



FINAL DETERMINATION AND ORDER

Issued to: Paramount Systems Ltd.

**In the matter of: Breaches of the Code of Practice for
Content Regulation ECS (Revised) 08/2020 and Individual
Spectrum Licence IS-09-0055**

ECS 08/2023

Issue Date: 17 July 2023

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1. Introduction

The Utilities Regulation and Competition Authority (“URCA”) issues this Final Determination and Order (“FDO”) to Paramount Systems Ltd. (“PSL” or “the Licensee”) pursuant to section 99(1) of the Communications Act, 2009 (“Comms Act”).

This FDO is issued consequential to URCA’s own-initiative investigation concerning suspected breaches by PSL of the Code of Practice for Content Regulation ECS (Revised) 08/2020 (“the Code”) and Individual Spectrum Licence IS-09-0055 issued by URCA to PSL on 15 June 2017 (“the Licence”), and the Notice of Preliminary Determination and Draft Order - ECS 07/2023 dated 8 May 2023 issued by URCA to PSL (“PDDO”).

URCA has determined that PSL has breached clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 2.4(1), 2.4(7), 3.1(1), 3.1(2), 5.1(1), 5.1(2), 5.1(3), 5.2(1), 5.4(3), 5.10(1), and 8.6(2) of the Code, and Condition 3.2 of the Licence. In accordance with section 100(5) of the Comms Act, this FDO provides URCA’s reasoning behind its determination in sufficient detail to enable it to be understood and the reasons for such decision to be known.

1.1 Structure of the Remainder of this Document

The remainder of this document is set out as follows:

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| Section 2: | Background – sets out a summary of the circumstances that gave rise to the issuance of this FDO; |
| Section 3: | Regulatory Framework – sets out the legal framework under which URCA has exercised its powers to issue this FDO; |
| Section 4: | URCA’s Assessment of PSL’s representations and submissions – sets out URCA’s analysis of the representations and submissions made by PSL with respect to the PDDO; |
| Section 5: | URCA’s Findings – sets out URCA’s findings in relation to the matters set out in the PDDO; |
| Section 6: | Final Determination – sets out URCA’s final determinations consequential to its consideration of the representations and submissions by PSL in relation to this matter; and |
| Section 7: | Order – sets out URCA’s Order consequential to its Final Determination. |

2. Background

PSL operates a radio station on the Island of New Providence, The Bahamas and broadcasts content throughout the Island of New Providence, The Bahamas, over the radio frequency 103.5MHz (also known by its call sign "103.5 The Beat").

On 8 February 2023, an anonymous complaint was made to URCA regarding the content of a radio program called "Unfiltered with Drew and Just Mo" ("Unfiltered") that was broadcast on 103.5 The Beat on 30 January 2023. Consequently, URCA conducted a content monitoring exercise using URCA's Content and Technical Standards Monitoring System ("CTSMS") and found that the broadcast of Unfiltered on 30 January 2023 contained adult-themed and unsuitable content for children, unjustified offensive, obscene, and vulgar language, as well as sexually explicit discussions and portrayals of sexual behaviour outside the watershed.

As a result, URCA commenced an own-initiative investigation with respect to suspected breaches by PSL of clauses of the Code and condition of the Licence pursuant to sections 8(1)(j) and 9(1) of the Comms Act and clause 10.10(1) of the Code.

On 13 February 2023, URCA notified PSL in writing that it was the subject of an investigation and directed PSL to provide the complete, unedited recording of the entirety of the Unfiltered show broadcast on 103.5 The Beat on 30 January 2023. PSL provided audiovisual recordings of the Unfiltered Show broadcast on 103.5 The Beat on 30 January 2023 to URCA on 17 February 2023.

URCA conducted further FM broadcast content monitoring exercises using the CTSMS and observed that content similar to that which was broadcast during the Unfiltered show on 30 January 2023 was subsequently broadcast on 103.5 The Beat during the Unfiltered Show on 23 February 2023, 9 March 2023, and 24 April 2023.

