



CONTENT REGULATION:

**REVISION OF THE CODE OF PRACTICE FOR
CONTENT REGULATION**

STATEMENT OF RESULTS AND FINAL DECISION

ECS 07/2020

Issue Date- 17 August 2020

Table of Contents

1. Introduction 3

1.1. Background 3

1.2. Structure of the Remainder of the Document 4

Part 2: Responses to Public Consultation Questions and URCA’s Final Decisions 5

Part 6: Political Broadcasts and Advertisements..... 5

Part 7: Advertising and Sponsorships 12

Part 10: Complaints Handling Process 26

Part 3: URCA’s Revisions to the Code of Practice 39

1. Introduction

The Utilities Regulation and Competition Authority (URCA) issues this Statement of Results and Final Decision on the Proposed Revision to the Code of Practice for Content Regulation ECS 72/2019 (“the Code”) consultation document. In addition to this Statement of Results and Final Decision, URCA has published its Revised Code of Practice for Content Regulation – ECS 08/ 2020 (“the Revised Code”) as a standalone document.

1.1. Background

On 13 December 2019, URCA published and thereby initiated its public consultation process on the Proposed Revision of the Code of Practice for Content Regulation – ECS 72/2019. During this process, members of the public, stakeholders and other interested parties were given the opportunity to comment on the proposed revisions to Part 6 - Political Broadcasts and Political Advertisements, Part 7- Advertising and Sponsorships and Part 10 - Complaints Handling Process of the Code of Practice for Content Regulation. URCA’s consultation process concluded on 31 January 2020. At the close of this period, URCA was disappointed with the low number of responses from the public, stakeholders and other interested parties to the consultation document. To ensure that the consultation was as comprehensive and inclusive as possible, URCA extended the Response Date to 28 February 2020. At the close of the extended period, URCA received written submissions from the following respondents:

- Cable Bahamas Ltd.;
- The Bahamas Telecommunications Company Limited; and
- Sears & Co. (instructed by Playtech Systems Ltd. (Playtech) d/b/a “Island Luck”).

URCA thanks the respondents for their written submissions and participation in the consultation process.

Having reviewed the responses, URCA considered that there were meritorious Constitutional and other issues proffered by the Respondents that required careful consideration and expert legal advice. As such, obtaining such advice inevitably delayed the issuance of this Statement of Results and Final Decision and the Revised Code.

URCA now provides its comments on the responses received and sets out herein its Final Decision. For the avoidance of doubt, Respondents should not take URCA’s failure to respond explicitly to any issue raised by such Respondents as signifying URCA’s agreement in whole or in part with the comment, that URCA has not considered the comment, or that URCA considers the comment without merit.

1.2 Structure of the Remainder of the Document

The remainder of the document is structured as follows:

Section 2: Responses to the Public Consultation Questions and URCA's Final Decision; and

Section 3: URCA's final revisions to the Code of Practice for Content Regulation.

Part 2: Responses to the Public Consultation Questions and URCA’s Final Decision

In this section URCA addresses each of the responses submitted in respect of the questions put forth in the Consultation document and provides its Final Decision.

Part 6: Political Broadcasts and Advertisements

Question 1: Do you agree with URCA’s proposal to amend Clause 6.7 of the Code to prohibit licensees from reporting results of polling stations and engaging in political discussion or analysis where polls remain open after the time required for polls to be closed? If not, please provide reasons for your answer.

Name of Respondent	Response to URCA’s Consultation Document	URCA’s Comments	URCA’s Final Decision
<p>The Bahamas Telecommunications Limited (BTC)</p>	<p>BTC did not agree with the proposed prohibition against licensees engaging in political discussion or analysis during polling hours. BTC considered that with the introduction of social media and the advancement of technology, political advertisements are no longer confined to television and radio and can be transmitted via social media and live feeds. BTC acknowledged that social media platforms are not regulated and therefore there are no restrictions with regards to the advertisement of political material.</p>	<p>URCA notes BTC’s comment that political advertisements are no longer confined to television and radio due to the introduction of social media but does not agree that the prohibition should be abolished. URCA recognizes that social media platforms are unregulated which consequently allows broadcasters to be able to broadcast any material whether it is political or otherwise. However, while social media platforms continue to grow as a complementary source of news, information and entertainment, it has not yet surpassed the impact and pervasiveness of radio and TV</p>	<p>URCA will introduce the proposed amendment to Clause 6.7 of the Code to prohibit licensees from reporting results of polling stations and engaging in political discussion or analysis where polls remain open after the time required for polls to be closed.</p>

	<p>BTC suggested that URCA take a more progressive approach that aligns with the current digital environment as observed in the United States of America where freedom of speech is allowed by legally qualified candidates. BTC noted that the Federal Communications Commission (FCC) does not censor the content of commentary and compared this position with that of the United Kingdom’s regulator Office of Communications (Ofcom) which allows legally qualified candidates an opportunity and access to the media without censorship although pre-arranged with the licensee/broadcaster.</p> <p>BTC viewed the prohibition as one which deprives broadcasting licensees of potential revenues and the public from the choice of engaging in or listening to political discourse if they so desire. BTC stated that in the interest of fairness and consistency across all media platforms the prohibition should be abolished unless it can be maintained against social media platforms and other digital media outlets.</p>	<p>broadcasting, particularly in the Family Islands. URCA considers that, as a consequence of their widespread impact on the lives and opinions of their audiences, radio and television stations have the primary responsibility for ensuring that the material they broadcast do not have unintended consequences during election periods. The provisions outlined in Part 6 of the Code are therefore aimed at ensuring that political broadcasts by radio and television stations are not based on biased or partisan reporting which can affect the outcome of the electoral process, and that mass media through the broadcast of political advertisements, interviews, commentaries or news do not influence voting decisions of the electorate while the polls remain open.</p> <p>URCA notes BTC’s position that URCA should adopt a more progressive approach that aligns with the digital environment as observed in the United States which allows freedom of speech by legally qualified candidates. URCA considers that the proposed provisions of Part 6 of the Code do not infringe the right to freedom of speech or have a censorial effect on radio and television</p>	
--	---	---	--

		stations or political candidates as such radio and television stations and political candidates are permitted to engage in political advertisements and broadcasts throughout the election period, save and except on polling day in order to preserve the integrity of the voting process.	
Cable Bahamas Ltd (CBL)	CBL supported URCA's proposals to clarify that the prohibition on reporting results and undertaking political discussions and analysis should be extended while all or any polling station remains open after normal closing time.	URCA notes CBL's comments and support for the proposed prohibition.	No changes necessary.
Sears & Co	No comments were submitted in relation to this question.		

