



Addendum to Market Information Reporting Requirements for Specified Licensees in the Electronic Communications Sector ("ECS 28/2017")

Statement of Results and Final Decision

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1 Introduction

The Utilities Regulation and Competition Authority ("URCA") issues this Statement of Results and Final Decision on its Consultation document ("ECS 16/2020") captioned "Addendum to Market Information Reporting Requirements for Specified Licensees in the Electronic Communications Sector ("ECS 28/2017")¹.

In this Statement of Results and Final Decision, URCA:

- summarises and responds to the written submissions received to the Consultation Document; and
- sets forth its review and Final Decisions to the issues and concerns raised by the respondents.

The purpose of the addendum is to require Specified Licensees in the Electronic Communications Sector (ECS) to provide additional data needed to satisfy associated key performance indicators (KPIs) for URCA's organisational performance indicators ("OPIs"). The term "specified licensees" refers to holders of Individual Operating Licences (IOLs) and Class Operating Licences Requiring Registration (COLRRs). Specified licensees are those providing fixed internet, pay-TV services (including cable television), fixed telephony, mobile voice and mobile data and business connectivity services to residential and business customers in The Bahamas. However, the measures set out in The Final Decision do not apply to holders of Class Operating Licences Not Requiring Registration (COLNRR) because such licensees only provide telecommunications services for their own use and not for commercial gain; and do not require interconnection to a public network.

1.1 Background to Consultation Process

As stated in section 2.1 of the Consultation Document ("ECS 28/2017"), URCA has formulated an organisational performance strategy to further the ECS policy objectives regarding the functions outlined in section 7 of the Comms Act. URCA's organisational strategy highlights four strategic imperatives for improving URCA's work performance, which includes:

¹ Please find reference for document at link provided: <https://www.urbahamas.bs/consultations/consultation-measures-collection-reporting-market-data/>.

1. **Impact:** The impact imperative indicates URCA's need to ensure it has a strong and positive promotional effect on the public's interests in terms of choice, quality, price, reliability, efficiency, and value for money. The OPI framework will support this imperative by improving the process of identifying more relevant matters from the ECS and measuring the outcome of URCA's interventions using a breadth of indicators and evidence available to the URCA ex-post.
2. **Stakeholder:** The stakeholder imperative aims to build the stakeholders' confidence in URCA's decision-making process by ensuring URCA's decision-making process is sufficiently rigorous and credible.
3. **Internal processes:** The internal processes imperative emphasises the need for URCA to function effectively through oversight and governance and the development of regulatory measures. The OPI framework will measure the effectiveness of internal decision reviews that help critique recent actions that may or may not support internal processes.
4. **Learning and growth:** The learning and growth imperative refers to a focus on building an organisation with employees who are skilled, collaborative, motivated, internationally-aware, internally optimised and possessive of superior human and system characteristics.

URCA intends to measure its performance against the four strategic imperatives to determine whether the organisation promotes the economic and social welfare of The Bahamas through the administration of its functions by tracking several OPIs. To that end, URCA requested additional market data for 11 KPIs across the fixed and mobile markets.

In the Consultation Document, URCA:

- stated the rationale for collecting and reporting of additional market data from licensees in the ECS;
- proposed timeframes for collection and publication of additional market data; and

- described the proposed KPIs along with their purpose and frequency in a table in the Annexe.

In the Consultation Document, URCA requested respondents' comments on two Consultation questions to help respondents prepare their submissions, and URCA sought general comments and views on URCA's request for additional data.

1.2 Responses to the Consultation

On 21 December 2020, URCA received electronic responses from the following respondents:

- Joint response by Cable Bahamas Limited ("CBL") and BE Aliv Limited ("Aliv"); and
- The Bahamas Telecommunications Company Ltd. ("BTC").

