



The Bahamas Telecommunications Company  
Limited

Response To

**Utilities Regulation and Competition Authority's  
Draft Annual Plan 2022**

Legal & Regulatory Division  
**submitted 10<sup>th</sup> February, 2022**

## **Introduction**

The Bahamas Telecommunications Company Limited (BTC) welcomes the opportunity to respond to the Utilities Regulation and Competition Authority's (URCA) Draft Annual Plan for 2022 (the "Draft Annual Plan").

## **Review of URCA's Achievements in 2021**

URCA's continued engagement with the Electronic Communications Sectors (ECS) and Electricity Sector (ES) is encouraging as it shows the sectors' regulator is open to collaboration and inclusion from stakeholders as it charts the course for the sector's future. While BTC is largely supportive of URCA's accomplishments in 2021 and plans for 2022 what follows is general constructive commentary.

Over successive issues of the Annual Plans BTC has noticed a pattern whereby some projects are being carried over for multiple years. It is understood that some projects are implemented in a phased approach and others change in priority due to present and situational realities. However, BTC is of the view that projects which carry over that are not part of the aforementioned categories can be better managed, balancing the priorities of URCA and other stakeholders inclusive of Operators.

BTC acknowledges that URCA has moved projects into a more manageable two (2) tier system which is a commendable first step. As a further step BTC suggests that URCA provides more details to industry stakeholders in the Annual Plan summary tables. Percentage complete and target completion date fields would assist stakeholders with assessing the overall progress of a given project. URCA employed a similar layout in its 2016 Annual Plan to highlight progress on its 2015 Workplan as it was called then.

Project timelines and outcomes are important for industry stakeholders as they form the basis for decision making. BTC suggests that projects that have direct regulatory impact on the ECS are assigned to a general project office so that progress can be monitored and reported on a more regular basis. Also, where necessary queries from the industry can be directed and facilitated. BTC's view is that an annual review of a project is inadequate for a rapidly evolving ECS.

BTC encourages URCA's efforts towards becoming more digitalized. As can be seen from the changes implemented worldwide in response to the Covid -19 pandemic, it is evident that digitization and improved technology are essential components for a society to function effectively.

## **Performance Against URCA's 2021 Annual Plan**

### **Solar Car Park Array**

BTC commends URCA for completing the Solar Car Park Array. As URCA stated the installation will serve as a live research and development environment for its team members. BTC, however, is concerned about URCA's ability to manage a solar research facility at this time, and how the learnings from this initiative will be used to the benefit of all its stakeholders.

As an alternative BTC suggests that URCA partners with local academic and vocational institutions to accomplish research objectives. The potential benefit would be multifold (1) increased engagement with next generation ICT stakeholders (2) knowledge and skill building (3) opportunity to increase URCA's brand awareness and build goodwill.

BTC is keenly interested in the outcomes and learnings from this endeavor as BTC operates advanced technology and communication equipment in remote areas of archipelago where reliable and quality power continues to be elusive.

Additionally, BTC is concerned with the projected savings associated with this project. URCA has indicated that it expects to realize a savings of \$11,000 per year in fuel surcharge. Based on the initial investment and capital costs, it is BTC's view that the projected savings does not represent a fair return on the investment. Perhaps more details around the business case associated with this project may have provided more insight into the overall benefits.

We note that URCA has indicated that full recovery on the investment is expected in sixteen (16) years. Based on widely acceptable accounting guidance, investments in equipment is recommended in cases where the full recovery of the investment can be realized within three (3) years as this would leave two (2) additional years of expected useful life of most pieces of equipment. After five (5) years equipment begins to depreciate and deteriorate resulting in repairs

and replacements which are at a cost. Within a sixteen (16) year timeframe it is unlikely that any equipment will be fully functional without having any maintenance carried out and without replacement parts. BTC is therefore concerned about the prudence of this investment.

### **Frederick House Remediation**

BTC notes URCA's initiatives towards the necessary repairs and remediation required to ensure that there is a suitable work environment. Unfortunately, it appears that since the building was acquired there has been a continued need for renovations and refurbishments. It is unclear whether these renovations were apparent at the time of purchase, however due to the substantial amount of this investment, BTC believes that more details should be provided to the sector. In its 2018 Annual Plan 04/2018 URCA stated that, "During 2018 URCA intends to begin work toward pursuing rental opportunities for Frederick House which, if successful will result in additional cost savings"; "It should be noted that the size of the building exceeds URCA's current requirements by approximately 12,000 sq. ft. If tenants are secured for the space in the building in excess of URCA's own needs, the resulting rental income will assist in significantly defraying the expenditure for URCA premises, which is currently recovered through the URCA fee." There was also an additional \$50,000.00 budgeted in 2018 for "underestimated and unanticipated maintenance costs to Frederick House."