Question 2: Do you believe that that the prohibitions outlined in Clause 6.7 should be applied during bye-elections, referendum, and advanced polling day? If not, please provide reasons for your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
<p style="text-align: center;">BTC</p>	<p>BTC stated that its position in response to this question was similar to that as outlined in question (1). In addition, BTC suggested that in light of the proliferation and the influence of social media in the area of political commentary and political broadcasts, URCA should look carefully at the provisions within the Code of Practice for Content Regulation ("the Code") as to the appropriateness going forward.</p>	<p>URCA notes BTC's comments regarding the proliferation of social media in relation to political commentary and broadcasts. Currently, URCA's regulatory remit does not extend to online content. URCA recognizes the unique challenges and complex realities of social media and digital platforms in the radio and television broadcast industries but considers these media platforms to be complementary to radio and television broadcasting in The Bahamas.</p> <p>URCA considers that the proposed revision to section 6.7 of the Code is the appropriate regulatory measure to be applied during bye-elections, referenda and advanced polling days, as radio and television broadcasting are the primary sources of news and election results during the election period in The Bahamas.</p>	<p>URCA will amend Clause 6.7 as follows:</p> <p>6.7 Prohibitions on polling day</p> <p>1) Licensees shall not broadcast the following to the public within any programmes on any polling day advanced polling day, election day, bye-election day and referendum day until the close of all polling stations:</p> <ul style="list-style-type: none"> (a) discussion and analysis of election and referendum issues; (b) the result or purported result of the voting in a constituency or electoral district before the close of all of the polling stations in that constituency or electoral district; (c) the results of any opinion poll; (d) any political advertisements, political broadcasts or any other election programming produced by or on behalf of a candidate, political party or other person or entity.

			<p>2) The prohibition in subsection (1) also applies in cases where polling stations in any given constituency remains open after the mandatory scheduled time for poll closure due to an extenuating circumstance.</p> <p>3) Notwithstanding the prohibition in subsection (1) URCA may exercise its discretion and permit Licensees to broadcast to the public on any polling day the matters listed in subsection (1) where the relevant extenuating circumstance persists for a period exceeding twenty-four (24) hours since the originally scheduled closing time of the polls.</p>
CBL	CBL supported the extension of the prohibition to be applied during bye-elections, referendum and advance polling day.	URCA notes CBL comments in relation to this question and its support for the proposal.	No changes necessary.
Sears & Co	No comments were submitted in relation to this question.		

Question 3: Do you think that URCA should have regard to the inclusion of any other clause within Part 6 of the Code? If yes, please explain your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
<p>BTC</p>	<p>BTC stated that its position in response to this question had been previously outlined in questions (1) and (2) respectively.</p>	<p>URCA has addressed BTC's responses in this regard above.</p>	<p>No changes necessary.</p>
<p>CBL</p>	<p>CBL noted that the Office of Communications (Ofcom) excludes archived material in on-demand programming services (such as previously broadcast programmes shown on another channel operated by the broadcaster) from restrictions on Election Day broadcasting. Further, CBL noted that in the Bahamas, ZNS TV provides previously broadcast programmes on its website which would be prevented under URCA's current wording.</p> <p>CBL considered that as the Code has already defined such services as on-demand audio-visual media services, these should be excluded from URCA's proposed amendment. Otherwise, in CBL's view, licensees would have to take down the material for Election Day because the viewing public would be</p>	<p>URCA notes CBL's position that on demand audio visual media services (such as previously broadcast programmes available on a broadcaster's website or delayed "catch-up" programmes shown on another channel operated by the broadcaster) should be excluded from URCA's proposed amendments. URCA however does not agree with CBL's comments and considers that CBL may have misinterpreted the purpose of the prohibition. The prohibition is specific to the actual broadcast of archived material by a licensee on election day, but does not apply to previously broadcast programmes that have been placed on a licensee's website for access by members of the public on their own volition.</p>	<p>URCA will amend Clause 6.7 as follows:</p> <p>6.7 Prohibitions on polling day</p> <p>1) Licensees shall not broadcast the following to the public within any programmes on any polling day advanced polling day, election day, bye-election day and referendum day until the close of all polling stations:</p> <ul style="list-style-type: none"> (a) discussion and analysis of election and referendum issues; (b) the result or purported result of the voting in a constituency or electoral district before the close of all of the polling stations in that constituency or electoral district;

	<p>accessing the material on a separate media.</p> <p>CBL also noted that the proposed restriction applied to “programmes” as defined in URCA’s Code. However, CBL indicated that the definition appeared to exclude written social media content. CBL considered that video content on social media provided by third parties would not be viewed as an “audio-visual service” under the definition in the Communications Act, 2009 (Comms Act). However, video content provided by a Licensee on social media might be caught by URCA’s restriction on election broadcasting.</p> <p>CBL sought clarification from URCA as to whether social media is specifically excluded from URCA’s proposed amendment, and requested that URCA for the avoidance of doubt, specifically exclude social media from its prohibition on political broadcasts during elections.</p>	<p>CBL has requested clarification on whether social media are specifically excluded from URCA’s proposed amendment. URCA clarifies that it will exclude social media from its proposed prohibition as content over this media is not currently regulated by URCA.</p> <p>URCA will therefore recast the proposed amendment to expressly exclude ‘social media’ from its prohibition on political broadcasts during polling days.</p>	<p>(c) the results of any opinion poll;</p> <p>(d) any political advertisements, political broadcasts or any other election programming produced by or on behalf of a candidate, political party or other person or entity.</p> <p>2) The prohibition in subsection (1) also applies in cases where polling stations in any given constituency remains open after the mandatory scheduled time for poll closure due to an extenuating circumstance.</p> <p>3) Notwithstanding the prohibition in subsection (1) URCA may exercise its discretion and permit Licensees to broadcast to the public on any polling day the matters listed in subsection (1) where the relevant extenuating circumstance persists for a period exceeding twenty-four (24) hours since the originally schedule closing time of the polls.</p> <p>4) <i>In addition to the foregoing matters, the prohibition in subsection (1) does not apply to social media content.</i></p>
--	--	---	---

Sears & Co	No comments were submitted in relation to this question.		
------------	--	--	--

Part 7: Advertising and Sponsorships

Question 1: Do you agree with URCA's proposal to introduce a watershed period in clause 7.9 of the Code as a safeguard for children and young persons? If not, please provide reasons for your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
BTC	BTC agreed with URCA's proposal to introduce a watershed period. However, BTC suggested that certain channels with broadcasting specifically geared towards children be strictly prohibited from broadcasting advertisements directed to gaming and gambling due to the vulnerable nature of the viewing audience.	URCA notes that BTC supports the proposal for the introduction of a watershed period. URCA considers that BTC's suggestion that gambling advertisements should be strictly prohibited from channels specifically geared towards children falls outside the scope of this consultation and is a matter of public significance that requires public consultation before URCA can impose such prohibition. URCA however considers that, at this stage, the proposed watershed period should satisfactorily address the concerns relating to the broadcasting of such advertisements on channels geared towards children.	No changes necessary.

