



**CONSULTATION DOCUMENT FOR CABLE BAHAMAS
LIMITED'S APPLICATION FOR THE REPACKAGING OF
RETVV OFFERS**

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1. Introduction

The Utilities Regulation and Competition Authority ('URCA') received applications from Cable Bahamas Limited ('CBL') requesting URCA's approval to restructure its REVRTV offers for residential and business pay television subscribers. The application for residential REVRTV offers was submitted on 27 October 2020 followed by the application for business REVRTV offers on 20 January 2021. CBL's repackaging entails a net reduction in the number of channels for REVRTV PRIME (residential and business), the movement of several channels between existing packages, and the creation of several 'add-on' packages targeted towards specific audiences. Details of the proposed changes are set out in Section 2 below.

The proposed changes will only apply to consumers in areas where CBL has a two-way digital cable TV network: New Providence, Grand Bahama, Abaco, and parts of Eleuthera. CBL provides multiple pay TV packages to customers on these islands and these areas represent approximately 91% of the total Bahamas population.

Copies of the application documents submitted to URCA are exhibited as Annexes A and B to this consultation document. Interested persons should note that while Annexes A and B comprise the bulk of CBL's original applications, the documents have been amended to remove any commercially sensitive information. Additionally, an Excel spreadsheet provided by CBL containing the complete channel listings of the existing packages and the proposed restructured packages is exhibited as Annex C.

This consultation document sets out URCA's preliminary assessment of CBL's repackaging applications.

1.1 Objectives of the Consultation

This consultation document aims to:

- outline the legal and regulatory basis for URCA's review of CBL's application documents;
- set out the details and supporting rationale for the proposed changes as provided by CBL in its applications;
- present URCA's preliminary assessment of the applications; and
- invite feedback from customers and the general public who would be most affected by CBL's proposals.

In Section 1.3 below, URCA sets out the procedure and timeframe for submitting responses to the consultation. In addition to this public consultation document, URCA requested CBL to undertake various public engagement initiatives to explain the rationale for the changes. To date, CBL held public initiatives in the following formats: a virtual forum, focus group meetings, a survey, and media roundtables during the months of February and March 2021. The feedback from CBL's public engagements will be taken into consideration by URCA when making its decision, in addition to any comments received during the consultation period.

1.2 Regulatory Framework

URCA is the regulator and competition authority for the electronic communications and electricity sectors in The Bahamas. URCA is tasked under the Communications Act, 2009 (the 'Comms Act') to carry out various duties and functions to fulfil its principal objectives. Notably, the electronic communications policy objectives, as specified in section 4 of the Comms Act, include, inter alia:

(a) to further the interests of consumers by promoting competition . . .

(b) to further the interests of persons in The Bahamas in relation to the electronic communications sector . . .

It is worth noting that REVTV PRIME for residential and business subscribers are CBL's most-subscribed packages. In URCA's 22 April 2010 Final Decision on *Obligations Imposed on Operators with Significant Market Power*,¹ pricing for CBL's REVTV PRIME (formerly SuperBasic) and bundles including REVTV PRIME for residential and business customers became subject to retail price regulation under the Retail Pricing Rules (ECS 15/2010)² also referred to as the Rules. The 2010 Rules were revised and reissued in April 2014 as ECS 06/2014.³ This framework aims to protect consumers from monopolistic or excessive pricing and to militate against SMP licensees behaving anti-competitively to the detriment of emerging competition in the more contestable segments of the industry.

¹ <https://www.urcabahamas.bs/wp-content/uploads/2017/02/ECS-11-2010-Final-Decision-Obligations-Imposed-on-Operators-with-Significant-Market-Power..pdf>

² <https://www.urcabahamas.bs/wp-content/uploads/2017/02/ECS-15-2010-Regulation-of-Retail-Prices-for-SMP-Operator-Rules.pdf>

³ Can be found at <https://www.urcabahamas.bs/wp-content/uploads/2017/02/ECS-06-2014-Regulation-of-Retail-Prices-for-SMP-Operators-Rules-3.pdf>.