Consequential to URCA's investigation in this matter, URCA issued the PDDO to PSL on 8 May 2023 with respect to the following suspected breaches by PSL:

- Failure and/or refusal to responsibly select programming consistent with good taste and decency as required by Clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 3.1(1) and 3.1(2) of the Code.
- Failure and/or refusal to use appropriate scheduling to protect children from unsuitable material, as required under Clauses 5.1(1), 5.1(2), and 5.1(3) of the Code;
- Failure and/or refusal to not broadcast offensive language that has obscene or vulgar connotations outside the watershed unless it is limited and justified by the context of the programme, as required by Clause 5.2(1) of the Code;
- Failure and/or refusal to provide a justifiable educational purpose for the discussion or portrayal of representations of sexual intercourse outside of the watershed, in accordance with Clause 5.4(3) of the Code;
- Failure and/or refusal to provide warnings and advisories relative to mature subject matter or coverage of controversial issues in accordance with Clauses 5.10(1) and 8.6(2) of the Code;
- Failure and/or refusal to make and maintain in an appropriate and commonly used format, complete and accurate recordings of all material broadcast in accordance with clause 2.4(1) of The Code;

- Failure and/or refusal to make available to URCA, upon request, the complete and accurate recording of the Unfiltered show broadcast on 103.5 The Beat on 30 January 2023 in accordance with clause 2.4(7) of the Code; and
- Failure and/or refusal to comply with the conditions of the Licence, any schedules to the Licence, any Regulatory and Other Measures and the provisions of the Comms Act as required by condition 3.2 of the Licence.

PSL acknowledged receipt of the PDDO on 10 May 2023 and submitted its representations and submissions to URCA with respect to the PDDO on 8 June 2023.

3. Regulatory Framework

This section sets out the legal framework under which URCA has exercised its powers to issue this Final Determination and Order.

3.1 Power to conduct investigations

Section 8(1)(j) of the Comms Act confers on URCA the power to “*conduct inquiries, investigations and oral hearings.*”

Under section 9 of the Comms Act, URCA may investigate one or more of the following:

“(a) any contravention;

(b) any alleged contravention; and

(c) any circumstance where it has grounds to suspect a contravention of any provision of this [Comms] Act and any regulatory or other measure issued under this Act, including any licence issued under it.”

Further, pursuant to clause 10.10(1) of the Code, URCA may commence investigations concerning the suspected breach of any provision(s) of the Code on its initiative.

3.2 Power to make determinations and orders

Sections 99(1)(a) and (b) of the Comms Act collectively prescribe that if, on its own motion, URCA has reason to believe that a determination is necessary, it may make determinations relating to, *inter alia*,

- (a) any obligations on a licensee regarding the terms or conditions of any licence, including obligations in licence conditions and regulations; and
- (b) any activity set out in the Act, and where the Act provides for URCA to “determine” or “to make determinations”, as is the case under section 39(1).

Pursuant to section 100(2) of the Comms Act, where URCA proposes to issue a determination, URCA must give notice to the proposed addressee of the preliminary determination –

- (a) specifying the determination to be made;

- (b) specifying the obligation or obligations the compliance or contravention of which is the subject of the determination;
- (c) in accordance with section 11(3) of the Comms Act, specifying the period during which the relevant persons have an opportunity to -
 - (i) make representations about the matters in the preliminary determination;
 - (ii) comply with the obligations referred to in the preliminary determination of which they are in contravention, if applicable;
 - (iii) remedy the consequence of contraventions notified in the preliminary determination if applicable; and
- (d) enclosing a draft copy of any order under section 95 that URCA would issue with the final determination if applicable.

By way of sections 95 to 98 of the Comms Act, URCA is empowered to impose conditions and penalties, by way of orders, on licensees that have contravened any provision of the Comms Act. Pursuant to section 95 of the Comms Act, where URCA has determined that a licensee has contravened any provision of the Comms Act, it may order such licensee to –

- (a) do, or refrain from doing such things to remedy, prevent or rectify the breach, which is the subject matter of the determination; and if appropriate,
- (b) impose a fine or other penalty not exceeding 10% of that licensee’s relevant turnover in accordance with section 109(1) of the Comms Act.

Pursuant to clauses 10.14(1), (2), and (3) of the Code, URCA is empowered to impose sanctions against any licensee that URCA determines to have breached the provisions of the Code consequential to an investigation.