<p>CBL</p>	<p>CBL supported URCA’s proposal for the introduction of a watershed period but noted that URCA’s proposal prevented the showing of gambling advertisements between 9:00 p.m. and 5:30 a.m. and permits them at other times. CBL suggested that URCA amend its proposal so that the wording becomes consistent with the definition of “watershed” as outlined in the Code.</p>	<p>URCA notes CBL’s comments and support for the proposal. URCA also notes that CBL has indicated that the proposal may not have achieved URCA’s intended purpose due to the wording used in the provision. URCA agrees with CBL’s comment in this regard and will revise the clause in order to allow the proposal to be aligned with the definition of ‘watershed’ as defined in URCA’s Code.</p>	<p>URCA will amend Clause 7.9 as follows:</p> <p>7.9 Gambling</p> <p><i>(1) Advertisements or sponsorships pertaining to lawful gambling, gaming, betting, bookmaking, lotteries or any similar lawful activity or service shall not be broadcast outside the watershed period.</i></p>
<p>Sears & Co</p>	<p>Sears & Co. submitted that Playtech is a person with sufficient interest in and whose interests will be disproportionately and adversely affected by URCA’s proposals, with a right to be heard, pursuant, inter alia, to section 11 of the Comms Act. Sears and Co. stated that the proposals, without empirical evidence and any representation of the domestic gaming industry on CRIG, are based on discriminatory, arbitrary and capricious assumptions and will have a disproportionately severe impact on the domestic gaming industry.</p> <p>Sears & Co strongly disagreed that the implementation and introduction of a sweeping and blanket watershed period is the appropriate, rational and proportionate regulatory remedy to</p>	<p>URCA agrees that Playtech (represented by Sears & Co.) is a person with sufficient interest as contemplated by section 11 of the Comms Act whose rights may be materially adversely affected by the proposed regulatory measure under the Code. URCA clarifies that there is no statutory requirement for there to be representation of the domestic gaming industry on the CRIG. Section 11 expressly requires URCA to allow persons with sufficient interest a reasonable opportunity to comment on proposed regulatory and other measures. URCA considers that it has complied with this requirement under this consultation process by giving a time period of approximately six (6) weeks for representations, which exceeds the statutory thirty (30) calendar days</p>	<p>No changes necessary.</p>

	<p>accomplish the purpose of protecting children and young persons under the age of eighteen (18) years from gaming advertisements.</p> <p>Sears & Co viewed URCA's proposed amendment as premature and one that ignores other existing and properly functioning market and regulatory protection. Sears & Co noted that URCA did not produce or cite a single example of children being targeted by gaming advertisements in The Bahamas and that URCA's claim of the increasing prevalence of gambling within the Bahamian society was factually incorrect. Sears & Co further stated that the proposed watershed period was inconsistent with section 5 of the Communications Act, 2009 in that it is not efficient, proportionate and fair. In response to URCA's justification for the introduction of a watershed period, Sears & Co. noted the following:</p> <ol style="list-style-type: none"> 1. URCA's statement that "gambling is becoming more prevalent within the Bahamian society" is demonstrably inaccurate and objectively not factual. In this regard, Sears & Co. stated that prior to the regularization of gaming in The Bahamas in 2014 	<p>minimum, to be submitted by interested persons to the matters contained in URCA's consultation document ECS 72/2019. It was open to the local gaming industry to submit any representation to URCA for consideration during that period. It was also open to the domestic gaming industry, including Playtech, to provide empirical evidence for URCA to consider regarding the disproportionately severe impact the proposal would have on Playtech and the domestic gaming industry. URCA considers that it has no statutory obligation to supply empirical evidence as part of the public consultation process on the proposed amendments but during such process URCA would have had an obligation to consider any such evidence provided by persons of sufficient interest.</p> <p>URCA notes that Sears & Co. disagrees that the implementation and introduction of a "sweeping and blanket" watershed period is the appropriate, rational and proportionate regulatory remedy to accomplish the purpose of protecting children and young persons under 18 years from gaming advertisements. URCA considers that Sears & Co. has not provided sufficient nor any clarification</p>	
--	--	---	--

	<p>there were approximately 640 gaming locations throughout The Bahamas operated by approximately 25 gaming operators. However, today there are fewer than 300 gaming locations with 7 gaming operators in The Bahamas.</p> <ol style="list-style-type: none"> 2. With the passage of the Gaming Act and Regulations 2014, domestic gaming in The Bahamas is now regulated and account based unlike the sale of tobacco and alcohol and to participate in gaming activity patrons must physically present themselves at a Gaming House location and personally initiate the account opening and registration process. 3. Gaming House Operators must undertake due diligence before an account is opened which consist of among others, proof that the patron is over the age of eighteen (18). 4. The Gaming House Operator Regulations already obligate gaming house operators to advertise the prohibition against persons under the age of eighteen (18) years, the promotion of 	<p>and evidential support for its position that the watershed period is a “sweeping and blanket” proposal. URCA is required under section 5(c) of the Comms Act to introduce regulatory and other measures in a manner, inter alia, that is transparent, fair and non-discriminatory. Having regard to this statutory requirement, URCA has set out in its CONTENT REGULATION: APPLICATION OF THE CODE OF PRACTICE FOR CONTENT REGULATION – ECS 11/2012 the Comms Act licensees to which the Code applies. URCA also considers that it was open to Sears & Co., to provide, but it did not so provide, any alternative recommendation which it considered would be an appropriate remedy to accomplish URCA’s stated purpose of limiting the exposure of children and young persons to gaming advertisements during the periods when they are the most likely to be part of the audience. The implementation of watershed periods in relation to gaming/gambling advertising is an international best practice and URCA is aware that watershed periods have been adopted by international regulatory authorities as an appropriate remedy to limit exposure of children and young persons to gaming during the periods</p>	
--	---	---	--

	<p>responsible gaming and the exclusion of vulnerable adults.</p> <p>5. The Bahamas Gaming Operators Association has a primary objective to raise awareness and to ensure that the industry exercises the highest and best practice standards with respect to the implementation and execution of socially responsible gaming programs and activities.</p> <p>Sears & Co stated that it believed that URCA's proposed watershed was discriminatory and that the watershed period does not extend to other PAY TV stations such as ABC, NBC, CBS and FOX which are carried on Cable Bahamas network platform and carry lottery drawings and gaming advertisements.</p> <p>Sears & Co also noted that the three jurisdictions identified by URCA in its consultation document, was not support for URCA's proposals and that URCA had misapplied or mischaracterized the gaming advertisement rules in these jurisdictions.</p> <p>Sears & Co noted that every person in The Bahamas, including corporate entities,</p>	<p>when they are most likely to be part of the audience.</p> <p>URCA considers that Sears & Co. has applied a very narrow interpretation to URCA's statement anent the prevalence of gambling in the Bahamian society and limited support for its position to empirical data which, at best, illustrates a concentration of competition in the domestic gaming industry. The full context of URCA's statement encompasses the burgeoning extent to which gaming/gambling, since becoming regularized, is being advertised and promoted in the Bahamian society by pay television and radio broadcast licensees. URCA notes that prior to 2014, the pay television and radio advertising and promotion of gaming were strictly prohibited in The Bahamas. Since the regularization of the gaming industry in 2014, "web shop gaming" in particular has entered the formal Bahamian economy and has established a more ubiquitous presence through television and radio advertising. URCA considers that will continue to increase the potential exposure of children and people under 18 years to gaming/gambling if not subject to watershed prohibitions under the Content</p>	
--	---	---	--