In *Assessment of Significant Market Power in the Electronic Communications Sector in The Bahamas under Section 39(1) of the Communications Act, 2009 (ECS 14/2014)*⁴ issued 2 December 2014, URCA confirmed CBL's SMP in pay TV services. URCA also determined that the pay TV packages marketed as PRIME, PRIME Select, PRIME Plus, and PRIME Extra (the latter three packages are now marketed as REVTV PRO, Premium, and Prestige) will be subject to a new form of retail price control known as price cap regulation. Although the repackaging proposed by CBL will impact all of the aforementioned packages, URCA decided to focus its review on REVTV PRIME which will cover all customers impacted by the changes as REVTV PRIME is a prerequisite for other packages. However, as the applications involve channel movements between REVTV PRIME and other packages, all of the proposed changes are presented (Section 2 below) to provide a complete and clear view of CBL's repackaging proposals.

Within the Rules are the general information requirements and approval procedures for specified changes to Price Regulated Services. In respect of its REVTV PRIME package, CBL proposes to change the number of channels by moving channels to and from the package resulting in a net decrease of four (4) channels. Because CBL's proposed changes to REVTV PRIME involve a reduction in the number of channels in the package and changes in the package composition while keeping the headline price the same, these constitute changes in the non-price terms and conditions.⁵ As a result, the following requirement of the 2014 Rules is relevant to URCA's review of the applications:

An SMP licensee must first obtain URCA's written consent or approval before introducing any changes to the non-price terms and conditions of Price Regulated Services that could be expected to affect either the effective price paid by consumers or the costs incurred by the SMP operator.⁶

Additionally, URCA must assess the proposed changes to REVTV PRIME against the minimum information requirements specified in Paragraphs 44.1 to 44.7 of the Rules.

⁴ ECS 14/2014 can be found at <https://www.urbahamas.bs/wp-content/uploads/2017/02/ECS-14-2014-Assessment-of-Significant-Market-Power-in-the-Electronic-Communications-Sector-in-The-Bahamas.pdf>.

⁵ Part I of the Rules.

⁶ Paragraph 44 of the Rules

URCA considers that under the terms of section 11(1) and section 13(1) of the Comms Act, the applications are of public significance and warrant a public consultation before URCA makes its decision. At section 13(1) of the Comms Act, a matter is of public significance “... *if it relates to electronic communications services or networks and can lead to one or more of the following –*

- (a) involve a major change in the activities carried on by URCA under this Act;*
- (b) a significant impact on persons carrying on activities in those areas where URCA has functions under this Act; and*
- (c) a significant impact on the general public in The Bahamas.”*

1.3 How to Respond

URCA now seeks feedback from persons impacted by CBL’s applications. Where a respondent believes that any of the information set out by URCA in this document is contrary to the Comms Act, relevant guidelines, regulatory objectives and principles, and/or obligations applicable to CBL’s pay TV services, the respondent should set out their reasoning for such objections, together with evidential information to substantiate his or her position.

Persons must send their written responses or comments to URCA’s Chief Executive Officer by 5:00 p.m. on or before 19 April 2021 either:

- by hand to URCA’s office at Frederick House, Frederick Street, Nassau; or
- by mail to P.O. Box N-4860, Nassau, Bahamas; or
- by fax to (242) 393-0153; or
- by email to info@urcabahamas.bs.

URCA reserves the right to make all responses available to the public on its website at www.urbahamas.bs. If a response is marked confidential, reasons should be given to facilitate evaluation by URCA of the request for confidentiality. URCA may, in its sole discretion, publish or refrain from publishing any document or submission.

URCA will issue a Statement of Results after careful consideration of all the written submissions received within the specified consultation period and the feedback from CBL’s public engagements.