Further in its 2019 Annual Plan URCA 04/2019 more renovations and improvements were required and stakeholders were advised that "Premises costs and utilities increased compared to 2018 by 82% due to anticipated repairs/maintenance requirements of Frederick House and increases in insurances premiums and taxes."

The following year there was little mention regarding renovations or tenant opportunities and in its Annual Plan and Budget 08/2020 URCA advised that renovations to the upper two floors continued.

It has been four years and renovation expenses continue while no rental opportunities have been realized. BTC reiterates that it believes that more details surrounding the issues and renovation needs of the building should be provided to sector.

### **Market and Consumer Satisfaction Surveys**

BTC agrees that the views and opinions of consumers are essential and agrees that they should steer the course as URCA initiates project throughout the years. However, BTC is of the view that results of market and consumer surveys can serve multiple purposes as they can also be beneficial to the operators. BTC suggests that URCA share the results of the surveys with operators so that they may be used to improve and design more fit for purpose customer centric policies and value propositions The Draft Annual Plan indicates that URCA intends to conduct more comprehensive survey plans this year, BTC considers this information to be very valuable as it is the direct voice of the customer from an independent source, though BTC appreciates that some of the results maybe for URCA' purposes alone, BTC request, where possible that URCA considers sharing these results with relevant stakeholders in the spirit of improving the sector.

### **URCA's International Participation and Engagement**

BTC is pleased to see the progress URCA has made in ensuring that the Bahamas is recognized and contributes on an international level with the International Telecommunications Union (ITU) and the Executive Council of Inter-American Telecommunications Commission (CITEL). International participation and engagement is essential to the continued development of technological advances in the Bahamas and BTC welcomes URCA's continued participation with the various international telecommunications and energy regulatory organizations.

BTC seeks clarity regarding the strategic shift from a CEO led process to a dedicated leadership with supplementary support in the form of the International/Government Relations Unit. BTC welcomes URCA engaging in collaboration with the government on sector policies and with key stakeholders on industry related issues to enhance its participation at the various international conferences and meeting, however BTC is unclear as to the manner in which members are appointed to this unit and ultimately how this translates with regards to the actual representation at these various committees i.e. will the representation of the CEO be delegated to another member of the International/ Governmental Relations Unit or is this Unit solely for the purposes of gathering information and supporting the CEO in his preparation for attending these meetings.

It is BTC's view that representation at the international level should be consistent and by seasoned regulatory professionals able to make decisions and contribute to the decision making process. BTC appreciates that this may be overwhelming for the office of the CEO to handle alone and

supports the idea of a unit supporting the CEO and ensuring that the CEO is well versed on the sector specific agenda of the country. However, BTC is concerned that a total shift away from the CEO may downplay the importance of these international committees in the development of the local sector.

### **Building Regulatory Capacity and Human Capital**

BTC notes URCA's commitment towards retaining its human capital and hopes that the Cultural Renewal initiative and the 2021 Compensation Review Project will assist in retaining employees. There is a substantial sum spent on training and development each year and it is unfortunate that these trained individuals leave the organization within a short window. BTC believes that creating an enjoyable and progressive work environment with competitive benefits packages is a key ingredient in attracting new employees and retain existing ones.

### **Educating and Supporting our Stakeholders**

BTC agrees that URCA should continue educate the public on their rights and the choices accessible to them where an operator breaches any of its commitments. BTC urges URCA to continue to utilize virtual platform as a means to share messaging with its partners. It is also suggested that as a means of educating stakeholders, representatives of the licensees should be included as members of the International/Government Relations Unit so that all sectors are involved in the shift towards innovation and technology.

## **URCA's Plan for 2022 - Strategic Outlook**

### **2021 Projects Carried Over**

While BTC understands that there are many reasons why the anticipated completion dates of certain projects may be delayed, as stated above BTC is concerned with amount of projects that seem to carry over year to year. We have compared the Annual Plans beginning from 2017 and

note that many projects continue to roll over without any indication of the percentage completed, reasons for the delay or actions to remedy the same.