	<p>have a fundamental right of freedom of expression under Article 23 of the Constitution of The Bahamas and provided judicial precedents in support of this position. Sears & Co stated that the Constitution allows permissible derogations which are reasonably required in the interest of defence, public safety, public order, public morality or public health; or for the purpose of protecting the rights, reputations and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainment. Sears & Co noted that the Code of Practice for Content Regulation, made pursuant to Section 55 of the Communications Act, 2009 is a law that derogates from the constitutional right of freedom of expression for the purpose of “regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainment.” However, that any derogation law should be narrowly designed to pursue an importantly regulatory objective; must be rationally connected to the regulatory</p>	<p>Code. URCA therefore considers that now that the gaming industry is regularized and lawful in The Bahamas the reach by the gaming industry through pay television and radio advertising has become more prevalent in the Bahamian society and the imposition of a watershed period on all pay television and radio broadcast licensees is consistent with section 5(c) of the Comms Act in order to limit exposure to children and young persons under 18yrs.</p> <p>The watershed period as defined in URCA’s Code of Practice for Content Regulation commences at 9:00 pm on any given evening and ends at 5:00 am the following morning. During this period, material which is considered to be unsuitable for children may be broadcast. URCA considers gambling advertisements to be unsuitable for children and people under 18 years and therefore should only be shown during this period. Outside of this period children and people under 18 years are more likely to be a part of the viewing audience exposed to gambling content. On this basis, URCA does not accept Sears & Co position that URCA’s proposed revision will introduce a “<i>sweeping watershed period</i>” for</p>	
--	--	---	--

	<p>objective; and should not have a disproportionately severe impact on the protected right. Sears & Co also provided judicial precedent in support of this position, particularly the case of Vanderpool and Sidney Gumbs v The Hon Minister of Information and Broadcasting and The Attorney General for Anguilla (2002) UKPC 8, where, on the facts, the Minister’s suspension of the radio program “TALK YOUR MIND”, without notice to its host after the host had expressed doubt about the legality of the national lottery in Anguilla, the Privy Council upheld the trial justice ruling that “there was here an arbitrary or capricious withdrawal of a platform which had been made available by the government”. Sears & Co urged URCA to reconsider what it considered an arbitrary, discriminatory and capricious proposed amendment of Clause 7.9 of the Code and to work closely with the gaming industry to find common ground for the benefit of The Bahamas.</p>	<p>advertisements or sponsorships pertaining to lawful gambling, as gambling advertisements albeit restricted to certain hours can still be broadcast.</p> <p>URCA notes Sears & Co comments in relation to the regulatory provisions introduced by the Gaming House Operator Regulations, 2014 and other Gaming Laws. URCA has considered the provisions of the compendium of Gaming Laws in The Bahamas and particularly notes section 46 of the Gaming House Operator Regulations, 2014 and section 115(1)(k) of the Gaming Regulations, 2014. URCA considers that that none of the Gaming Laws expressly apply to Comms Act licensees but are specific to Gaming House Operators. URCA clarifies that it is the Comms Act licensees providing audiovisual media services having editorial responsibility that are required to comply with the Code, including the Advertising and Sponsorship provisions. URCA is aware that persons take a television channel from CBL under a commercial agreement, over which content is broadcast. In such circumstances, URCA considers that CBL has the editorial responsibility as a Comms</p>	
--	--	---	--

		<p>Act licensee, to which the Content Code will apply.</p> <p>URCA notes Sears & Co position that URCA's proposed watershed period is discriminatory since it does not equally apply to Pay TV stations such as ABC, NBC, CBS and FOX which are carried on Cable Bahamas Limited network platform and which carry lottery drawings and gaming advertisements. URCA disagrees that the watershed period is discriminatory, as it will apply to all Comms Act licensees providing audiovisual media services having editorial responsibility. A Comms Act licensee that exercises effective control over both the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of on-demand audiovisual media services, is considered to have editorial responsibility. Such licensees will be required to comply with the watershed period under the Code. Where the public and/or interested parties suspect that there has been a breach of the provisions of the Revised Code, URCA encourages that it be immediately notified so that URCA can</p>	
--	--	---	--

		<p>conduct an investigation and take the appropriate regulatory action.</p> <p>URCA notes Sears & Co comments that URCA misapplied or mischaracterized the gaming advertisement rules as applied in Australia, Kenya and the United Kingdom. URCA considers that the said jurisdictions are appropriate benchmarks to substantiate URCA's positions in relation to this issue and to broadly illustrate that similar measures have been imposed by international regulatory authorities to protect young persons and children. The rules that have been referenced by URCA were not intended for the wholesale adoption or application of regulatory measures by URCA for The Bahamas.</p> <p>URCA considers that the substratum of the comments by Sears & Co. regarding the fundamental right of freedom of expression is that the proposed amendment of Clause 7.9 of the Code infringes the Constitutional right of freedom of expression. URCA does not consider this document as the appropriate forum to ventilate substantive Constitutional legal issues; however, URCA disagrees that the proposed amendment of Clause 7.9 of the Code is</p>	
--	--	---	--

		<p>unconstitutional. URCA recognizes that broadcasting is a fundamental form of exercise of the right to freedom of expression, from the perspective of both the person providing a content service and the person receiving that service. The former is exercising his or her right to hold opinions and to impart ideas and information without interference, and the latter has a right to receive the views so imparted. These rights are enshrined in Article 23 of the Constitution of the Commonwealth of The Bahamas, which also contains the important limitations by law/statute to the extent reasonably required in the interests of particular causes including defence, public safety, public order, public morality and public health or for the purpose of regulating wireless broadcasting, television, or public entertainment. URCA considers that applicability of the legal principles permitting derogation from the right of freedom of expression as set out in the Alberta Ltd. Case cited by Sears & Co., can be distinguished on the basis that the related Canadian Charter of Rights provisions are not expressly limited by what is 'reasonable required' for regulation of broadcast etc. as provided for by Article 23 of the Constitution of The</p>	
--	--	--	--