By clause 10.10(1), where URCA determines that a licensee has breached any provision of the Code, the possible sanctions available for URCA to impose against such licensee include:

- (a) issuing a direction to the licensee not to repeat a programme or advertisement;
- (b) issuing a direction to the licensee to broadcast a correction or a statement of URCA’s findings which may be required to be in a form determined by URCA;
- (c) impose a financial penalty under section 109 of the Comms Act;
- (d) suspend a licence under section 109 of the Comms Act; and/or
- (e) revoke a licence under section 109 of the Comms Act.

3.3 Code of Practice for Content Regulation (Revised)(ECS09/20200

Clause 2.4 of the code requires that licensees “shall make and maintain in an appropriate and commonly used format complete and accurate recording of all material broadcast by the Licensee.”, and further specifies that such recordings must be kept “for the longest period of;

- (a) six (6) weeks starting on the day after the material was broadcast;
- (b) if a complaint has been made to the Licensee under Part 10 of this Code in relation to material contained in a broadcast – one (1) year from the date on which the complaint is resolved; or
- (c) any longer period specified by URCA in writing.”

Clause 10.6 and 10.7 of the Code set out the timelines for complaints handling;

10.6(1) specifies that “Licensees shall within two (2) business days notify the complainant in writing of the receipt of a complaint made under this Code, which acknowledgement shall also notify the complainant of the case or complaint number assigned to the complaint and the timeframes and processes that the Licensee envisages are required to investigate and respond to the complaint.

10.6(3) Licensees must respond to Code Complaints as soon as practicable but in any event no later than five (5) calendar days after receiving the complaint.

(4) If the content that is the subject of the Revised Code Complaint was provided on broadcast relay by another Licensee, or was otherwise the responsibility of another Licensee, the Licensee receiving the Revised Code Complaint must refer the Revised Code Complaint to the relevant Licensee within two (2) business days of receiving the Revised Code Complaint for written response direct to the complainant, and send a copy of such referral to the complainant. The second Licensee will have five (5) calendar days from receiving the referred Code Complaint to provide a substantive response to the original Code Complainant.”

Clause 10.6(5) sets out the licensee’s disclosure obligations regarding referral of complaints to URCA; “In all cases where a Code Complaint complies with the requirements of Clause 10.2(1) of this Code (and does not fall within Clause 10.2(2)), the Licensee’s substantive reply must also advise the complainant that the complainant may refer the matter to URCA if the complainant is not satisfied with the Licensee’s response.”

Clause 10.7(1); “Except where a Code Complaint is, in the reasonable opinion of the Licensee, clearly frivolous, vexatious or an abuse of the Revised Code process, Licensees must conscientiously consider written Code Complaints and must promptly provide a substantive response in writing to Code Complaints within five (5) calendar days of the receipt of the complaint. If the Licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within five (5) calendar days, the Licensee must, without delay, notify the complainant of the reason for the delay and, in any event, provide a final reply within twenty-one (21) calendar days of receiving the Revised Code Complaint.”

Clause 10.9(4) “Where a complainant lodges a general complaint to a Licensee, the Licensee shall forthwith inform the complainant that he or she has the right to immediately refer the complaint to URCA for resolution. URCA shall within two (2) business days of receipt of a general complaint notify the complainant in writing of receipt of the complaint and the timeframes and processes that URCA envisages are required to investigate and resolve the complaint.”

3.4 Licence condition

Condition 3.2 of the Licence provides that *“Subject to all other applicable laws and regulations of The Bahamas at the time being in force, the Licensee undertakes to comply with the Conditions of the Licence, any schedules to the Licence, any Regulatory And Other Measures and the provisions of the Communications Act.*

4. URCA’s assessment of PSL’s representations and submissions

This section sets out the representations and submissions made by PSL to URCA consequential to the issuance of the PDDO.

4.1 PSL’s general comments

PSL noted that URCA’s investigation of the suspected breaches of the Code and the Licence as set out in the PDDO represents the first occasion that PSL has been investigated by URCA for a breach of the Code since URCA issued the Licence to PSL on 15 June 2017. Additionally, PSL noted that the anonymous person referenced by URCA in the PDDO misrepresented to URCA that the Unfiltered Show is broadcast every weekday on 103.5 The Beat between 1 pm and 3 pm. In response, PSL stated that the Unfiltered Show is broadcast every weekday on 103.5 The Beat between 11 am and 3 pm.