After the Consultation period for document ECS 16/2020 ended, URCA noted that respondents required further clarification and explanation for the first Consultation question, which asked: *"Do you agree with URCA's justification to request additional market data? If not, please provide full reasons for your position."* The respondents were unable to respond to Question 1 because URCA had not shared the rationale for implementing the OPI framework. In view of this, URCA hosted a meeting on 5 February 2021 with the respondents to elucidate the rationale for the OPI framework before publishing the Statement of Results and Final Decision for Consultation document ECS 16/2020. URCA, therefore, by public notification extended the Consultation period to 22 February 2021. Following this extension, URCA received one joint response from CBL and Aliv.

URCA thanks the respondents for their valuable contribution during this public consultation process. Their participation in this process was instrumental in developing this Statement of Results and Final Decision. URCA also notes that any comments raised and not answered do not signify agreement in whole or part with said comments, or that URCA has not considered the comment or that the comment is without merit. The publication of this Statement of Results and Final Decision marks the conclusion of the public consultation process.

1.3 Structure of the remainder of this document

The remainder of this document is structured as follows:

- Section 2 – Legal Framework;
- Section 3 – Summary of Comments and URCA's Responses; and
- Section 4 – Conclusion and Next Steps.

2 Legal Framework

The Communications Act, 2009 ("Comms Act") requires URCA to carry out various duties and functions as the Electronic Communications Sector regulator in The Bahamas. URCA, therefore, requires different information to support its role. The Comms Act prescribes the statutory framework for regulation and competition in the sector. It charges URCA to implement the Electronic Communications Sector Policy (ECSP), amongst other things. Section 4 of the Comms Act provides that electronic communications perform an essential role in promoting the economic and social welfare of The Bahamas and sets out the objectives of the ECSP. To this end, URCA has developed a framework that will help measure and ensure that its strategy and planning activities improve its regulatory impact and further the ECS policy objectives.

Under section 8 of the Comms Act, URCA is empowered to:

- issue directions, decisions, statements, instructions and notifications;
- require any licensee or licensees to furnish such information and submit such returns in relation to its operations at such intervals as it may require; and
- conduct market investigations and market reviews and publish regular information and reports.

Pursuant to Condition 5.1.2 of the Individual Operating Licence ("IOL"), URCA may specify the format [framework related to the procedures] and guidelines for an IOL to furnish such information and submit such returns in relations to their operations and at such intervals, as URCA may require. Also, according to Condition 1.29.2 of the Class Operating Licence Requiring registration ("COLRR"), URCA may require the Licensee to provide it with such information,

Documents, accounts, returns, estimates, reports or other information required by URCA in the manner and at the times specified by URCA, and URCA may use this information for purposes of compiling statistics and publishing periodical reviews of the Electronic Communications industry. Further, URCA considers Section 41(3)(b) of the URCA Act, 2009, which states that the annual plan should include a report of URCA's performance against the key performance indicators published in the previous year's annual plan.

3 Summary of Comments and URCA's Responses

In this section, URCA summarises and responds to the general and specific comments to the Consultation. The structure of the section is as follows:

- Section 3.1 – General comments received on the Consultation;
- Section 3.2 – Specific responses to the Consultation Questions;
- Section 3.3 – General comments received on URCA's meeting to address concerns on OPI framework; and
- Section 3.4 – Specific responses to URCA's meeting to address concerns on the OPI framework.

3.1 General Comments Received to the Consultation

In this Public Consultation, URCA posed only two Consultation Questions:

- Question 1: Do you agree with URCA's justification to request additional market data? If not, please provide full reasons for your position.
- Question 2: Based on your assessment of Table 1 below, is collecting and providing the requested data for each KPI and at the proposed frequency feasible? If not, please provide full reasons for your position.

CBL's and ALIV's General Response

Regarding the Consultation Question 1, CBL and Aliv BTC argued that it could not agree or disagree with URCA's justification to request additional market data because URCA neither produced sufficient justification for its request for additional market data nor explained the methodology for measuring performance under the OPI framework nor define specific areas where activities are expected to impact market performance. CBL and Aliv explained that for those reasons, they could not address Consultation Question 1. Regarding Consultation Question 2, CBL and Aliv answered that collecting and providing the requested data for some of the KPIs

and the proposed frequency is not feasible. Further, CBL and Aliv opined that some of the requested KPIs were not fit for the purpose. URCA will provide further details of CBL's and Aliv's response in Section 3.2.