		<p>Bahamas and hence do not enjoy the presumption of regularity of permissible derogation which Article 23 provides. Moreover, the Comms Act expressly contemplates such permissible derogation through Codes of Practice binding on providers of audiovisual media services, to achieve aims consistent with Article 23 of the Constitution, as set out in section 53 of the Comms Act. Section 52 of the Comms Act also recognizes that it may also be appropriate for URCA, by determination, to regulate other content services (which are not audiovisual media services) intended for reception by subscribers of carriage services or by broadcasting in The Bahamas. URCA considers that The Vanderpool and Sidney Gumbs Case can be distinguished on its facts, to the extent that the platform for the freedom of expression in that case was completely removed by the Minister from those seeking to exercise their freedom of expression over the radio programme. URCA however considers that the watershed period, as proposed under the Code, will allow for the freedom of expression of gaming/gambling related advertisements and sponsorship in a manner that protects public morality in</p>	
--	--	--	--

		relation to children and persons under 18 years.	
--	--	--	--

Question 2: In addition to URCA’s proposal for a watershed period, do you think that URCA should include a provision within Part 7 of the Code that ensures that the marketing and advertising of gambling is socially responsible and not directed at persons under the age of 18? If not, please provide reasons for your answer.

Name of Respondent	Response to Consultation Document	URCA’s Comments	URCA’s Final Decision
BTC	BTC agreed with URCA’s proposal to include a provision within Part 7 of the Code to ensure that the marketing and advertising of gambling is socially responsible and not directed to persons under the age of eighteen (18) years. BTC however suggested that the advertisements that contain content associated with gambling bear a general disclaimer similar to tobacco and alcohol advertisements.	URCA notes BTC comments and support for the proposal to include a further provision with Part 7 of the Code. URCA also accepts BTC’s position that advertisements which contain content associated with gambling bear a general disclaimer similar to tobacco and alcohol advertisements. In light of this URCA proposes to amend Clause 7.9 of the Code in order to provide for such.	URCA will amend Clause 7.9 as follows: 7.9 Gambling <i>(1) Advertisements or sponsorships pertaining to lawful gambling, gaming, betting, bookmaking, lotteries or any similar lawful activity or service shall be not be broadcast outside the watershed period.</i> <i>(2) Licensees must take all reasonable steps to promote socially responsible gambling. Particular care should be taken to protect children and young persons from being harmed by advertising that features or promotes gambling.</i>

			<i>(3) In addition to the foregoing, advertisements or sponsorships pertaining to lawful gambling, gaming, betting, bookmaking, lotteries or any similar lawful activity or service shall bear a general disclaimer.</i>
CBL	<p>CBL supported URCA’s proposal to include a provision within Part 7 to ensure social responsibility with regard to marketing and advertising gambling to minors. CBL noted that CBL’s REVTV carries a channel which is owned by a gambling house and which runs numbers throughout the day. However, CBL stated that it was satisfied that section 1.6 of the Code and its reference to Clause 7.1-7.12 were met (amongst others) with regard to the availability of an ‘adult’ channel (which could include a dedicated gambling channel) and the obligation of the Licensee to take reasonable steps to;</p> <ul style="list-style-type: none"> (a) provide classifications and/or advisories as to the nature of the programming; (b) ensure that adequate parental control mechanisms are available in conjunction with the advisory and classification system; and 	<p>URCA notes that CBL supports the proposal to include a further provision with Part 7 of the Code. While CBL commented that it is satisfied that Clauses 1.6 and 7.1-7.12 (amongst others) of the Code are adequate and vitiates the need for a watershed period, URCA considers that the watershed period is necessary as the Code not only applies to CBL but to all pay tv providers. While such safeguards may be readily met by CBL, URCA considers that similar or adequate safeguards may not be in place by other providers. Additionally, to ensure that there is full protection in accordance with the Revised Code for children and persons under 18 years, CBL must adjust or ‘black out’ advertisements and sponsorships relating to gaming/gambling on all of its pay tv channels to comply with the watershed period.</p>	No changes necessary.

	(c) that subscribers have access to instructions and assistance regarding the use of the parental control mechanisms for the maintenance of security from accidental or unsanctioned use by children provides adequate measures for the protection of minors with regard to the said channel.		
Sears & Co	As outlined in question (1), Sears & Co opposed the introduction of a watershed period and the inclusion of a provision to ensure that the marketing of gambling is socially responsible documentary evidence and not directed at persons under the age of eighteen (18).	URCA notes the comments submitted by Sears & Co and have previously addressed the comments.	No changes necessary.

Question 3: Do you think that URCA should have regard to the inclusion of any other clause within Part 7 of the Code? If yes, please explain your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
BTC	BTC stated that it had no other suggestions to be included in Part 7 of the Code.	URCA notes BTC's comments in relation to this question.	No changes necessary.

CBL	CBL had no other suggestions to be included in Part 7 of the Code.	URCA notes that CBL had no comments in relation to this question.	No changes necessary.
Sears & Co	No comments were submitted in relation to this question.	URCA notes that no comments were submitted by Sears & Co in relation to this question.	No changes necessary.

Part 10: Complaints Handling Process

Question 1: Do you agree with URCA's proposal to reduce the time limits for licensees to respond to and resolve Code complaints as outlined in Part 10 of the Code? If not, please provide reasons for your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
BTC	BTC noted that while it can appreciate the merit of reducing the time limits, it considered that in the case of the proposed amendment to Clause 10.6(1) the time period in which licensees should notify a complainant should remain at five (5) business days and that the wording of the proposed amendment be changed to <i>'in not more than five (5) business days'</i> .	URCA notes BTC's comments in relation to the proposed timelines for complaints. It may have been helpful for BTC to provide reasoning for URCA's consideration why BTC, or any other licensee, would require more than two (2) business days to issue a written notification of receipt of a complaint to a complainant. URCA considers that the acknowledgement of receipt of a complaint does not require any further action at this stage of the	No changes necessary.

