



The Bahamas Telecommunications Company Limited

Response To:

**Consultation on Measures for the Collection and Reporting
of Market Data by Specified Licensees in the Electronic
Communications Sector**

ECS 05/2017

**Legal, Regulatory and
Carrier Services
August 15, 2017**

The Bahamas Telecommunications Company Ltd.
P.O. Box N-3048
Nassau, The Bahamas

August 30, 2017

Mr. Donovan Dorsett
Acting Director of Electronic Communications
Utilities Regulation and Competition Authority (URCA)
Frederick House
Frederick Street
Nassau, The Bahamas

Dear Mr. Dorsett,

**Re: Consultation on Measures for the Collection and Reporting of Market Data by
Specified Licensees in the Electronic Communications Sector ECS 05/2017**

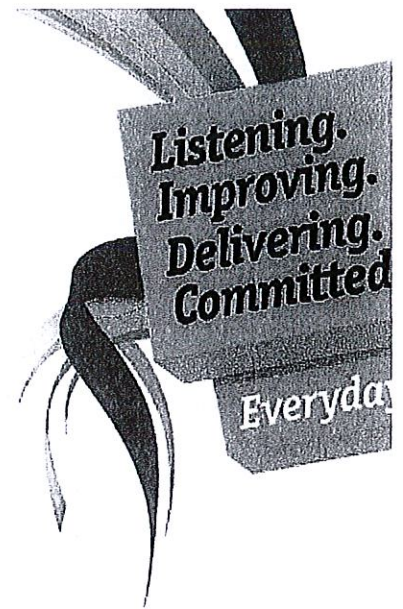
Attached, is a copy of BTC's Response to the Utilities Regulation and Competition Authority's (URCA) Public Consultation on Measures for the Collection and Reporting of Market Data by Specified Licensees in the Electronic Communications Sector ECS 05/2017.

Should the need arise, please feel free to contact the undersigned.

Yours sincerely,
THE BAHAMAS TELECOMMUNICATIONS COMPANY LIMITED



Nicole M. Watkins
Vice President
Legal, Regulatory, Carrier Services & Company Secretary



BTC
Everyday.

Introduction

The Bahamas Telecommunications Company Ltd. ("BTC") herein provides its comments to this Consultation issued to holders of Individual Operating Licenses (IOL) and Class Operating Licenses Requiring Registration (COLRR) for proposed new measures or procedures for the collection and reporting of market information in relation to the operations of specified licensees within the electronic communications sector. The proposed changes are in relation to the frequency of data reporting on market data from annually to quarterly. The regulator, the Utilities Regulation and Competition Authority (URCA) is of the view that the increased frequency of reporting, procedure for reporting and more granularity in relation to the data requested, is beneficial when drafting reports and providing timely data to international agencies, e.g. the International Telecommunications Union (ITU), government departments, the private sector, academic institutions, other institutions and to carry out the daily work of the Authority.

Section 5 and in particular Sections 5 (b) (ii) and 5 (c) of the Communications Act, 2009 imposes an obligation on URCA to ensure that policy measures and decisions undertaken to take effect in the electronic communications sector in The Bahamas take due regard of the underlying costs and implications of those regulatory and other measures on affected parties. Further, there is an obligation to ensure that regulatory and other measures are efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and non discriminatory. BTC recognizes that the increased frequency of reporting of market data and the level of dis-aggregation (granularity) of data, do impose considerable costs, given that this new reporting format would require BTC to engage the services of a third party vendor in building out the appropriate system for the generation of these reports. Further, there is the added pressure on existing resources, considering that the company is required to provide other periodic data, namely the data on Quality of Service (QoS) parameters. It is important that URCA take due regard of the additional costs associated with this new reporting obligation and ensure that this intervention by way of new reporting is proportionate and fit for purpose.

While URCA has provided some evidence to support the provision of market data on a quarterly basis, BTC has taken note that URCA proposes to publish an aggregate representation of the quarterly data on its website not earlier than the end of the following quarter after the statistics were submitted to URCA. The publication of the data provided on a semi annual basis and in the form of aggregates, alleviates some but not all of the concerns that BTC would have had in relation to the production and publication of data on a quarterly basis. Dis-aggregation of data by customer type, i.e. prepaid versus post paid, residential to that of commercial and the dis-aggregation of wholesale traffic data by networks, i.e. domestic and foreign networks can provide commercially sensitive data. Further, it is important to note that the market for the provision of cellular mobile services in The Bahamas, is one where there are only two (2) operators, making it very easy for one competitor to extrapolate from the data provided the activity of the competitor. In short, there are some competition concerns that arises for BTC in the context of this new reporting format.