BTC General Response

Regarding Consultation Question 1, like CBL and Aliv, BTC stated that it could not agree or disagree with URCA's justification for requesting additional market data. BTC explained that in its view, URCA did not provide relevant information on the OPI framework or a comprehensive outline of proposed ex post evaluations or a linkage between the proposed KPIs and URCA's OPI framework or ex post evaluations. Therefore, BTC could not agree with URCA's justification for requesting additional market data. BTC also opined that the lack of description on the OPIs Framework signaled that URCA did not fully develop the OPI Framework. Regarding Consultation Question 2, BTC also answered that collecting and providing the requested data for some of the KPIs and the proposed frequency is not feasible. URCA will also provide further details of BTC's response in Section 3.2.

URCA's Response to general comments received and final determination

URCA acknowledges that it neither consulted on the OPI Framework outside of the Annual Plan nor provided information on the OPI Framework after the publication of the 2019 Annual Plan. As stated earlier, URCA has remedied that issue by hosting a meeting on 5 February 2021 with the respondents to elucidate the rationale for the OPI framework before publishing the Statement of Results and Final Decision and extending the Consultation period to 22 February 2021. URCA will provide additional details in Sections 3.3 and 3.4 of this document.

Also, URCA acknowledges that the Comms Act requires URCA to have "due regard to costs and implications" of the regulatory or other measures it proposes to introduce. Therefore, URCA has no objections to revising the request for additional market data and proposed KPIs (insert number of KPIs removed) to address the Respondents' concerns. URCA will indicate the changes in Table 1 under section 3.2 of this document.

3.2 Responses Received to the Specific Consultation Questions

In relation to **Consultation Question 1 above**, URCA's responses and final decision on the specific comments made by CBL/Aliv and BTC are as follows:

CBL's and Aliv Comments

Regarding the Rationale for the Proposal

CBL and Aliv argued that URCA did not provide sufficient justification for requesting additional data. The operators suggested that URCA could justify by defining the OPIs and associated KPIs and publishing its OPIs and the associated KPIs in accordance with the commitment URCA made in its Annual Report. CBL and Aliv stated that, "Until this has been done, we cannot comment usefully on whether URCA's request for market data for use with the OPIs is justified."

Regarding limitations on using general market information

CBL and Aliv suggested that URCA was not aware of important limitations when URCA developed its request for additional data. CBL and Aliv urged URCA to consider the impact of:

- a) Correctly identifying market outcomes affected by a specific regulatory decision;
- b) Influence of other external factors on the market data; and
- c) Time lags between the decision and the impact on the market.

CBL and Aliv referenced a National Audit Office (NAO) in the United Kingdom (UK) report titled "Performance Measurement By Regulators" to support its argument about the limitations of regulatory authorities using market data as performance indicators.

Regarding URCA's regulatory decisions, these operators expressed support for URCA to evaluate its regulatory decisions and opined on the need to try "dry runs" to test an "effective system" and evaluate what data would be required for this to work. As an alternative approach to using general data to evaluate specific decisions, CBL and ALIV suggested that URCA specify the outcomes and measurements needed to evaluate and finalise a regulatory decision. The operators further suggested that the data be tailored for a specific matter. The Operators warned that URCA "may have to conclude that the measurement would not be useful or cost-effective".

URCA's response to comments received by CBL & Aliv

URCA duly notes comments on the limitations of using market data to measure performance in a regulatory environment. URCA has had regard to a range of criteria consistent with international best practices that allowed URCA to be aware of inherent challenges in measuring regulatory performance. However, URCA found that while these challenges exist, a more systemic approach can be adopted to ensuring that regulatory performance is measured. This approach is built into URCA's OPI framework, and the use of data will be broadened through the use of consumer and baseline surveys. Another component of the OPI framework is undertaking an analysis of the expected impact of regulatory proposals on affected groups and stakeholders, requiring a combination of both qualitative and quantitative data.