1.4 The Remainder of this Document

The remainder of this document is structured as follows:

- Section 2 provides details of the proposed changes and the rationale for the changes as provided by CBL;
- Section 3 contains URCA's preliminary assessment of CBL's applications; and
- Section 4 sets out the conclusion and next steps.

2. CBL’s Repackaging Applications

CBL’s descriptions of the proposed changes and its rationale are detailed in this Section.

2.1 Description of the Proposed Changes

CBL’s proposed changes to residential REVTV offers are summarised in Table 1 and the proposed changes to business REVTV offers are summarised in Table 2.

Table 1. Summary of proposed changes to residential REVTV offers

Plan	Existing number of channels	Existing price of plan	Description of proposed non-price changes	Proposed new number of channels	Proposed new price of plan
REVTV PRIME⁷	72	\$38.00	Net decrease of four (4) channels	68	No change
REVTV PRO⁸	30	\$5.95	Customers will no longer be required to subscribe to REVTV PRO in order to subscribe to add-ons.	No change	\$10.00
REVTV Premium⁹	20	\$10.00	Existing customers to be grandfathered in and the package will no longer be offered to new customers.	No change	No change
REVTV Prestige¹⁰	26	\$9.00	Discontinued. Customers will be moved to the new ‘Lifestyle Extra’ package.	N/A	N/A
REVSportsPrime	10	\$10.00	Discontinued. Customers will be moved to the new ‘REVTV Sports’ package.	N/A	N/A
REVTV Kids	*new*	*new*	A new package consisting of child-friendly channels moved from existing packages	7	\$5.00

⁷ formerly Basic or SuperBasic.

⁸ formerly PRIME Select.

⁹ formerly PRIME Plus.

¹⁰ formerly PRIME Extra.

RETV News & Science	*new*	*new*	Contains mostly news and educational channels moved from existing packages	10	\$5.00
RETV Rhythms	*new*	*new*	Contains mostly music and entertainment channels moved from existing packages	10	\$5.00
RETV Lifestyle Extra	*new*	*new*	Contains mostly lifestyle and entertainment channels moved from existing packages. Existing RETV Prestige customers will be migrated to this package	19	\$10.00
RETV Sports	*new*	*new*	Contains sports channels moved from the existing REVSportsPrime and other packages. Existing REVSportsPrime customers will be migrated to this package.	16	\$15.00

Table 2. Summary of proposed changes to business RETV offers

Plan	Existing number of channels	Existing price of plan	Description of proposed changes	Proposed new number of channels	Proposed new price of plan
RETV PRIME Business	72	\$64.00	Net decrease of four (4) channels	68	No change
PRIME Business Extra	69	\$75.00	Existing customers to be grandfathered in. Package will no longer be offered to new customers.	No change	No change
PRIME Business Sports	5	\$50.00	Discontinued. Customers will be moved to the new 'RETV Sports' package	N/A	N/A
Business PRO	*new*	*new*	Package now offered to business customers.	30	\$20.00
RETV Kids	*new*	*new*	Contains child-friendly channels moved from existing packages	7	\$10.00
RETV News &	*new*	*new*	Contains mostly news and	10	\$10.00

Science			educational channels moved from existing packages		
RETV Rhythms	*new*	*new*	Contains mostly music and entertainment channels moved from existing packages	10	\$10.00
RETV Lifestyle Extra	*new*	*new*	Contains mostly lifestyle and entertainment channels moved from existing packages. Existing RETV Prestige customers will be migrated to this package.	19	\$20.00
RETV Sports	*new*	*new*	Contains sports channels moved from the existing REVSportsPrime and other packages. Existing PRIME Business Sports customers will be migrated to this package.	16	\$50.00

Table 3 below lists the channels to be added and removed from the respective packages. With the exception of the sports package, channels to be added/removed are identical for both residential and business packages. For the avoidance of doubt, any channel not listed in Table 3 will remain in its respective package.