	<p>BTC also noted URCA’s proposal to reduce the time limit in Clause 10.6(3) and stated that this timeframe should be reduced to ten (10) working days. BTC based its rationale on the decision made in the case of ComReg (Ireland’s Regulatory Authority). BTC stated that such time limit would allow adequate time for research and obtaining professional advice where warranted.</p> <p>As it relates to Clause 10.7(1), BTC cited the British Broadcasting Corporation (BBC) Complaints Framework based on the Ofcom Guidelines where the company was given thirty-five (35) calendar days in which to resolve an issue. On that basis, BTC proposed that licensees be given a maximum of thirty (30) calendar days to resolve an issue depending on the complexity of the issue(s).</p>	<p>complaints handling process that would justify a delay in providing a receipt of complaint notification to a complainant beyond two business days.</p> <p>URCA notes BTC’s position in relation to Clause 10.6(3) that the timeframe should be reduced to ten (10) working days similar to that of ComReg. It may have been useful for BTC to provide a cogent reason for URCA to consider the timeline used by ComReg. URCA is aware that there is the potential for a greater volume of complaints in Ireland with a population of over four (4) million people as opposed to The Bahamas with a population of under .5 million. URCA therefore does not consider the ComReg timeline as an appropriate benchmark for The Bahamas, in this regard.</p> <p>URCA notes BTC’s comments in relation to the proposed timelines under Clause 10.7(1) of the Code. URCA does not accept the timeframes put forth by BTC and considers BTC’s proposed timelines to be contrary to the underlying intention to ensure the speedy resolution of complaints lodged by complainants. URCA has conducted a critical analysis of the immediacy of the impact of broadcast</p>	
--	---	--	--

		<p>media on complainants, the volume (or lack thereof) of complaints submitted by complainants since the establishment of the Code and the nature and scope of complaints that have been escalated to URCA over this period. Having regard to the cumulative effect of these variables, URCA considers that the proposed reduction in the timeframes to respond to and resolve Code complaints are reasonable.</p>	
<p>CBL</p>	<p>CBL stated that it had three (3) significant concerns about URCA’s proposals:</p> <ol style="list-style-type: none"> 1. The use of calendar days and business days with the shortened timescales may cause confusion for the public and staff and therefore CBL recommends that ‘business days’ be used throughout; 2. The proposed timescales are not practicable especially for complaints of a personal nature which may require detailed investigations of allegations and counter-allegations and which may have legal implications and consequences. 	<p>URCA notes that CBL has indicated that the use of ‘<i>business days</i>’ should be used throughout Part 10 of the Code in order to avoid confusion. URCA considers that to use only ‘business days’ throughout Part 10 may not be suitable and further does not agree with CBL’s comment that the use of both ‘business days’ and ‘calendar days’ may cause confusion for the public and staff. CBL should note that URCA’s purpose for revising Part 10 of the Code is to ensure that the complaints handling process is carried out efficiently and provides a swifter resolution of all complaints. URCA is of the view that if it amends Part 10 to allow for the use of only ‘business days’ the resolution of complaints will be longer. For instance, CBL proposed a timeframe of ten (10)</p>	<p>10.6 Time Limits on Responses to Code Complaints</p> <p><i>(1) Licensees shall within two (2) business days notify the complainant in writing of the receipt of a complaint made under this Code, which acknowledgement shall also notify the complainant of the case or complaint number assigned to the complaint and the time frames and processes that the Licensee envisages are required to investigate and respond to the complaint.</i></p> <p><i>(2) Subject to Clause 10.7(1) of this Code, Licensees must provide a substantive written response to the complainant regarding any Code Complaint that</i></p>

	<p>3. Clause 10.6(3) and 10.7(1) requires Licensees to respond to complaints within thirty (30) calendar days. However, in the proposed redrafts the new timescale in Clause 10.6(3) is set at five (5) calendar days and seven (7) calendar days in Clause 10.7(1) which results in an inconsistency.</p>	<p>business days in which a licensee should be afforded to respond to a complaint as opposed to URCA’s five (5) calendar days. URCA considers that if it accepts CBL’s proposal the timeframe in which a complainant will receive a response to a complaint will be approximately two (2) weeks which URCA considers to be an inordinate length of time to provide a complainant with a full response in regard to their complaint.</p> <p>URCA notes and accepts CBL’s comments that there appears to be an inconsistency with the proposed timeframes in clause 10.6(3) and 10.7(1). Therefore, URCA will amend these proposals in order to remove the inconsistencies.</p> <p>In relation to the timeframe in which licensees should investigate a complaint, CBL has proposed a timeframe of twenty (20) business days as opposed to URCA’s twenty-one (21) calendar days. As aforementioned, URCA is of the view that complaints should be resolved within a reasonable time and that a longer timeframe will have the effect of rendering any remedy to the complainant ineffectual. As such URCA considers that its proposed twenty- one (21) calendar</p>	<p><i>satisfies the requirements of Clause 10.2(1) of this Code.</i></p> <p><i>(3) Licensees must respond to Code Complaints as soon as practicable but in any event no later than five (5) calendar days after receiving the complaint.</i></p> <p><i>(4) If the content that is the subject of the Code Complaint was provided on broadcast relay by another Licensee, or was otherwise the responsibility of another Licensee, the Licensee receiving the Code Complaint must refer the Code Complaint to the relevant Licensee within two (2) business days of receiving the Code Complaint for written response direct to the complainant, and send a copy of such referral to the complainant. The second Licensee will have five (5) calendar days from receiving the referred Code Complaint to provide a substantive response to the original Code Complainant.</i></p> <p><i>(5) In all cases where a Code Complaint complies with the requirements of Clause 10.2(1) of this Code (and does not fall within Clause 10.2(2)), the Licensee’s substantive reply must also advise the complainant that the complainant may</i></p>
--	--	---	---

		<p>days is an appropriate amount of time for a licensee to sufficiently investigate a complaint.</p>	<p><i>refer the matter to URCA if the complainant is not satisfied with the Licensee's response.</i></p> <p><i>(6) The Licensee is under no obligation to respond to or record Code Complaints provided anonymously to the Licensee or not made in accordance with this Part of the Code. However, Licensees are prohibited from disclosing on-air to the public the name of any complainant or the particulars of any complaint received by the Licensee except when directed to do so by URCA or consequential to making an on-air apology to the complainant.</i></p> <p>10.7 Resolution of Code Complaints</p> <p><i>(1) Except where a Code Complaint is, in the reasonable opinion of the Licensee, clearly frivolous, vexatious or an abuse of the Code process, Licensees must conscientiously consider written Code Complaints and must promptly provide a substantive response in writing to Code Complaints within five (5) calendar days of the receipt of the complaint. If the Licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within five (5) calendar days, the Licensee must, without delay, notify URCA of the</i></p>
--	--	--	--

			<p><i>reason for the delay and, in any event, provide a final reply within twenty one (21) calendar days of receiving the Code Complaint.</i></p> <p><i>(2) Where the subject matter of a Code Complaint is, or has become, the subject of legal proceedings brought against a Licensee by the complainant or an associated person, the Licensee is not required to provide a substantive written response to the complainant.</i></p> <p><i>(3) If a Licensee does not provide a substantive written response to a complainant regarding a matter raised by the complainant, the Licensee must:</i></p> <p><i>(a) acknowledge the Code Complaint in writing as soon as practicable, but in any event no longer than five (5) calendar days after receiving the complaint; and</i></p> <p><i>(b) at the same time, inform the complainant that he or she has the right to refer the complaint to URCA.</i></p> <p>10.9 Referral of Code Complaints to URCA</p> <p><i>(1) This Clause outlines URCA's procedures for the handling and resolution of Code Complaints (or for the conduct of its own</i></p>
--	--	--	---