PSL noted that it did not receive any written complaint with respect to the allegations and suspected breaches as set out in the PDDO and as such the said anonymous person did not lodge a complaint to PSL for its consideration and response, despite having been advised by URCA to do so.

4.2 URCA response to PSL’s general comments

Regarding PSL’s representation that URCA’s investigation of this matter represents the first occasion that URCA has investigated PSL for breaches of the Code and the Licence, URCA notes that it takes all concerns and complaints seriously and investigates them accordingly, in line with its mandate under the Comms Act, the Code or otherwise. Moreover, even if URCA were to accept PSL’s representation in this regard, URCA notes that such representation has no bearing on URCA’s mandate to investigate and take necessary enforcement action where URCA deems appropriate, with respect to breaches of the Code and the Licence.

Regarding PSL’s statement that Unfiltered is broadcast every weekday between 11 am and 3 pm, URCA confirms that it is and was always fully aware that Unfiltered is broadcast every weekday between 11 am and 3 pm. However, URCA clarifies that the specific content, which is the subject of the PDDO and URCA’s investigation of this matter, was broadcast between 1 pm and 3 pm on 30 January 2023.

Regarding PSL’s comments with respect to the said anonymous person refusing to lodge a written complaint to PSL, URCA notes that it has the discretion under section 9(1) of the Comms Act and clause 10.10(1) of the Code to conduct own-initiative investigations. Therefore, the refusal of the anonymous person to lodge a written complaint to PSL in this matter did not preclude URCA from opening an own-initiative investigation.

4.3 PSL's specific comments on the suspected breaches of the Code and the Licence

4.4 PSL's suspected broadcast of content inconsistent with standards of good taste and decency

Regarding URCA's preliminary finding that PSL has breached Clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 3.1(1) and 3.1(2) of the Code, PSL undertook to ensure that its day-to-day operations comply with the Code, regardless of delegating any such responsibility to its employees or other agents and to ensure that no program selected for broadcast is contrary to the provisions of the Code. PSL will also undertake to provide content which is consistent with the standard of good taste and decency and conversely, to avoid content which could be considered harmful, abusive, offensive, discriminatory, or otherwise contrary to the standards of taste and decency which generally obtain in Bahamian society.

URCA's Response

URCA notes that PSL has neither accepted nor objected to URCA's preliminary findings that PSL has breached Clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 3.1(1) and 3.1(2) of the Code. However, URCA acknowledges PSL's undertaking to adhere to the provisions of the Code and will consider such undertaking should URCA determine that PSL has committed any future similar breaches of the Code.

PSL's suspected broadcast of content potentially harmful to and unsuitable for children

Regarding URCA's preliminary finding that PSL has breached clauses 5.1(1), 5.1(2) and 5.1(3) of the Code, PSL undertook to ensure that children are protected from unsuitable material by using appropriate scheduling for material judged according to the nature of the content, the composition of the likely audience for the content, the scheduled broadcast time for the content, the format of the station/channel, and the expectations of the audience for a particular channel at a specific time on a given day.

PSL noted that based on the transcription of the Live Spoken FM Broadcast Content of Unfiltered dated Monday, 30 January 2023, set out in the PDDO, the duration of the conversation lasted 24 minutes, 37 seconds and the broadcast segment time was 1:33 pm – 1:54 pm EST. As such, the hosts of Unfiltered ("Hosts") were under the impression that children would be at school and that the conversation would be suitable during that period. However, PSL takes full responsibility for remediating the discretion of the Hosts as it seeks to comply with the Code.

URCA's response

URCA notes that PSL has neither accepted nor objected to URCA's preliminary findings that PSL has breached clauses 5.1(1), 5.1(2) and 5.1(3) of the Code. However, URCA acknowledges PSL's undertaking to adhere to the provisions of the Code and will consider such undertaking should URCA determine that PSL has committed any future similar breaches of the Code.

URCA reminds PSL that clauses 2.1 and 2.2 of the Code require PSL to take ultimate responsibility for ensuring compliance with the Code. Therefore, although the Hosts should ensure that their broadcast content complies with the Code, they should not be held responsible for any deficiencies, miscommunications, or misunderstandings resulting from their employer's actions and/or failure to act. Moreover, the task of complying with the Code cannot be passed on to employees or representatives. The Hosts must be directed to adhere strictly to the Code's letter and spirit and not allowed to act unilaterally on any unfounded impressions.