BTC has noted that URCA proposes to publish data dis-aggregated by customer type, i.e. residential to that of business customers and prepaid to that of postpaid in the case of mobile subscribers. BTC is firmly of the view that there is little to no value in providing the dis-aggregation in this format from a public policy perspective. BTC posit that there is tremendous value for BTC's competitors, providing dis-aggregated data by way of the proposed format. BTC supports the presentation of aggregates both in relation to time periods and across customer types.

Based on the company's review of the data requested, there is no evidence that supports that the level of granularity of the data requested is of any tangible benefits to consumers. Data in relation to customer types, wholesale traffic data separated by network termination points and the dis-aggregation of traffic data by way of on net to that of off net has little to no intrinsic value to consumers. Certainly from a consumer protection perspective, there is no real evidence to support the provision of such data for the enhancement of consumer choices, value and general welfare improvement on the part of consumers.

Finally, BTC is of the view that in addition to supporting the publication of aggregates, where such aggregates will not separate customer types, i.e. prepaid and post paid in the case of cellular mobile services, BTC supports a glide path to the requirements for the production of quarterly reports. BTC supports that the production of quarterly reports, starting the first quarter, 2019, which would allow operators the appropriate time to put in place the resources for this labor intensive exercise. As BTC would have pointed out, the production of these reports in the format requested, will require the outlay of significant resources, including a dedicated resource for data collection.

Response to questions

Below, BTC has provided the response to the questions raised as part of this Public Consultation:

Q1. Do you agree with URCA's justification for its new reporting procedures for the collection of market data? If not, please state why not?

BTC is firmly of the view that URCA's request for ⁽ⁱ⁾ additional data and the frequency of reporting of market information has to be balanced alongside the overall cost to operators of having to employ additional resources for this reporting alongside existing reporting obligations, including reporting on Quality of Service parameters and network performance indicators. Further, ⁽ⁱⁱ⁾ apart from the additional reporting burden, some of the data requested, is considered commercially sensitive. It is for this reason, BTC supports more aggregation of data, particularly where such data will be the subject of published reports. So, reporting of subscribers by prepaid and postpaid split can provide across mobile voice and data can be invaluable to a competitor. Similarly, the reporting of traffic across various networks, both domestic and abroad, again can be considered invaluable data for a competitor. Again, it is worth repeating, unlike in other jurisdictions, the provision of cellular mobile services takes place in a market where there are only two (2) competitors and as such from the published reports, it is fairly easy to extrapolate the behavior of the competitor.

BTC can see where the data requested in some instances can support anti competitive investigations. However, given the commercial sensitivity of some of the data requested,

perhaps an alternative for such data requests in the context of anti competitive investigations, can be to make such request on an ad hoc basis, thereby such data will not be the subject of any published reports.

BTC supports the production of data in the first instance on a semi annual basis and a glide path with the production of quarterly reports, circa first quarter, 2019. However, the production and publication of such report should be based on aggregates without dis-aggregation by customer types, network termination points and the split by way of on net compared to off net traffic.

The company maintains that the level of dis-aggregation requested by way of the reports provides no tangible value to consumers. The level of detail in BTC's is not likely to assist consumers with choices across operators.

Q2. Do you agree with URCA's new reporting format for the collection of market data? If not, please state why not?

BTC objects to the publication of data, disaggregated by customer type, i.e. residential to that of business and in the case of mobile subscribers, a dis-aggregation of prepaid and postpaid subscribers. The proposed format as captured for publication, raises competition concerns. BTC surmises that perhaps international organizations and the general public, would have very little use of data broken out across customer type, i.e. residential and commercial and or prepaid versus postpaid mobile subscribers. By way of an example, if the intent is to know changes in mobile penetration in The Bahamas, there is perhaps little utility in knowing how that penetration is broken out in relation to prepaid versus postpaid. The significant portion is knowing the changes in penetration at the aggregate. Similarly, fixed broadband, from a policy perspective, there is more value in knowing total penetration, rather than the mix of residential compared to business subscribers.

In addition to the dis-aggregation and publication of retail services raising competition concerns, there is also the challenge in relation to the dis-aggregation and publication of wholesale services. Again, there are competition concerns that arises from making such data publicly available.