Table 3. Channels to be added/removed from each package

Package	Channels to be added to package		Channels to be removed from package	
RETV PRIME (Residential & Business)	AMC BBC America BET Bounce Grit Gusto TV	Island TV/Tropik ME TV Treehouse TV One ZEN TV	CCTV 4 CCTV 9 Cinemax Fox Soccer Plus GVTV HD GVTV Music HD GVTV Vogue HD Jewelry Channel	MTV NBA Network One America News Sports Max 1 Sports Max 2 TNT HD TVO
PRO	Africa Channel BET Gospel BET Her	Movies! MTV Paramount	Al Jazeera Animal Planet BET	DIY HD GVTV Extreme HD MLB

	Cinemax Cleo Comedy Central HD Escape GSN Jewelry Channel	PBS Kids Qubo Quest TV TNT HD TVO YTV	Bounce CNBC Cooking Channel HD Discovery Kids Disney XD	NFL Network Space Syfy Travel Channel HD TV One
Prestige (to become 'Lifestyle Extra')	Cala Classics TV Comedy TV Cooking Channel Destination TV Discovery ID Discovery World DIY Entertainment TV FX	FYI LRW Recipe TV Space Syfy, TCM Travel Channel Viceland	Africa Channel HD AWE TV AXS HD Baby First BET Gospel BET Jams BET Soul Centric/BET Her Discovery Science Family.ca Game Show Network	Golf Channel HD ION Life Movies! MTV Hits NBC Sports HD OCTV PBS Kids QUBO Teen Nick Treehouse, YTV
REVSportsPrime (to become 'REVTV Sports')	Fox Soccer Plus Golf Channel MLB Network NBA Network NBC Sports	NFL Network NHL Network Sports Max 1 Sports Max 2 Strike Zone	ESPN 2 Caribbean HD ESPN Caribbean HD Quest	
REVTV Kids	Animal Planet Baby First Discovery Kids Disney XD	Family.ca Teen Nick YTV	N/A	
News & Science	Al Jazeera CNBC Discovery Home & Health Discovery Science Fox Business	Fox News OCTV One America News CCTV 9 CCTV 4	N/A	
REV Rhythms	CMT MTV2 MTV Hits MTV Jams VH1 Soul	GVTV HD GVTV Music HD GVTV Vogue HD GVTV Extreme HD AXS HD	N/A	
Business Sports	Big Ten Network Fox Soccer Plus Fox Sports 2 Fox Sports Racing Golf Channel MLB Network NBA Network	NBC Sports NFL Network NHL Network Sports Max 1 Sports Max 2 Strike Zone	ESPN HD ESPN2 SEC ESPNU TSN	

CBL intended to implement the changes on 31 January 2021, but this date was infeasible due to URCA's responsibility to consult with affected persons for a minimum period of thirty (30) calendar days for changes deemed to have a significant impact. Furthermore, while the residential application was submitted on 27 October 2020, the business application was not submitted until 20 January 2021. In the event that URCA approves CBL's applications, the date for implementation will be included in URCA's Final Decision.

2.2 CBL's Rationale for Proposed Changes

In the application documents, CBL explained that an increasing number of people prefer to stream TV services to watch content when and where they desire instead of watching the traditional TV services offered by CBL. CBL believes this shift in viewing habits has contributed to a reduction in TV subscriptions and viewing hours for its traditional TV services.

In response to declining subscriptions, CBL conducted an extensive review of customers' TV viewing habits to better understand the value and use of its existing REVTV services. The review revealed that several TV channels offered by CBL are only viewed by a limited number of customers, resulting in high content costs per view. The high content costs per view occur because CBL pays for content on a per subscriber basis regardless of whether subscribers are watching the channel. These costs are especially relevant in the case of the REVTV PRIME package because it has the most subscribers.

CBL further explained that it did not consider a price increase for REVTV PRIME to be in the best interest of customers if the price increase is used to pay for content that does not contribute to customer satisfaction. Instead, CBL's strategy is to align its REVTV offers with customer viewing habits while maintaining the same headline price of REVTV PRIME.