PSL's suspected broadcast of content containing offensive language and sexual themes outside of the watershed.

Regarding URCA's preliminary finding that PSL has breached clauses 5.2(1) and 5.4(3) of the Code, respectively, PSL undertook (i) to ensure that no content contains offensive language that has obscene or vulgar connotations or content that portrays sexual behaviour outside the watershed period unless there is a justifiable educational purpose and (ii) to ensure that no content contains offensive language that has obscene or vulgar connotations.

URCA's response

URCA notes that PSL has neither accepted nor objected to URCA's preliminary findings that PSL has breached clauses 5.2(1) and 5.4(3) of the Code. However, URCA acknowledges PSL's undertaking to adhere to the provisions of the Code and will consider such undertaking should URCA determine that PSL has committed any future similar breaches of the Code.

PSL's suspected broadcast of offensive and sexually explicit content without providing warnings or advisories to the audience during such broadcast.

Regarding URCA's preliminary finding that PSL has breached clauses 5.10(1) and 8.6(2) of the Code, PSL undertook to ensure that advisories and warnings are provided to its audience when any radio programming includes broadcasts of mature subject matter, sexually charged material, coarse or offensive languages, or contains discussion of controversial issues.

URCA's response

URCA notes that PSL has neither accepted nor objected to URCA's preliminary findings that PSL has breached clauses 5.10(1) and 8.6(2) of the Code. However, URCA acknowledges PSL's undertaking to adhere to the provisions of the Code and will consider such undertaking should URCA determine that PSL has committed any future similar breaches of the Code.

PSL's suspected failure to maintain complete and accurate recording of broadcast material and satisfactorily comply with URCA's request for complete and accurate recording.

Regarding URCA's preliminary finding that PSL has breached clauses 2.4(1) and 2.4(7) of the Code, URCA notes that PSL has neither accepted nor objected to URCA's preliminary findings that PSL has breached clauses 2.4(1) and 2.4(7) of the Code.

In this regard, PSL notes that in response to URCA's Notice to Produce Recording on 17 February 2023, PSL forwarded to URCA by e-mail a link connected to a google drive folder which contained two (2) digital files ("PSL's digital files") encoded in the ISO/IEC mpeg-4 format (MP4), which were available for download by URCA under the following respective filenames: (1) "103.5 The Beat UNFILTERED Jan 30th 2023 Pt1.mp4"; and (2) "103.5 The Beat UNFILTERED Jan 30th 2023 Pt2.mp4". PSL further noted that PSL's digital files were largely consistent with the content contained in URCA's recording archived in CTSMS.

PSL, however, accepts that such files did not contain the advertisements aired during the broadcast on 103.5 The Beat heard in URCA's recording nor did it contain the music played during the broadcast on 103.5 The Beat and heard in URCA's recording. PSL noted that, due to copyright restrictions, music that is aired during breaks cannot be included in the live video recording as these recordings are shared on social media platforms. If the music is included, the recording will be interrupted. Additionally, PSL noted that once the show is set to break, based on PSL's current break template, advertisements are inserted around

the music by the Radio Producer. The music and advertisements are only heard through a listener's radio system and not in video recording form."

In a letter from PSL's Chief Executive Officer, Mr. Gershan Major ("CEO"), to URCA, PSL undertook to maintain in an appropriate and commonly used format, complete and accurate recordings of all materials broadcasted by PSL **excluding the recordings of copyright material that can only be shared through a listener's radio system and not via social media in video form.**

[Emphasis Added]

URCA's Response

URCA notes that PSL has neither accepted nor objected to URCA's preliminary findings that PSL has breached clauses 2.4(1) and 2.4(7) of the Code. URCA notes that PSL has apparently misinterpreted clause 2.4(1) of the Code. URCA notes that clause 2.4(1) of the Code requires PSL to make and maintain complete and accurate recordings of all material broadcast by PSL over the radio on 103.5 The Beat in an appropriate and commonly used format. Having regard to the foregoing, URCA notes that maintaining audiovisual recordings of radio content simulcasted over PSL's social media platform does not satisfy PSL's obligation under clause 2.4(1) of the Code. In this regard, URCA admonishes PSL to take all necessary measures to ensure its compliance with the provisions of clause 2.4(1) of the Code.

