication of responses and to ensure transparency of the consultation process. The group was concerned with circumstances in which URCA denies a party's request for information to be treated as confidential. CBL submitted that a party should be given an option to withdraw a submission prior to publication of its response in such circumstances.

CBL also proposed an amendment to the list of items URCA proposes to consider confidential and argued that the list published should not be cumulative in effect.

CBL proposed the following:

"URCA proposes to also consider as confidential, information that:

- (a) is a trade secret;
- (b) is of financial or technical nature and is normally treated as confidential;
- (c) if disclosed, is reasonably certain to result in significant financial loss or gain; ~~and~~ or
- (d) if disclosed, is likely to result in significant competitive advantage or disadvantage."

Wallace Whitfield's Comments

The section of the document addressing confidential information, in the view of Mr. Wallace Whitfield appeared to "comingle" a person's right to claim confidentiality with the confidentiality provisions of the URCA Act and regulated sector laws. He thought the confidential criteria listed by URCA in the consultation document would only apply where the information provided to URCA by the applicant is commercial or industrial in nature, the disclosure of which would result in some legitimate financial or economic loss to the respondent.

URCA's Responses to Comments Received/Final Decision

URCA notes that BTC in its submission has outlined the categories of items which are generally accepted as falling under the ambit of confidential information. URCA also notes the concern raised by Mr. Wallace Whitfield. It should be noted that the definition of confidential information contained in the draft procedures was that contained in the Comms Act and was therefore limited to the confidential information as presently defined therein. The list of factors

which URCA will consider in concluding whether information submitted is confidential is not intended to be cumulative in effect. The list represents categories of factors which are generally accepted as falling within the category of confidential information and should be so read. URCA recognizes, however, that the definition and categories of confidential information are not static and may be influenced by changes in law and policy and it will therefore be guided in its treatment of information as confidential by definitions of the confidential information which may from time to time be contained in legislation, declared by a court of competent jurisdiction or generally established by business practice.

With respect to the proposal by CBL that a respondent be given the option to withdraw a document before it is published, URCA reminds stakeholders that a party may advise URCA where if it wishes to have any information that it has submitted treated as confidential. The Guidelines also anticipate that a respondent making such an assertion will make the requisite representation and provide relevant support for such a claim. In such cases the respondent should also provide URCA with a second copy of its submission in which the information to which its claim of confidentiality attaches is redacted. URCA is of the view that the provisions regarding the determination and treatment of confidential information are acceptable in their present form.

2.2.6 Comments to Written Responses

BTC's Comments

BTC did not provide specific comments on Written Responses.

CBL's Comments

CBL did not provide specific comments on Written Responses.

Wallace Whitfield's Comments

URCA was commended on the principles relating to comments and written responses outlined in the document. However, Mr. Wallace Whitfield also raised concerns regarding the manner in which URCA would address errors where there was a clear demonstration by the respondent of a misunderstanding of issues raised in a consultation. He noted that URCA had not stated how it proposes to draw the error to the respondent's attention.

He asked for clarification when notification of the number of rounds of consultation that URCA would propose and the circumstances in which the same would occur. He noted that the draft procedures allowed URCA to make a decision or ruling as to whether it would conduct a second round of consultation but did not disclose the circumstances or procedures where URCA notifies the public from the outset of the consultation that there will be two or more rounds.

URCA's Responses to Comments Received/Final Decision

Where an error is contained in the submission of an interested person or the display of a misunderstanding of the subject matter of a consultation is significant and material URCA will address such matters expeditiously and bring them to the attention of the party.

Regarding the number of rounds that may occur in a consultation it should be noted that where the intent is to obtain feedback or further comments from interested parties on the submissions made by others the submissions received from parties will be published. Otherwise, URCA will publish all comments received during the process upon the publication of its final decision.

2.2.7 Decisions made by URCA following Consultation

BTC's Comment

It was also proposed by BTC that all submissions, except for those which were not deemed confidential should be published within a week of the closure of a consultation period and that where responses were informally obtained a summary of those contributions should be published within a week or two of the closure of the consultation.

CBL's Comments

CBL noted that no timelines for consideration of responses to consultation had been proposed. CBL thought URCA should consider a timeframe for publication based on complexity of the consultation and set key performance indicators concomitant with the same.

Wallace Whitfield's Comment

Mr. Wallace Whitfield noted that URCA had not proposed a time within which a decision on a consultation would be published.

URCA's Responses to Comments Received/Final Decision

URCA refers to and reiterates its comments above relating to timescales for publication and further notes that where responses are obtained in an informal setting, the publication of a summary of the contributions should be made within a reasonable period following. The publication of the same will be dependent on the availability of the requisite resources to attend to the collation of information obtained. URCA assures interested parties that the publication will be within a reasonable time. The legislative framework makes specific reference to particular instances for which timelines for the publication of document, decisions or determinations must occur. In those instances which have not been specifically addressed in the Comms Act and Electricity Act and in relation to which URCA must exercise its discretion, URCA will endeavor to publish in the shortest timeframe possible.

With respect to publication of responses where the intent is to obtain feedback or further comments from interested parties on the submissions made by others the submissions received from parties will be published. In the absence of such an intention URCA will publish all comments received at the time its final decision is published.

2.4 Duration of Consultation

BTC's Comment

There was broad support from BTC for the timeframes that were proposed for the period of consultations and within which responses and comments would be received. However, BTC pointed out that URCA had not provided any timeframes for the publication of decisions though it had made provisions for the duration of the consultation. BTC thought timeframes for publication of the results is critical "where the subject of the public consultation is likely to have a significant impact on the market and/or operations of licensees" and suggested that decisions in those cases should be published within 30 days of the close of a consultation. It was also suggested that should more time be required a notice of the same should be published before the expiration of thirty-day deadline for publication.

CBL's Comments

CBL noted that the guidelines addressed the time that respondents would be given to comment on a consultation document but did not consider the enter consultation exercise. CBL suggested that URCA outline a timeframe for the entire consultation period.

Wallace Whitfield's Comments

Mr. Wallace Whitfield suggested that there is inconsistency between the Comms Act, Electricity Act and URCA Act, in the time period of a public consultation. He noted that the Comms and Electricity Acts referred to thirty (30) calendar days while the URCA Act mentioned thirty (30) days only.

URCA's Responses to Comments Received/Final Decision

URCA appreciates that consultations and the issues raised therein vary in complexity and that there exists potential for variance in the nature of contributions made by various stakeholders. The imposition of a timeframe within which the results of a consultation must be published must take account of the work which must be done by URCA in producing a reasoned document which chronicles the contributions made by respondents, analyzes any suggestions made therein and investigates, as necessary, novel and additional issues which may be brought to URCA's notice in the consultation process. The development of results and final decisions of a consultation should take the foregoing factors (among other things) into consideration. A timescale of thirty (30) days for the publication of the results of a consultation would appear to be specious in the circumstances.

With respect to the discussion of the apparent variation in the periods contained in the legislation, it should be noted that in relation to consultations relating to each sector URCA must have regard to the framework legislation for the sector. The URCA Act outlines the duty to consult and sets a minimum period for consultation. The Comms Act and Electricity Act are the legislation provide that a consultation should be a minimum period of thirty (30) calendar days. The reference to days in section 9 of the URCA Act is to calendar days.

3. CONCLUSION

URCA thanks the respondents for their contributions which have proved valuable in URCA making its final decision on concerns surrounding the consultation process. URCA has published in a separate document the finalized text of the Consultation Procedure Guidelines (URCA XX/2017) alongside the publication of this Statement of Result and Final Decision.