BTC can see where there is value in having the level of granularity of data, particularly on the wholesale side to aid any ex post anti competitive investigations. However, having this data readily available to all and sundry by way of published reports, raised competition concerns for BTC.

Q3. Do you agree with URCA's proposal to receive quarterly and annual market data? If not, please state why not?

BTC is firmly of the view that there ought to be a glide path to the production of quarterly reports by the respective licensees. Further, consideration should be given to a reasonable lag period, prior to the start of the process to generate the first report. In reviewing the data that would be requested as part of the quarterly reporting, URCA require respondents to supply revenues on items such as on net mobile calling, off net mobile to mobile calling and off net mobile to fixed calling. BTC is of the view that this data is of very little value to end users of communications services. Arguably, data on revenues and traffic data in relation to on net and off net calling provides little value to the international agencies seeking information on changes and the evolution in the communications sector in The Bahamas. However, this data can prove to be quite valuable to BTC's competitor(s).

Underlying the adjustments as part of this new reporting is identifying the appropriate dedicated resource to produce these reports. The factors outlined here provides in BTC's view the justification in the first instance to have the reports completed on a semi annual basis and then moving to quarterly reporting circa first quarter 2019, allowing for the appropriate lag for the start of the production of the first quarterly reports.

Q4. Do you agree with URCA's proposal to publicise aggregated market data? If not, please state why not?

BTC has noted that it is URCA's intent to publish the aggregated data three (3) months after the quarter for which the data relates. As BTC would have pointed out earlier in this response, the concern relates to the level of dis-aggregation that relates to customer type, i.e. prepaid/postpaid in the case of mobile, residential/commercial in the case of fixed

services and wholesale traffic dis-aggregation by network termination points. This coupled with an environment where there are two (2) operators in the case of mobile and two (2) main operators in the case of fixed services. Compared to other jurisdictions where there are a number of operators and the aggregation of data would obscure to some extent the data on individual operator, it is fairly easy in the present context to gather commercially sensitive data by way of the proposed reporting format.

BTC would support the aggregation of data for reporting, but the data should not be reported by customer types and or network termination points in the case of wholesale traffic. BTC is of the view that this level of granularity provides little value to consumers and or end users of communications services and perhaps the international organizations in monitoring trends in relation to policies as it relates to the communications sector, e.g. increase broadband, fixed and mobile penetration rates.

Q5. Do you agree with URCA's implementation timelines for the new measures? If not, please state why not?

BTC has noted that the first quarterly reports and annual reports are expected to be submitted to URCA not later 5 p.m. October 30, 2017 and February 14, 2018 respectively. As BTC would have outlined earlier in this response, there should be a glide path for BTC and other operators, prior to the implementation of quarterly reports. In the first instance, licensees should be required to produce semi annual reports, with implementation of quarterly reports required starting the first quarter, 2019. This would allow BTC and other licensees who are required to report to put in place the appropriate systems, inclusive of people to generate the requested reports on a quarterly basis. It is important to note that in addition to this proposed change in the format and frequency of reporting, operators have had additional obligations in relation to reporting, including the reporting on Quality of Service (QoS) and Network Performance Indicators. It is in this context that it is important that URCA take into account the additional costs associated with this request.

Q6. Do you agree with URCA's assessment of the regulatory options considered? If not, please state why not?

BTC has long held the view that regulatory measures should be proportionate, efficient and fit for purpose, taking into consideration the underlying costs of implementation of such measures and whether such measures are the most efficient options as part of the overall remedies. While BTC can see the merit in collecting more data and a greater level of dis-aggregation of data, particularly mobile data and the entrant of a second mobile operator that would require greater monitoring of the developments of the mobile sector, the company's concerns centers primarily on the commercial sensitivity of the dis-aggregated data requested and the ability of competitors to derive commercially sensitive data, given that there are only two (2) operators in the market for the provision of cellular mobile services. BTC has significant reservations in relation to published data broken out by customer type, i.e. prepaid and post paid subscribers in the case of mobile and or the dis-aggregation of wholesale mobile services, broke out by traffic by network termination points, i.e. domestic compared to foreign carrier networks.

Reservation of rights

BTC has addressed the issues but reserves the right to comment at any time on all issues and states categorically that the decision not to respond to any issue raised in this Consultation in whole or in part does not necessarily represent agreement in whole or in part with URCA's position, nor does any position taken by BTC in this consultation mean a waiver of any of BTC's rights in any way. BTC expressly reserve all its rights.