PSL's suspected failure and/or refusal to comply with the conditions of the Licence

Regarding URCA's preliminary finding that PSL has breached Condition 3.2 of the Licence, PSL undertook to ensure that compliance is maintained with the conditions of the Licence, any schedules to the Licence, any other regulatory measures, and the provisions of the Comms Act.

URCA's Response

URCA notes that PSL has neither accepted nor objected to URCA's preliminary findings that PSL has breached Condition 3.2 of the Licence. However, URCA acknowledges PSL's undertaking to adhere to the conditions of the Licence, any other regulatory measure and the provisions of the Comms Act and will consider such undertaking should URCA determine that PSL has committed any future similar breaches of the Licence, the Code or the Comms Act.

4.5 PSL's Comments on URCA's Proposed Remedies

PSL undertook to take all reasonably practicable steps to remedy, prevent, or rectify the breaches set out in the PDDO. Further, PSL noted that it submitted for URCA's approval a plan that PSL represents will ensure that all employees and agents acting on its behalf are adequately and appropriately supervised and made aware of the provisions of the Code and its application to content broadcasted by PSL.

Additionally, PSL noted that it submitted documentary evidence to URCA that all PSL employees and agents involved in any matter covered by the Code on PSL's behalf has reviewed and have been provided with a copy of the Code. Moreover, PSL represented to URCA that a copy of the Code would be readily available to PSL's employees and agents.

PSL noted that it submitted a Standard Operating Procedures (“SOP”) document regarding its complaint handling process in compliance with Part 10 of the Code and the names and positions of those PSL agents or employees that PSL has designated to manage PSL’s complaints handling to URCA.

PSL further represented to URCA that its CEO met with the Hosts and PSL’s Radio Program Manager for the purpose of mitigating the possibility of future breaches of the Code and ensuring compliance with the Code. PSL represented that its CEO directed the Hosts of Unfiltered to immediately cease all adult content and to issue an on-air public apology. PSL noted that it submitted a video clip of the apology to URCA.

PSL also noted that it scheduled a meeting in June 2023 to review and discuss the Code with all PSL team members and will conduct quarterly training and review for full compliance with the Code and/or any amendments thereto for the PSL staff. PSL further noted that Unfiltered programming and timelines have been adjusted as follows to ensure compliance with the Code:

1. 11 am – 11:35 am - Co-Host Mo’s morning satire on trending events in The Bahamas (categories to include international celebrity highlights/local public figures/celebrity highlights, social media trending content).
2. 11:35 am – 12 pm “The Bahamas is not a real place” segment.
3. 12 pm to 1 pm – “The Lunch Box Mix,” a live music mix with DJ Melody.
4. 1:11 pm to 2 pm – Dr Drew’s afternoon satire on trending events in The Bahamas (categories to include international celebrity highlights/local public figures/celebrity highlights, social media trending content).
5. 2:10 pm to 2:25 pm– Sponsored topic – “Overrated vs. Underrated.” (categories to include sushi, meeting the “in-laws”, cruises, family reunions, souse, concerts, self-employment, new Hip Hop)
6. 2:25 pm to 3 pm - Topic of The Day (categories to include friendships, mental health, family relationships, relationship finances).
7. 3 pm to 4 pm – “The Pick-up Mix,” a live music mix with DJ Kozmo.

Regarding the proposed fine set out in the PDDO, PSL noted that this is the first matter of such an extent that PSL has been made aware of and has been the subject of since being issued the Licence by URCA and therefore, would like URCA to strongly consider the Draft Order as a warning. PSL also reiterated to URCA that all necessary steps have been taken to ensure that this matter or matters of similar instances do not occur in the future.

URCA's Response

Having regard to the representations made by PSL with respect to URCA's Proposed Remedies set out in the PDDO, URCA notes the following:

- (i) URCA has received and reviewed PSL's Programme Supervision Plan – effective 22 May 2023 - to ensure that all employees and agents acting on its behalf are adequately and appropriately supervised.
- (ii) URCA has received and reviewed documentary evidence by way of forty (40) individual declarations signed by PSL employees and/or agents acknowledging awareness of and agreeing to abide by the terms and conditions of the Code.
- (iii) URCA has received documentary evidence of PSL's complaints handling procedures, Policy 21005, effective 4 January 2021, revised 22 May 2023. URCA acknowledges PSL's representations that it has implemented and augmented its complaints handling procedures. However, URCA notes that PSL's said complaint handling procedures do not include (a) Time Limits on Responses to Code Complaints as referenced in Part 10 of the Code and (b) do not speak to PSL's obligation to advise the complainant of their right, at specified junctures and under specific circumstances, to refer their complaint to URCA.
- (iv) URCA acknowledges that PSL has, in its Response PDDO, represented to URCA that it has addressed and documented timelines for structural, operational, programming, and schedule changes to mitigate the possibility of future breaches of the Code.
- (v) URCA acknowledges the receipt of an audiovisual file attached to an email received from PSL on 8 June 2023 and labelled "Apology Clip.mp4" and has reviewed the contents of the same and independently verified that it was broadcast on 103.5 FM The Beat on 15 May 2023.
- (vi) URCA notes PSL's representations and submissions with respect to URCA's proposed fine and has determined not to impose a fine against PSL, pursuant to section 100(6) of the Comms Act, as URCA is of the opinion that PSL has demonstrated to URCA that it has largely complied with the requirements set out in Clause 2 of the PDDO and has taken the necessary measures to remedy the breaches set out in the PDDO. In this regard, URCA warns PSL that this FDO will be considered and relied upon by URCA in circumstances where URCA has determined that PSL has committed any future similar breach(es) of the Code and/or the Licence.

5. URCA Findings

Having regard to URCA's preliminary findings and analysis set out in section 4 of the PDDO, PSL's Response to the PDDO dated 8 June 2023 and URCA's assessment of PSL's representations set out in section 4 of this document, URCA has determined that PSL has breached the provisions of clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 2.4(1), 2.4(7), 3.1(1), 3.1(2), 5.1(1), 5.1(2), 5.1(3), 5.2(1), 5.4(3), 5.10(1), and 8.6(2) of the Code and condition 3.2 of the Licence.

6. Final Determination

This Final Determination is issued by the Utilities Regulation and Competition Authority (“URCA”) to Paramount Systems Limited (“PSL” or the “Licensee”) pursuant to Section 99 of the Communications Act 2009 (“Comms Act”).

WHEREAS:

On 15 June 2017, URCA issued PSL an Individual Spectrum Licence (“the Licence”) and by way of the Licence, PSL broadcasts content throughout the Island of New Providence, The Bahamas, over the radio frequency 103.5MHz (also known by its call sign “103.5 The Beat”).

After reviewing archived content broadcast by the Licensee on Monday, 30 January 2023, during a show known as “Unfiltered with Drew and Just Mo” (“Unfiltered”), URCA commenced an own-initiative investigation of suspected breaches of the Code of Practice for Content Regulation (Revised) ECS 08/2020 (“the Code”) by PSL having failed to protect children by broadcasting outside of the watershed, adult content of a sexually-explicit nature which contained coarse, offensive language which could not be justified by educational context, and did not include warnings or advisories.

By way of a letter to PSL dated 13 February 2023, URCA (i) notified PSL in writing that it was the subject of an investigation by URCA with respect to suspected breaches of the Code and (ii) directed PSL to provide URCA with the complete, unredacted, unedited recording of the entirety of the Unfiltered show broadcast on 103.5 The Beat between the hours of 1 pm and 3 pm on 30 January 2023 on or before the close of business on Friday, 17 February 2023 pursuant to clause 2.4(7) and clause 10.10(13) of the Code (“URCA’s Notice to Produce Recording”).

On 17 February 2023, in response to URCA’s Notice to Produce Recording, PSL forwarded to URCA by e-mail a link connected to a google drive folder which contained two (2) digital files (PSL’s digital files”) encoded in the ISO/IEC mpeg-4 format (MP4), which were available for download by URCA under the following respective filenames:

- (i) *“103.5 The Beat UNFILTERED Jan 30 2023 Pt1.mp4”*; and
- (ii) *“103.5 The Beat UNFILTERED Jan 30 2023 Pt2.mp4.”*

URCA reviewed PSL’s digital files and cross-checked the same against URCA’s time-stamped digital recording of the Unfiltered show broadcast on 30 January 2023 that was archived in the CTSMS under the audio file name *“20230130- 133001 – Paramount Systems – FM103.wav”* (“URCA’s recording”) to verify the authenticity of the PSL’s digital files.