BTC has set out a few of the projects of concern below.

► **ICT Disabilities**

URCA stated that following intensive consultation with disabled persons in 2019 a delay was attributable to organizational challenges and the passage of Hurricane Dorian. This project was carried forward to 2020. Thereafter, it was deferred to 2021 as a tier 1 project with a phased approach to its execution and engaging consultants.

BTC believes that it is untenable for a project that commenced in 2019 should still rest with the research and fact finding stage in 2022. BTC is concerned that in cases such as this when the project is started and stopped and resumed after a while that the earlier work has then to be updated and modified. This BTC believes is not an efficient use of financial and human resources.

► **Market Review**

This project started in 2019 and URCA has over the years provided different reasons for the delay. In this case BTC is concerned that this project has not received a high level of priority and focus to the prejudice of BTC.

► **Review of URCA's Position on OTT Services**

BTC welcomes a review of 2018 decision by URCA, and notes its position on OTTs in ECS 12/2018 inter alia , *".....URCA remains of the view that a significant part of the response to the prevalence of OTTs should be the adoption by affected regulated entities of innovative strategies that embrace the natural but rapid changes in the technological environment while remaining profitable, as has historically occurred in response to other disruptive influences on the electronic communications market....."*, which in effect shifted the burden of the dilemma solely to ECS service providers.

BTC's view is that the current regulatory regime which BTC is subject to impedes its ability to respond rapidly to industry changes brought on by OTTs. BTC therefore looks forward to a review of the OTT policy that contemplates the impact of the current local regulations on operators' ability to innovatively compete with international OTTs.

BTC also recognizes that the industry has changed where traditional ECS infrastructure

providers especially in the United States have focused on mergers and acquisition with established content providers to keep pace. The realities and scales at which BTC and other local ECS providers operate does not lend itself to this model. URCA is encouraged to examine any potential OTT ECS policy or consultation against the backdrop of the unique position of ECS stakeholders in the Bahamas.

This is not a novel concept as the government of the Bahamas formed agreements with Facebook and Airbnb for the realization of tax revenues for services rendered here in the Bahamas. As URCA is aware the onslaught from OTTs is twofold, there is direct competition with services offered by traditional service providers such as Pay TV and telephony services, secondly investment in infrastructure brought on by the exponential growth in traffic by OTTs constrains budgets. It is BTC's view that URCA should investigate and advocate for a licensing regime where disruptive OTTs are taxed, as it is now operators are saddled with OTTs who are making huge profits while enjoying a "free ride" on networks that are costly to maintain while under no regulatory obligations. BTC asks that URCA hastens its regulatory intervention to prevent further defunding of ECS infrastructure by OTTs.

### **Public Consultation on 5G**

BTC welcomes URCA's public consultation on 5G. As indicated in URCA's 2022 Tier I Projects the 5G public consultation commences in the first trimester of 2022 and concludes in the third trimester of this year. BTC is committed to investing in new technology that provides the public with best in class service. For this reason, BTC is eager for the opportunity to embark on the journey to 5G and encourages URCA to expedite the consultation.

The present governing administration has made 5G a priority and has committed to making the Bahamas 5G ready. To that end BTC implores URCA to take advantage of the opportunity by seeking out and aligning government agenda with ECS partners through workshops and other forums where strategic goals can be realized sooner. BTC is open to sharing its 5G plans and is optimistic that URCA would advocate for an environment that is conducive to further investment and development of the 5G infrastructure here in the Bahamas.

### **Market Review of Mobile Services**

In the Draft Annual Plan, URCA confirmed that work begun on the mobile market review with the completion of surveys. While BTC appreciates the commencement of this project, BTC is



dissatisfied with how long this process is taking. Upon completion of the Non Price Capped Services (NPCS) Regulations Final Determination (ECS 34/2016) in September 2016, URCA stated that a market review of the mobile sector would follow within 12-18 months i.e. early 2018, yet to date the review is incomplete. As BTC is the incumbent to the mobile market and by default carries the SMP obligation, it is only to BTC's detriment when a crucial exercise such as this is unnecessarily delayed.

Moreover, BTC feels that in the absence of a market review and in the interim of its completion, URCA should take a proactive approach to ensure fairness of competition within the mobile sector. It is evident, by way of newspaper articles and through BTC's internal market analysis that indicates that Aliv has nearly fifty (50%) percent of market share therefore BTC strongly believes that it should not be the only operator subject to the strict and very limiting regulations.