URCA, in collaboration with Analyses Mason, found that "Despite these challenges, there have been a variety of different attempts by government and regulators around the world to improve the use of performance information to assess the progress of regulatory interventions, and to determine corrective action (where necessary) more systemically". A systemic approach that was identified included three core activities considered fundamental in improving regulatory performance: stakeholder engagement, regulatory impact assessments, and ex-post evaluations. Therefore, URCA has developed the OPI framework to address issues regarding external factors' influence, correctly identifying market outcomes and time lags.

With specificity to market data, URCA reemphasises that to measure the impact of its regulatory interventions and measures, URCA must collect relevant data that identifies current trends and predicts future trends while monitoring changes in the regulated sectors. Introducing ex-post evaluations would allow URCA to loop back into the regulatory cycle and provide an understanding of areas in URCA's operation or regulatory decision-making process that may need potential improvement. Therefore, URCA would need to use any current or additional market data to satisfy ex post evaluations.

URCA also notes that CBL and Aliv consider that instead of relying on market data, "URCA should, as part of its investigations and decisions, specify the outcomes it wants from the particular investigation or decision, and what measures it should use to evaluate the outcomes." This comment is helpful, and URCA plans to strengthen this arm of its regulatory work by setting in

place an Identification and Diagnosis OPI that will ensure specific outcomes are outlined prior to starting a regulatory project. This additional rigour would allow URCA to assess the qualitative aspect of regulatory results, notwithstanding that market data would help provide an evidence-based approach when specifying these outcomes. The ex-post evaluations require URCA to collect and analyse available data when the decision comes into force, evaluate if the objectives were achieved and if not, identify any gaps.

The phased approach to URCA's implementation speaks to the suggested "dry runs", as mentioned in the Annual Plan 2019. However, URCA would like to clarify that after the preparation for data requests for the additional KPIs was needed to be done prior to any form of commencement and publication of OPIs. Based on the OPI framework, additional market information, among other instruments, is needed prior to testing. Also, URCA does not intend to solely rely on the use or collection of current or additional market data to evaluate specific decisions. Notwithstanding the various layers of evaluation techniques that the OPIs will depend on, market data evaluation is critical in the OPI framework.

BTC's Comments

Regarding the Rationale for the Proposal

BTC outlined substantive comments on the first question for Consultation. The main underlying groups of concerns have been raised and are discussed in turn in this section:

- did not describe the OPIs and appeared to be not "fully developed" or "specified at the time of Consultation;

- did not provide sufficient insight into how URCA plans to assess impacts of regulatory interventions and measure on an ex-post basis; and
- did not show the linkage between the request for additional market data to the OPI framework or ex-post evaluation.

BTC concludes that due to the concerns listed above, there is no "coherent rationale or explanation" for URCA's request for additional market data.

BTC is of the view that URCA did not provide sufficient rationale or explanation as to why the proposed KPIs would be "necessary or appropriate." BTC found some of the proposed KPIs to be redundant, unnecessary, poorly defined or unmeasurable. BTC asked URCA to reconsider or drop some of the proposed KPIs. BTC also argues that URCA did not provide information that considers the KPIs to be proportionate and fit for purpose. BTC added that URCA also did not consider costs associated with the additional reporting requirement.

Regarding Proposed Timeframe for Collection and Publication

BTC proposed an approach for the collection of data following the final result of this Consultation as follows:

- Step 1: At least 90 days be provided to affected licensees to assess the availability of or, as necessary, the feasibility of measuring the new KPIs;
- Step 2: After the 90-day period, licensees submit historical market data for 2019 and 2020 based on availability and feasibility
- Step 3: Subsequent market data submissions should follow the existing filing schedule set out under ECS 28/2017

Regarding Publication and Confidentiality

BTC asked URCA that affected operators be given an opportunity to comment on the nature of and potential commercial sensitivity of URCA's planned aggregate data disclosure within the OPI report and any KPI associated reports.