CBL stated its proposed approach aims to do the following:

- Reduce content costs of REVTV plans by removing channels that CBL deems to have low value to customers.
- Replace some of the more popular channels with cheaper content in line with the Hallmark approach piloted by OUR TV last year.
- Based on audience insights, CBL stated that its customers preferred to have simplified packages to make it easier to find the content they want to watch. As a result, CBL

created several 'add-ons' with tailored options for customers, e.g., children's programming, music programming, etc.

- Given that REVTV PRO is currently a very low profit margin service, CBL proposes to increase the monthly price for residential customers by \$4.05. New content will be added to this plan, and customers will no longer be required to subscribe to REVTV PRO in order to subscribe to add-ons, i.e., it will no longer be the 'gateway' to the add-ons.

As stated in Section 1, the proposed changes will only apply to consumers on the islands of New Providence, Grand Bahama, Abaco, and parts of Eleuthera, where CBL has a two-way digital cable TV network. CBL provides multiple pay TV packages to customers on these islands, and these areas represent approximately 91% of the population of The Bahamas.

3. URCA's Analysis of CBL's Applications

In this analysis Section of the document, URCA:

- assesses the completeness of CBL's application documents and Excel spreadsheet;
- reviews the viewership data of the channels moving to and from REVTV PRIME;
- examines the financial analysis contained in CBL's applications; and
- addresses any other issues arising in CBL's application documents.

While CBL made the applications under Part E of the Retail Pricing Rules, URCA, as explained in Section 1.2, will analyse the REVTV PRIME proposals under Part I of the Rules.

3.1 Completeness of CBL's Applications

URCA examines the completeness of CBL's application documents in respect of REVTV PRIME against the informational and data requirements of the Rules. URCA sets out below the findings of its completeness review.

Relative to Paragraph 44 of the Rules, URCA is satisfied that CBL's applications for residential and business packages satisfy the minimum informational and data requirements. In particular, but not limited to:

- (i) CBL provided detailed descriptions of the current and proposed non-price terms and conditions, i.e., channel line-ups, for the affected PRIME services.
- (ii) As for the commercial rationale, CBL stated the proposed changes are essential to protect the long-term viability of its TV offers. Rather than applying significant price increases, CBL believes it can lower content costs through a more customer-focused approach by aligning plans with observed consumer behaviour, i.e., creating add-on packages targeted to specific customer segments.
- (iii) CBL provided a description of the competitive effects of the proposed changes on its competitors. In particular, they do not raise concerns relating to either technical or economic replicability because competitors can freely acquire or develop similar services at a reasonable margin.

(iv) Further, CBL declared that the applications (including the proposed changes to REVTV PRIME) do not give rise to any anti-competitive concerns (see Section 3.4 below on URCA's review of relevant competition tests).

3.2 Viewership Data

To corroborate CBL's explanation that it intends to transfer channels from REVTV PRIME that have low viewership averages, URCA requested viewership data for these channels. While specific viewership numbers on a per channel basis cannot be provided due to commercial confidentiality requirements, URCA's review showed that all of the channels to be transferred from REVTV PRIME to other packages have relatively low daily viewership averages.

URCA also wanted to assess the viewership data of those channels which CBL intends to add to REVTV PRIME. The average daily viewership of these channels were generally greater than those slated for removal. URCA noted there were channels with relatively low viewership averages but URCA also recognises that another driver for the proposed changes is to reduce content costs.

3.3 Review of CBL's Financial Data

URCA now summarises the findings from its analysis of the spreadsheets which provide CBL's financial justification for the proposed changes. As URCA's review of CBL's financial data cannot be disclosed in its entirety due to commercial confidentiality requirements, this consultation presents only a summary.

As for the Excel spreadsheets, CBL provided:

- actual demand for the years 2016 – 2019, current demand for 2020 and demand forecasts for 2021 and 2022;
- number of existing subscribers likely to be impacted by the proposed changes for the period 2021 and 2022;
- projected revenues for the underlying services for the period 2021 and 2022 along with the actual figures for 2020; and
- current data for 2020 and forecasts for 2021 and 2022 on the total cost of providing REVTV PRIME and other pay TV services inclusive of CBL's costs of capital.