### **Implementation of URCA OPIs**

BTC is still unsure of the purpose and effectiveness of URCA's Organizational Performance Indexes (OPI) and requests further guidance on this initiative. In February 2021, URCA hosted a meeting with stakeholders to discuss the expectations of URCA's OPI's and to address concerns from the Addendum to Market data reporting requirements (ECS 05/2021) consultation document. One of the major concerns emanating from the consultation was the added burden to the operators by way of the further data reporting obligations. URCA has since reduced the initial list of new KPIs however, it is unclear how any of the KPIs would relate to URCA's assessment of its ECS performance. As a follow-up to the meeting, URCA agreed to issue some further direction on the timing and purpose of the OPI and although some clarifications were addressed at the meeting, BTC is still not satisfied with areas of this project that result in URCA's self-evaluation. The purpose of an Organizational Performance Index (OPI) is to measure the overall performance of organizations in four main domains; in terms of short term aspects by analyzing elements such as i) Effectiveness and ii) Efficiency, and in the long term by reviewing those of iii) Relevance and iv) Sustainability. BTC questions URCA's ability to self-evaluate its performance and provide results without bias. URCA should reassess the purpose and value of this project and place more emphasis on projects that will benefit the wider stakeholder body.

### **The feasibility of a 3rd Mobile Operator**

BTC notes URCA's plan to assess the feasibility of a 3<sup>rd</sup> Mobile Operator for the Bahamas. BTC

looks forward to being able to contribute to this exercise.

### **Market Review Fixed Services**

In BTC's view, Fixed Telephony Services should be subject to ex-post investigation instead of ex-ante to alleviate the tedious process of providing costing information when introducing or changing a service, specifically in the case of bundled fixed telephone services.

Revising this process provides regulated Operators with greater flexibility to introduce or change services without needing prior approval from URCA. Price Cap Regulations is consistent with ex-post investigations with and is an acceptable practice. A few years ago URCA collected information with the intention to offer Price Caps nonetheless URCA has not advance this project or a provided a reasonable alternative to the current Retail Price Regulation.

### **Electricity Sector Projects**

#### **Energy Efficiency Study**

BTC welcomes a target date for the completion of the BPL Efficiency Study Audit. As a stakeholder in the ECS, BTC has made it known to URCA the issues in its own operation due to poor power quality and reliability. BTC stands by its statements in ES 12/2020 and believes that the results of the study should lead to improvements in the ES as consumers in the ECS stand to benefit the most.

### **URCA's Draft Budget 2022**

BTC has reviewed the draft budget and set out its concerns herein.

URCA has advised that it intends to increase the operating budget by six percent (6%) due to several factors.

Increased staff compliment from 34 to 39 employees is one of the factors listed and BTC would like to understand URCA's final staff compliment that it intends to attain overall. There is also the continued concern of the high turnover of employees and the constant need for training new staff which has bearing on the budget each year. Staff costs are said to increase by 22% due to the additional 5 employees.

General and Administrative expenses is expected to increase by 14% due to bad debt on uncollected balances and ongoing litigious matters. As a stakeholder and an operator charged with interconnection obligations this is important information to be made aware of, BTC therefore seeks particulars on the bad debts, i.e. Who are the offending parties and the reasons why they cannot be collected.

We note that Executive Compensation has increased while Non Executive Compensation has remained the same. BTC requests further details on the increase of \$25,739.00 for 2022. There is also a small increase to Office Services. BTC would like to understand what expenses are included in this head as well as details regarding the increase. The 2020 budget under this head was more than \$100,000.00 more than 2021 and 2022. We note that due to the Covid-19 pandemic officer operations were shut down for a considerable amount of time in 2020.

### **Conclusion**

BTC looks forward to receipt of URCA's 2022 Annual Plan and its continued support during the upcoming year.

### **Reservation of Rights**

BTC has addressed the issues but reserves the right to comment further on all issues and states categorically that the decision not to respond to any issue raised on this Draft Annual Plan in whole or in part does not necessarily indicate agreement in whole or in part with URCA's position; nor does any position taken by BTC in its response mean a waiver of any of BTC's rights in any way. BTC expressly reserves all its rights.

**The Bahamas Telecommunications Company Limited**

**February 10<sup>th</sup>, 2022**