			<p><i>investigations) about Licensees' compliance with the content standards set out in this Code as required by sections 52, 53 and 55 of the Communications Act. All complaints are important to URCA as they help it to understand whether a Licensee may be failing to comply with the applicable provisions of this Code in a particular case.</i></p> <p><i>(2) If URCA considers that it is necessary to depart from these procedures in any material respect in a particular case for reasons of fairness and/or in order for URCA to properly consider any complaint(s) or carry out an investigation, it shall write to the Licensee concerned (and any other persons with sufficient interest) in advance setting out the nature and extent of its departure, its reasons for doing so and seeking the relevant parties' response.</i></p> <p><i>(4) Where a complainant lodges a general complaint to a Licensee, the Licensee shall forthwith inform the complainant that he or she has the right to immediately refer the complaint to URCA for resolution. URCA shall within two (2) business days notify the complainant in</i></p>
--	--	--	--

			<p><i>writing of receipt of the complaint and the</i></p> <p><i>(5) timeframes and processes that URCA envisages are required to investigate and respond to the complaint. URCA will respond to all general complaints as soon as reasonably practicable.</i></p> <p><i>(4) Where a complainant lodges a personal complaint to a Licensee, the Licensee must provide a substantive written response to the complaint in accordance with the requirements of Clause 10.6 of this Code.</i></p>
Sears & Co	No comments were submitted in relation to this question		

Question 2: Do you agree with URCA's proposal to introduce new provisions within Part 10 of the Code which will address complaints that are of a general or personal nature? If not, please provide reasons for your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
BTC	BTC agreed with URCA's proposal to introduce new provisions within Part 10 to address complaints of both a general or personal nature.	URCA notes that BTC agrees with URCA's proposal to introduce new provisions within Part 10 to address complaints of a personal or general nature.	No changes necessary.
CBL	CBL supported URCA's proposal, however CBL noted that URCA should ensure that it explains carefully the difference between personal and general complaints in its publicity of the new system to the public.	URCA notes that CBL supports URCA proposals. URCA will ensure that the explanatory notes contained in its Revised Code in this regard adequately explains the difference between "personal" and "general" complaints. URCA will also take appropriate measures to educate consumers on the difference between such complaints.	No changes necessary.
Sears & Co	No comments were provided in relation to this question.		

Question 3: Do you agree with URCA proposal that general complaints should be lodged directly to URCA? If not, please provide reasons for your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
<p style="text-align: center;">BTC</p>	<p>BTC agreed with URCA's proposal that complaints of a general nature should be lodged directly to URCA. BTC stated that while it was in agreement with URCA's proposal there should be published timelines for URCA to address complaints.</p>	<p>URCA notes that BTC agrees with URCA's proposal on general complaints being submitted to URCA. However, URCA does not agree with BTC's position that URCA should publish timelines in which it will address general complaints. There are practical challenges that militate against the publishing of such timelines. URCA's investigative process often entails matters that go beyond URCA's control such as the request and receipt of information from licensees and complainants in a timely manner. Moreover, there are established statutory timelines to which URCA is required to comply with where URCA takes enforcement action against a licensee to effectively resolve a complaint. Where possible, URCA commits to an accelerated approach to engaging with licensees and complainants to resolve general complaints and will publish in the Revised Code timelines for those matters over which it has absolute control when addressing general complaints.</p>	<p>10.9 Referral of Code Complaints to URCA</p> <p><i>(1) This Clause outlines URCA's procedures for the handling and resolution of Code Complaints (or for the conduct of its own investigations) about Licensees' compliance with the content standards set out in this Code as required by sections 52, 53 and 55 of the Communications Act. All complaints are important to URCA as they help it to understand whether a Licensee may be failing to comply with the applicable provisions of this Code in a particular case.</i></p> <p><i>(2) If URCA considers that it is necessary to depart from these procedures in any material respect in a particular case for reasons of fairness and/or in order for URCA to properly consider any complaint(s) or carry out an investigation, it shall write to the Licensee concerned (and any other persons with sufficient interest) in advance setting out the nature and extent of its departure, its reasons for</i></p>

			<p><i>doing so and seeking the relevant parties' response.</i></p> <p><i>(3) Where a complainant lodges a personal complaint to a Licensee, the Licensee must provide a substantive written response to the complaint in accordance with the requirements of Clause 10.6 of this Code.</i></p> <p><i>(4) Where a complainant lodges a general complaint to a Licensee, the Licensee shall forthwith inform the complainant that he or she has the right to immediately refer the complaint to URCA for resolution. URCA shall within two (2) business days notify the complainant in writing of receipt of the complaint and the timeframes and processes that URCA envisages are required to investigate and respond to the complaint. URCA will respond to all general complaints as soon as reasonably practicable.</i></p>
CBL	CBL agreed with URCA's proposal on general complaints being submitted to URCA.	URCA notes that CBL supports URCA's proposal on general complaints being submitted to URCA.	No changes necessary.
Sears & Co	No comments were provided in relation to this question.		

Question 4: Do you think that URCA should have regard to the inclusion of any other clause within Part 10 of the Code? If yes, please explain your answer.

Name of Respondent	Response to Consultation Document	URCA's Comments	URCA's Final Decision
<p>BTC</p>	<p>BTC stated that it had no other suggestions to be included in Part 10 of the Code</p>	<p>URCA notes BTC's comments.</p>	<p>No changes necessary.</p>
<p>CBL</p>	<p>CBL noted that URCA proposed no timescales for its own handling of complaints and should adhere to the same timescales as it requires from the licensees. Further, CBL stated that URCA should indicate these timescales in the publicity of the new complaints procedure.</p> <p>CBL considered that members of the public have the right to expect the same responsiveness whether the complaint is handled by a commercial or public body and that URCA should practice the same standards as it required from its licensees.</p> <p>CBL further stated that URCA should publish the percentage of complaints that it handles within these timescales as one of its key performance indicators in its Annual Report so that it can demonstrate its efficiency in the handling of complaints.</p>	<p>URCA notes CBL's comments. URCA considers that it holds itself to a higher standard than it imposes on licensees and will continue to do so in its handling of complaints referred to it under the Code.</p> <p>URCA has substantively addressed CBL's point above that URCA should publish timelines that would address the amount of time URCA has to resolve complaints. URCA refers CBL to the previous question where URCA has made the appropriate amendment to address this point.</p> <p>URCA notes CBL's comment that URCA's KPIs published in its Annual Plan should demonstrate URCA's efficiency in the handling of complaints. URCA will consider this recommendation going forward.</p>	<p>No changes necessary.</p>

Sears & Co	No comments were provided in relation to this question.		
-----------------------	---	--	--

Part 3: URCA's Revisions to the Code of Practice

This Part sets out URCA's final revisions to Part 6 - Political Broadcasts and Political Advertisements, Part 7 - Advertising and Sponsorships and Part 10 - Complaints Handling Process of the Code.