URCA's response to comments received from BTC

In the Annual Plan 2019, URCA stated that it had completed the development of the OPIs, which the Board approved in November 2019, and will schedule the phased implementation of the OPIs as a Tier I project commencing 2020 and completing the full implementation in 2022. Based on this information, URCA disagrees with BTC's position that the OPIs have not been "fully developed".

As stated in the Consultation document, URCA will use current market data that it collects through ECS 28/2017 and additional market data to support the ex-post evaluation of previous regulatory actions. URCA references its Consultation document, which states that *"In developing the OPI framework, URCA realised that the most effective way to measure performance against its strategic imperatives is to perform ex-post evaluations on its regulatory work (on a per decision basis). The ex-post evaluations require URCA to collect and analyse available data when the decision comes into force, evaluate if the objectives were achieved and if not, and identify any gaps."* Therefore, URCA disagrees with BTC's claim that there is no linkage between the request for additional market data to the OPI framework or ex-post evaluation.

URCA disagrees with BTC's proposed way after the Consultation is finalised regarding the proposed timeframe for collection and reporting. URCA reminds BTC that URCA is in the process of implementing the OPIs, with a bulk of its work to be completed in 2021. Therefore, the 90-day period would delay and thereby adversely impact URCA back in using the additional data to complete various stages of its phased implementation of the OPIs. URCA considers 45 calendar days as a reasonable period for Specified Licensees to assess the availability or feasibility of measuring the new KPIs. Within this period, URCA advises the Licensees to gather historical data for 2019 and 2020. With this approach, URCA agrees that market data submissions for 2021 can follow the existing filing schedule set out under ECS 28/2017.

In accordance with section 14 (1) of the Comms Act, URCA takes into consideration the concerns for the confidentiality of industry-level aggregated data. However, URCA is still in the process of determining which OPIs will be published along with the data associated. Nonetheless, URCA is confident that the items for publication will not give rise to commercial confidentiality concerns.

In relation to **Consultation Question 2 above**, URCA's responses and final decision on the specific comments made by CBL/Aliv and BTC are specified in Table 1 below.

Table 1: Specific Response to Consultation Question 2

Proposed KPI	BTC Comments	CBL/ALIV Comments	URCA's Response	URCA's Final Decision
Take-up (Number of active subscribers/connections)				
<p>1. Fixed internet subscribers (Quarterly)</p> <p>Please provide a breakdown of active subscribers for each of the following technologies:</p> <ul style="list-style-type: none"> •Cable modem Internet subscriptions •DSL Internet subscriptions •Fibre-to-the-home/building Internet subscriptions •Other fixed broadband subscriptions •Terrestrial fixed wireless broadband subscriptions. 	<p>BTC informed that the requested information is already provided in BTC's Annual Market Information Report and recommended that URCA drops the proposed quarterly reporting of this data.</p>	<p>CBL can provide this data but notes that the request for data by DSL is not possible because CBL does not offer DSL.</p>	<p>The Comms Act requires URCA to have "due regard to costs and implications" of the regulatory or other measures it proposes to introduce. Therefore, URCA has no objections to collecting this information annually.</p>	<p>URCA will collect this KPI but agrees to change the proposed frequency from quarterly to annually.</p>
<p>2. Mobile subscribers (voice and/or mobile data and data only) (Quarterly)</p> <p>Please provide a breakdown of active subscribers for each of the following technologies:</p> <ul style="list-style-type: none"> • 2G • 3G 	<p>BTC recommends that this proposed KPI be dropped</p>	<p>Aliv does not find this KPI to be feasible</p>	<p>No objections to comments</p>	<p>URCA will drop this KPI</p>