URCA conducted further FM broadcast content monitoring exercises using the CTSMS and observed that content similar to that which was broadcast during the Unfiltered show on 30 January 2023 was subsequently broadcast on 103.5 The Beat during the Unfiltered Show on 23 February 2023, 9 March 2023, and 24 April 2023.

On 8 May 2023, URCA issued a Notice of Preliminary Determination and Draft Order (“PDDO”) to PSL setting out URCA’s preliminary findings and analysis with respect to suspected breach by PSL of clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 2.4(1), 2.4(7), 3.1(1), 3.1(2), 5.1(1), 5.1(2), 5.1(3), 5.2(1), 5.4(3), 5.10(1), and 8.6(2) of the Code and condition 3.2 of the Licence.

On 8 June 2023, PSL submitted representations and submissions to URCA with respect to the PDDO.

NOW THEREFORE having considered the foregoing matters, URCA **HEREBY DETERMINES** that:

2. The Licensee has breached:

- (a) Clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 3.1(1), and 3.1(2) by failing and/or refusing to responsibly select programming consistent with good taste and decency;
- (b) Clauses 5.1(1), 5.1(2), and 5.1(3) of the Code by failing and/or refusing to use appropriate scheduling to protect children from unsuitable;
- (c) Clause 5.2(1) of the Code by failing and/or refusing not to broadcast offensive language that has obscene or vulgar connotations outside the watershed unless it is limited and justified by the context of the programme;
- (d) Clause 5.4(3) of the Code by failing and/or refusing to provide a justifiable educational purpose for the discussion or portrayal of representations of sexual intercourse outside of the watershed;
- (e) Clauses 5.10(1) and 8.6(2) of the Code by failing and/or refusing to provide warnings and advisories relative to mature subject matter or coverage of controversial issues;
- (f) Clause 2.4(1) of the Code by failing and/or refusing to make and maintain in an appropriate and commonly used format complete and accurate recording of all material broadcast;
- (g) clause 2.4(7) of the Code by failing and/or refusing to make available to URCA, upon request, the complete and accurate recording of the Unfiltered show broadcast on 103.5 The Beat on 30 January 2023; and
- (h) Condition 3.2 of the Licence by failing and/or refusing to comply with the conditions of the Licence, any schedules to the Licence, any Regulatory and Other Measures and the provisions of the Comms Act.

IN CONSEQUENCE THEREOF, URCA issues the attached Order to PSL in accordance with section 95(1) of the Comms Act, together with its Final Determination.



J. Carlton Smith
Chief Executive Officer

7. Order

This Final Order is enclosed by the Utilities Regulation and Competition Authority (“URCA”) pursuant to section 95 of the Communications Act, 2009 (“Comms Act”).

WHEREAS by Final Determination made on 14 July 2023, URCA has determined that Paramount Systems Ltd. (“PSL”) has breached clauses 2.1(1), 2.1(2)(a), 2.1(2)(b), 2.4(1), 2.4(7), 3.1(1), 3.1(2), 5.1(1), 5.1(2), 5.1(3), 5.2(1), 5.4(3), 5.10(1), and 8.6(2) of the Code of Practice for Content Regulation (Revised) ECS 08/2020 (“the Code”), and condition 3.2 of the Individual Spectrum Licence IS-09-0055 issued by URCA to PSL on 15 June 2017 (“the Licence”).

IT IS HEREBY ORDERED that the Licensee shall, **no later than thirty (30) calendar days** from the issuance of this order:

- (i) provide documentary evidence that, in accordance with clause 2.4(1) and 2.4(2) of the Code, PSL maintains in an appropriate and commonly used format, complete and accurate recordings of materials broadcast by PSL;
- (ii) submit to URCA documentary evidence that PSL has revised its complaints handling procedures to include:
 - (a) time limits on Responses to Code Complaints in accordance with Part 10 of the Code; and
 - (b) PSL’s obligation to advise complainants of their right to refer a complaint to URCA in those circumstances set out in Part 10 of the Code.
- (iii) **Failure by PSL to comply with this Order or any part thereof may result in penalties that URCA may impose against PSL pursuant to section 95(4) of the Comms Act or other penalty determined by URCA in accordance with section 109(5) of the Comms Act.**



J. Carlton Smith
Chief Executive Officer