Part 1: Interpretation, Purpose and Applicability

Definitions and Interpretation

General complaint means a complaint in relation to:

- (a) the broadcast of offensive language or material; the broadcast by a Licensee of content that may be contrary to the provisions of the Code but does not directly relate to any individual person or entity; or
- (b) any other conduct by a Licensee which is contrary to the provisions of the Code but that does not cause direct harm to any individual person or entity.

Personal complaint is a complaint in relation to:

- (a) the broadcast of scandalous, inaccurate or defamatory commentary that can be injurious to a person's character, reputation or integrity;
- (b) the broadcast of material that is contrary to the Code, relates directly to a person or entity, and causes direct harm or loss to that person or entity; or
- (c) any other conduct by a Licensee which is contrary to the provisions of the Code, and causes direct harm or loss to a person or entity.

Part 6 - Political Broadcasts and Political Advertisements

(1) Licensees shall not broadcast the following to the public within any programmes on advanced polling day, election day, bye-election day and referendum day until the close of all polling stations:

- (a) discussion and analysis of election and referendum issues;
- (b) the result or purported result of the voting in a constituency or electoral district before the close of all of the polling stations in that constituency or electoral district;
- (c) the results of any opinion poll;

(d) any political advertisements, political broadcasts or any other election programming produced by or on behalf of a candidate, political party or other person or entity.

(2) The prohibition in subsection (1) also applies in cases where polling stations in any constituency remains open after the mandatory scheduled time for poll closure due to an extenuating circumstance.

(3) Notwithstanding the prohibition in subsection (1) URCA may exercise its discretion and permit Licensees to broadcast to the public on any polling day the matters listed in subsection (1) where the relevant extenuating circumstance persists for a period exceeding twenty-four hours since the originally schedule closing time of the polls.

(4) In addition to the foregoing matters, the prohibition in subsection (1) does not apply to social media content.

Part 7- Advertising and Sponsorships

7.9 Gambling

(1) Advertisements or sponsorships pertaining to lawful gambling, gaming, betting, bookmaking, lotteries or any similar lawful activity or service shall not be broadcast outside the watershed period.

(2) Licensees must take all reasonable steps to promote socially responsible gambling. Particular care should be taken to protect children and young persons from being harmed by such advertisings or sponsorships.

(3) In addition to the foregoing, advertisements or sponsorships pertaining to lawful gambling, gaming, betting, bookmaking, lotteries or any similar lawful activity or service shall bear a general disclaimer.

Part 10- Complaints Handling Process

10.6 Time Limits on Responses to Code Complaints

(1) Licensees shall within two (2) business days notify the complainant in writing of the receipt of a complaint made under this Code, which acknowledgement shall also notify the complainant of the case or complaint

number assigned to the complaint and the time frames and processes that the Licensee envisages are required to investigate and respond to the complaint.

- (2) Subject to Clause 10.7(1) of this Code, Licensees must provide a substantive written response to the complainant regarding any Code Complaint that satisfies the requirements of Clause 10.2(1) of this Code.*
- (3) Licensees must respond to Code Complaints as soon as practicable but in any event no later than five (5) calendar days after receiving the complaint.*
- (4) If the content that is the subject of the Code Complaint was provided on broadcast relay by another Licensee, or was otherwise the responsibility of another Licensee, the Licensee receiving the Code Complaint must refer the Code Complaint to the relevant Licensee within two (2) business days of receiving the Code Complaint for written response direct to the complainant, and send a copy of such referral to the complainant. The second Licensee will have five (5) calendar days from receiving the referred Code Complaint to provide a substantive response to the original Code Complainant.*
- (5) In all cases where a Code Complaint complies with the requirements of Clause 10.2(1) of this Code (and does not fall within Clause 10.2(2)), the Licensee's substantive reply must also advise the complainant that the complainant may refer the matter to URCA if the complainant is not satisfied with the Licensee's response.*
- (6) The Licensee is under no obligation to respond to or record Code Complaints provided anonymously to the Licensee or not made in accordance with this Part of the Code. However, Licensees are prohibited from disclosing on-air to the public the name of any complainant or the particulars of any complaint received by the Licensee except when directed to do so by URCA or consequential to making an on-air apology to the complainant.*

10.7 Resolution of Code Complaints

- (1) Except where a Code Complaint is, in the reasonable opinion of the Licensee, clearly frivolous, vexatious or an abuse of the Code process, Licensees must conscientiously consider written Code Complaints and must promptly provide a substantive response in writing to Code Complaints within five (5) calendar days of the receipt of the complaint. If the Licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within five (5) calendar days, the Licensee must, without delay, notify URCA of the reason for the delay and, in any event,*

provide a final reply within twenty one (21) calendar days of receiving the Code Complaint.

- (2) Where the subject matter of a Code Complaint is, or has become, the subject of legal proceedings brought against a Licensee by the complainant or an associated person, the Licensee is not required to provide a substantive written response to the complainant.*
- (3) If a Licensee does not provide a substantive written response to a complainant regarding a matter raised by the complainant, the Licensee must:
 - (a) acknowledge the Code Complaint in writing as soon as practicable, but in any event no longer than five (5) calendar days after receiving the complaint; and*
 - (b) at the same time, inform the complainant that he or she has the right to refer the complaint to URCA.**

10.9 Referral of Code Complaints to URCA

- (1) This Clause outlines URCA's procedures for the handling and resolution of Code Complaints (or for the conduct of its own investigations) about Licensees' compliance with the content standards set out in this Code as required by sections 52, 53 and 55 of the Communications Act. All complaints are important to URCA as they help it to understand whether a Licensee may be failing to comply with the applicable provisions of this Code in a particular case.*
- (2) If URCA considers that it is necessary to depart from these procedures in any material respect in a particular case for reasons of fairness and/or in order for URCA to properly consider any complaint(s) or carry out an investigation, it shall write to the Licensee concerned (and any other persons with sufficient interest) in advance setting out the nature and extent of its departure, its reasons for doing so and seeking the relevant parties' response.*
- (3) Where a complainant lodges a personal complaint to a Licensee, the Licensee must provide a substantive written response to the complaint in accordance with the requirements of Clause 10.6 of this Code.*
- (4) Where a complainant lodges a general complaint to a Licensee, the Licensee shall forthwith inform the complainant that he or she has the right to immediately refer the complaint to URCA for resolution. URCA shall within two (2) business days notify the complainant in writing of receipt of the complaint and the timeframes and processes that URCA envisages are*

required to investigate and respond to the complaint. URCA will respond to all general complaints as soon as reasonably practicable.