<ul style="list-style-type: none"> • 4G • 5G 				
Service speeds				
<p>3. Fixed internet speeds at busy hour (Annual) Please provide the average speed (Mbit/s) experienced by subscribers in the busy-hour (defined as the hour the network experiences peak demand) for each of the following network technologies:</p> <ul style="list-style-type: none"> •Cable modem Internet subscriptions •DSL Internet subscriptions •Fibre-to-the-home/building Internet subscriptions •Other fixed broadband subscriptions •Terrestrial fixed wireless broadband subscriptions. <p>Please also include your definition of the busy hour and total busy-hour traffic.</p>	<p>BTC recommends that this proposed KPI be dropped. BTC proposed to use the Fixed Internet service speed reporting provided under the Quality of Service Regulations.</p>	<p>CBL states that this KPI is not feasible and that it has no way of collecting this data.</p>	<p>No objections to comments</p>	<p>URCA will drop this KPI</p>
<p>4. Mobile internet speeds at busy hour (Annual) Please provide the average speed (Mbit/s) experienced by subscribers in the busy-hour (defined as the</p>	<p>BTC recommends that this proposed KPI be dropped</p>	<p>ALIV does not collect this information but can provide a daily average</p>	<p>No objections to comments</p>	<p>URCA will drop this KPI</p>

<p>hour the network experiences peak demand) for each of the following network technologies:</p> <ul style="list-style-type: none"> • 3G • 4G • 5G. <p>Please also include your definition of the busy hour and total busy-hour traffic.</p>				
Service pricing and affordability				
<p>5. Average revenue per user (ARPU) for fixed services (Quarterly) Please provide revenues by the following technologies:</p> <ul style="list-style-type: none"> •Cable modem Internet subscriptions •DSL Internet subscriptions •Fibre-to-the-home/building Internet subscriptions •Other fixed broadband subscriptions •Terrestrial fixed wireless broadband subscriptions. 	<p>BTC pointed out that its current Market Information reports already provide the means to calculate various ARPU metrics for fixed Internet services. BTC also argues that ARPU is not "appropriate" measure for the assessment of affordability.</p>	<p>CBL asks URCA to reconsider this, and while it is possible to provide, it would be difficult. CBL also pointed out that URCA already receives data from fixed and mobile operators on subscriber numbers and revenues at the service level.</p>	<p>URCA notes the operators' concerns on ARPU being able to provide pricing and affordability data. Therefore, URCA reconsiders its use for ARPU by technology and will extract ARPU information where necessary from current Market information reports. If necessary, URCA reserves the right to request this data for KPI related reports in the future.</p>	<p>URCA will drop this KPI.</p>
<p>6. Price per GB of fixed data (Quarterly) Please provide the total traffic generated by connections (gigabytes) and total subscription</p>	<p>BTC recommended that URCA revisit this proposed KPI to reconsider its definition and appropriateness.</p> <p>It is unclear to BTC how it would provide</p>	<p>CBL stated that data is feasible to provide but argued that monthly user rate does not vary by technology, so it finds difficulty with URCA usefulness behind this data</p>	<p>URCA notes the concerns of both operators and agrees to drop this KPI. URCA reserves the right to request this data for KPI related reports in the future.</p>	<p>URCA agrees to drop this KPI for quarterly and annual reporting.</p>