CBL also provided financial data separated into two scenarios – a ‘do nothing’ scenario whereby CBL provided current data and projections if the proposed changes to REVTV PRIME and other pay TV services does not occur and a ‘scenario’ showing the projections if the changes take place.

URCA’s review of CBL’s financial analysis has not highlighted any concerns which would, on their own, lead to URCA rejecting the applications. Therefore, without prejudice to any future regulatory decisions, URCA believes that CBL’s financial analysis provides a reasonable basis for assessing the applications for PRIME TV.

In particular, from its review, URCA has:

- found that the historical data provided in the spreadsheets is consistent with the financial data and accounts provided in the CBL annual separated accounts;
- not found any formulaic or mathematical errors within the spreadsheets;
- found that CBL applied a reasonable approach to forecasting demand, costs and revenues for the packages assuming that a share of existing customers would take up the proposed new ‘add-ons’ in combination with a continued reduction in overall subscriber numbers for pay TV.

URCA considers that the spreadsheets provide a reasonable financial justification for the proposed changes. The spreadsheets show that CBL is currently not earning its regulated cost of capital in the pay TV market, which is the allowable rate of return it can earn to make providing the service worthwhile. CBL’s audited separated accounts also support this observation. If the proposed changes are approved and implemented, the forecasts project that the changes will not lead to an over-recovery of CBL’s cost of capital.

The spreadsheets support CBL’s claims that subscriber numbers have been on the decline historically and is likely to continue to decline going forward. As such, URCA’s preliminary view is that some intervention is needed to address the ongoing subscriber decreases. The spreadsheets also support CBL’s claim that the proposed changes will reduce content costs and improve the margins on REVTV PRIME and other pay TV services.

3.4 Other Issues Arising in CBL's Applications

The other issues arising from URCA's review of CBL's application documents are set out below.

In particular, URCA considers that the applications are compatible with the overarching objectives of the Sector Policy as specified in section 4 of the Comms Act, in that:

- approval of the proposed changes would make the affected TV offers more cost reflective;
- the changes would ensure that the service remains economically attractive on a going-forward basis; and
- the proposals encourage and promote further investment in electronic communications networks and services.

To URCA, the proposed changes appear to be in line with mainstream thinking.

CBL has declared that the applications comply with the statutory framework for electronic communications in The Bahamas, including the concerns in Paragraphs 44.6 and 44.7 of the Pricing Rules. URCA is in general agreement with this assessment as set out below.

CBL does not provide critical wholesale inputs to alternative operators within the identified services market for pay TV services; therefore, potential margin squeeze is not a relevant consideration on this occasion. There is no concern about predatory pricing as the proposed changes involve a reduction in the number of channels in REVTV PRIME therefore increasing the effective price paid by customers, i.e., by reducing the number of channels in the package, customers pay more per channel although the headline price of the package remains the same. URCA also considers that CBL's applications do not give rise to any concern for price discrimination at the wholesale or retail level. Dissimilar pricing at the wholesale level is not a relevant consideration because CBL does not provide critical wholesale inputs for pay TV to alternative operators. At the retail level, CBL charges different prices to residential and commercial customers; users within each market segment face the same prices for the same product. Finally, URCA agrees that the proposed changes do not raise concerns about technical or economic replicability.

4. Conclusion and Next Steps

Within the previous Sections, URCA has set out the legal and regulatory basis for its review of CBL's applications and the need for public consultation. URCA also summarised the contents of CBL's application and provided an overview of its analysis.

URCA now invites interested parties to comment on the consultation by 5:00 p.m. on or before 19 April 2021. URCA will then review all written responses to the consultation and issue a Statement of Results along with its decision after careful consideration of all the written submissions received and the feedback from CBL's public engagements.