



**The Bahamas Telecommunications Company Limited**

Comments on Response to:

**Retail Cellular Mobile Market Review and Assessment  
under Section 39(1) and (2) of the Communications Act,  
2009**

**Preliminary Determination  
ECS 01/2022  
Issued 25 March 2022**

Submitted to:

**Utilities Regulation & Competition Authority (URCA)**

Legal, Regulatory and  
Carrier Services Division  
May 26, 2022

## **Introduction**

The Bahamas Telecommunications Company Limited (BTC) is aware of only one response, other than its own, to the Utilities Regulation and Competition Authority's (URCA) Preliminary Determination (PD), *Retail Cellular Mobile Market Review and Assessment under Section 39(1) and (2) of the Communications Act, 2009*, ECS 01/2022, issued 25 March 2022. That response was submitted by BE Aliv Limited (Aliv), dated April 2022.

At the outset, BTC reiterates that in its own response to the PD, dated April 25, 2022, BTC expressed agreement with and support for the conclusions reached by URCA regarding its review and assessment of the mobile market in The Bahamas. BTC notes that, in Aliv's response, Aliv also supports and welcomes the overall conclusions reached by URCA in the PD. Consequently, both BTC and Aliv agree and support the conclusions set out in the PD.

In what follows, BTC provides its comments on Aliv's response to URCA's PD. Failure to address any specific comment or claim in Aliv's response does not necessarily imply BTC's agreement with any such comments or claims.

## **Comments on Aliv's Response**

As noted, while Aliv supported the conclusions reached by URCA regarding the review and assessment of the mobile market in the PD, it expressed concerns with certain elements of the processes or information used by URCA to reach some of its conclusions.

For one, Aliv claimed that the standard hypothetical monopolist or SSNIP test used by URCA in its mobile market review "requires that both the demand side substitution and supply side substitution tests are satisfied before the service can be added to the market definition" (emphasis added) and noted that URCA included products in the mobile market for which only one of the two tests was satisfied. No reference was provided for this claim. In any event, despite raising this concern, Aliv nonetheless supported URCA's market definition, with one minor exception which is discussed below.

In response, BTC considers that the standard hypothetical monopolist or SSNIP test does not require that a product must satisfy both demand side substitution and supply side substitution tests to be included in a market definition, but rather one or both tests as set out in Section 5 of URCA's Competition Guidelines. Consequently, Aliv's claim in this respect is incorrect.

Second, as noted, Aliv takes issue with one specific aspect of URCA's mobile market definition, namely the exclusion of Over-the-Top (OTT) call and messaging services. Indeed, much of Aliv's response is dedicated to providing reasons why OTT call and messaging services should, in fact, be included in the mobile market definition.

In response, BTC agrees that there are many good reasons that OTT call and messaging services could be included in the mobile market definition, including those offered by Aliv in its

response. That said, BTC also recognizes that the inclusion or exclusion of OTT call and messaging services in the mobile market definition would have no effect on the conclusions reached by URCA in its PD and, therefore, this question is ultimately inconsequential to the outcome of the URCA's mobile market review and assessment.

Third, in regard to the underlying data and information used for the PD, Aliv noted that URCA relied extensively on a consumer survey to support its analysis of the mobile market in The Bahamas, yet it did not provide a copy of the survey with the PD. Aliv suggested that URCA should publish the results of such surveys at the same time as its related preliminary determinations, so that interested parties can understand and assess the underlying evidence URCA used to reach its preliminary conclusions.

BTC agrees with Aliv. In this case, BTC considers that URCA should release the consumer survey used for the mobile market review when it releases its final determination in this proceeding. As well, as suggested by Aliv, BTC considers that URCA should release any consumer survey it may rely on for its forthcoming fixed market review together with its preliminary determination in that proceeding.

Fourth, relating to URCA's pricing analysis in the PD, Aliv noted that average revenue per user (ARPU) is not an appropriate price measure to assess pricing trends since ARPU, among other things, reflects non-price factors such as volume and product mix changes. Aliv suggested that a price basket approach would be a more appropriate means to assess price trends, and referred to the ITU's price basket approach as an example. BTC agrees with Aliv in this regard.

Fifth, Aliv noted that while it agreed with URCA's conclusion that fixed access and calling services are not necessarily substitutes for mobile access and calling services, that mobile services nonetheless can constrain market power in fixed service markets. Aliv also suggested that the substitutability of mobile for fixed services would be an important consideration in URCA's forthcoming review of the fixed services market and that such a finding would not be inconsistent with URCA's conclusions in the PD.

BTC agrees that while fixed access and call services may not be substitutes for mobile access and call services at this time (as concluded in the PD), there are good reasons to suggest that they could be considered substitutes in the opposite direction.

## **Conclusion**

While Aliv offered numerous other comments on specific and detailed elements of URCA's mobile market review and assessment, none of them have any consequential impact of the conclusions reached in the PD. As noted at the outset, BTC and Aliv agree with the conclusions reached in the PD. Therefore, BTC urges URCA to issue its final determination as soon as possible so the long overdue revocation of the current *ex ante* price regulations that apply to BTC's mobile services can also take effect as soon as possible. Once revoked, BTC and Aliv will

finally be an equal competitive footing to the benefit of mobile service consumers in The Bahamas.

**Reservation of Rights**

BTC reserves the right to comment further on all issues and states categorically that the decision not to respond to any issue raised on this Preliminary Determination 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.