<p>revenue for each of the following network technologies:</p> <ul style="list-style-type: none"> •Cable modem Internet subscriptions •DSL Internet subscriptions •Fibre-to-the-home/building Internet subscriptions •Other fixed broadband subscriptions •Terrestrial fixed wireless broadband subscriptions. 	<p>a meaningful measure of the unit cost of a GB of data using fixed broadband technology. Total fixed broadband traffic would cover traffic from standalone fixed broadband customers and other customers with bundled services that include fixed Internet service. Determining the revenues associated solely with fixed Internet data connectivity services would not be straightforward.</p>			
<p>7. Consumers in payment arrears for fixed services (Quarterly)</p> <p>Please provide the number of consumers in payment arrears or who have been disconnected from your network for failure to pay.</p>	<p>BTC can provide information at the proposed frequency.</p>	<p>CBL stated that the KPI is feasible to collect but requested clarification on the definition of disconnections. CBL also pointed out an error of repetition for this KPI's request in the Consultation document.</p>	<p>URCA has amended the error mentioned by CBL in column 1 of this table (in bold).</p> <p>URCA will only request information for arrears and has defined <i>subscribers and revenue in arrears</i> in the amended ECS 28/2017 document under Annex 5: Glossary of Key Terms.</p>	<p>URCA will collect at the proposed frequency.</p>
<p>8.Average revenue per user (ARPU) for mobile services Quarterly</p> <p>Please provide revenues by the following technologies:</p> <ul style="list-style-type: none"> • 2G • 3G 	<p>BTC recommended that this KPI be dropped</p>	<p>CBL said that this KPI is not feasible</p>	<p>No objections to comments</p>	<p>URCA will drop this KPI</p>

<ul style="list-style-type: none"> • 4G • 5G 				
<p>9. Consumers in payment arrears for mobile services (Quarterly)</p> <p>Please provide the number of active subscribers in payment arrears or who have been disconnected from your network for failure to pay.</p>	<p>BTC can provide data as requested</p>	<p>ALIV can provide data but notes that it is only available for post-paid customers</p>	<p>No objection to comments</p> <p>URCA will only request information for arrears and has defined <i>subscribers and revenue in arrears</i> in the amended ECS 28/2017 document under Annex 5: Glossary of Key Terms.</p>	<p>URCA agrees to collect this data for only post-paid customers quarterly.</p>
Quality of service				
<p>10. International internet bandwidth per fixed subscriber (Annual)</p> <p>Please provide the total international bandwidth available to fixed subscribers and the international bandwidth available per fixed subscriber (total bandwidth divided by total fixed subscribers).</p> <p>Please also provide total busy-hour demand (in Mbit/s) for international capacity.</p>	<p>BTC can implement KPI but would want clarification of fixed subscribers means "fixed Internet subscribers."</p>	<p>CBL suggested that URCA remove the request for data on international bandwidth and only intervene when there is a known problem with the provision of international capacity.</p> <p>CBL also stated that "Operators, who do have this information, have a strong commercial incentive to ensure that their customers have sufficient international bandwidth both now and in the future."</p> <p>Based on this statement, CBL questioned whether URCA has the need or the ability to second-guess the operators, given its duty under the Communications</p>	<p>URCA confirms that this definition is in regards to "fixed Internet subscribers". In addition, URCA is requesting the International bandwidth usage by busy hour and is aware that per fixed subscriber can be calculated using current data collected.</p> <p>URCA adds that most of the information it currently collects for international Internet bandwidth is ITU reporting purposes. However, ITU reports national figures of International bandwidth per user for both fixed and mobile subscribers. However, they do not request this data for busy-hour</p>	<p>URCA will collect at the proposed frequency.</p>

		Act to rely on market forces "as much as possible."	demand in both markets. Therefore, URCA requests this information to obtain trend data to monitor Internet usage, which has seen a significant increase across the globe.	
Other topics				
11. Availability of wholesale services for fixed and mobile (Annual) Please provide a brief description of each wholesale service (regulated and unregulated) available on your fixed and mobile networks.	BTC stated that it could provide this requested information at the proposed frequency. BTC also requires confirmation that Wholesale in this context refers to OLOs only.	CBL found KPI to be feasible but requires URCA to clarify the definition of wholesale customers.	To clarify the definition of wholesale customers, URCA will require, in this context, a brief description of OLOs only for this KPI at the proposed frequency.	URCA will collect at the proposed frequency.

3.3 Additional comments received from CBL and Aliv on URCA's meeting to address concerns on OPI framework

CBL and Aliv responded to URCA's meeting in a joint submission to address concerns on the OPI framework based on their concerns previously addressed under question one in Consultation document ECS 16/2020. Based on the meeting outcomes, the Operators did not change their position for question one, indicating that URCA continued to fail to justify its request for additional market data.

While the Operators found that the presentation helped understand the scope and purpose of the OPI framework, they raised new issues such as scoring subjectivity relating to URCA's assessment of performance and zoning its focus on consumers. The Operators argue that the scoring system for the OPI framework "suffers from the fundamental weakness of subjectivity" and suggested that the process and analysis of the scoring system be addressed by having an

internal process of "rigorous challenge" or "an external group of stakeholders" involved in the process. Another issue raised was that the measures used in the OPI framework were heavily weighted on consumer interests. They warned that focusing solely on consumer measures could lead URCA to be "in danger" of ignoring other objectives outlined in the Comms Act. They suggested that URCA widen the criteria being used to evaluate performance under the OPI framework.

3.4 Specific responses received on URCA's meeting to address concerns on OPI framework

Scoring Subjectivity of OPI framework

URCA disagrees with CBL & Aliv's view that the OPI framework's scoring process is subjective. The development of the OPI framework ensured that objectivity was built into the design and implementation process. To that effect, responses are evaluated using quantitative measures at each stage of evaluation for all OPIs. For example, URCA intends to examine the scale of a problem or issue by looking at criteria such as the size of the affected markets, numbers of consumers, associated revenue or other relevant scale indicators. URCA believes that these measures will limit subjectivity by allowing specified outcomes to be identified using an evidence-based approach.

URCA would also like to clarify that the scoring system is used to measure URCA's performance outcomes is not a self-marking exercise based on a particular scale. Instead, URCA will use high-level but straightforward questions that require either a binary response. For example, one question being asked under the Compliance OPI is: Have the relevant licensees(s) complied with URCA's decision and remedies within the timescale set by URCA? Based on statutory requirements, there is no room for subjectivity. In addition, questions that are scored using a 0 to 4 scale also have benchmarking measures that go along with each question to limit subjectivity.

To further its efforts in limiting subjectivity, URCA has designed its approval process for any input into the OPI score to be reviewed and assessed at the highest level of the organisation, where appropriate.

Focus on Consumers

URCA notes the Operators concerns on a possible "trade-off" between consumer interests and other objectives in the Comms Act under section 4. URCA has exercised its duty in developing the framework for the OPIs with consideration to appropriate objectives outlined in section 4 of the Act, along with guidelines for regulation and measures in section 5.

Overall, URCA is satisfied that its efforts to address concerns on the rationale for collecting additional market information will suffice. URCA believes that the additional market information is efficient and proportionate to its purpose and would not impose a significant cost on the affected operators. URCA has decided to request the additional market information in accordance with guidelines outlined in document ECS 28/2017.

4 Conclusion and Next Steps

URCA thanks the respondents for their involvement in this Consultation to collect additional market information from specified licensees in the ECS. The commentaries received were valuable to this Statement of Results and the Final Decision on the issues presented. Concurrently with the publication of this Statement of Results and Final Decision, URCA also publishes an amended version of the "Market Information Reporting Requirements for Specified Licensees in the Electronic Communications Sector" (ECS 28/2017) which sets out amended requirements regarding the provision of information to URCA and relevant timelines. The new reporting format and requirements supersedes and replaces the requirements specified in ECS 28/2017.

URCA has decided that the additional items for collection and reporting should include but is not limited to:

KPI 1: Take-Up

KPI 5: Service pricing and affordability

KPI 6: Service pricing and affordability * (Please see respective comment in table 1 above)

KPI 7: Service pricing and affordability * (Please see respective comment in table 1 above)

KPI 9: Quality of Service

KPI 10: International bandwidth per fixed subscriber

KPI 11: Availability of wholesale services for fixed and mobile

URCA will continue to publish market statistics (current and additional) in its annual report and elsewhere, as necessary.