



REGULATION OF RETAIL PRICES FOR SMP OPERATORS - RULES

Statement of Results and Final Decision

ECS 03/2025

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1 Introduction

The Utilities Regulation and Competition Authority ('URCA') releases this Statement of Results and Final Decision on the 'Regulation of Retail Prices for SMP Operators – Rules' following URCA's consultation published on 4 December 2024.¹ During the consultation, URCA presented and sought feedback on its proposed revisions to the Retail Pricing Rules (ECS 06/2014) originally published on 16 April 2014. In response to the consultation, URCA received written submissions from The Bahamas Communications Company Limited ('BTC') and Cable Bahamas Limited ('CBL'). Having considered the submissions received, URCA publishes this Statement of Results to provide its comments on the responses received and its final decision on the key issues that were raised. Alongside this Statement of Results, URCA also publishes the newly revised Rules as ECS 04/2025.

1.1 Background

URCA completed a market review of key retail fixed electronic communications services markets, covering retail fixed voice, retail fixed broadband, and retail pay TV services. URCA published its Statement of Results and Final Determination of the Retail Fixed Market Review² on 1 August 2024, which sets out, inter alia, the following:

- URCA's Final Determination on its SMP/dominance assessment for the provision of retail fixed services in The Bahamas, which included:
 - The product and geographic market definitions for the retail services considered in the market review;
 - A determination of which operators have Significant Market Power (SMP) in the relevant markets; and
 - The ex-ante regulatory remedies imposed on SMP operators, including the underlying market failures these seek to address.
- The comments and responses received from stakeholders in response to URCA's public consultation on the Preliminary Determination, and URCA's responses to those comments.

As part of the above-mentioned market review, URCA confirmed the continued need for ex-ante regulation on BTC and CBL in retail fixed service markets; however, URCA revised the set of ex-ante remedies imposed on both SMP operators. Table 1 provides a summary of URCA's Final Determination. The new regulatory obligations focus on the requirement to continue to supply standalone retail fixed services and an approval requirement for above-inflation price increases of entry-level retail tariff plans.

¹ URCA's consultation document and accompanying draft Rules can be found here: <https://urcabahamas.bs/wp-content/uploads/2024/12/URCA-Bahamas-Regulation-of-Fixed-Retail-Prices-2024-Cover-Consultation-Doc-Clean-03Dec2024.pdf> and <https://urcabahamas.bs/wp-content/uploads/2024/12/Rpt-URCA-Bahamas-Regulation-of-Fixed-Retail-Prices-2024-Draft-Clean-03Dec2024.pdf>.

² ECS 71/2024 can be found here: <https://urcabahamas.bs/wp-content/uploads/2024/08/URCA-SOR-and-Final-Determination-Retail-Fixed-Market-Review-2024-Redacted.pdf>

Table 1: Summary of URCA’s final determination

Service	Market definition	SMP findings	Ex-ante remedies
Retail fixed voice services	<p><u>Product market</u> Standalone fixed access, local, domestic, and international call services, across all relevant customer segments (i.e., both residential and business customers), irrespective of the underlying technology used to deliver these services.³</p> <p><u>Geographic market</u> National market</p>	BTC has SMP	<ul style="list-style-type: none"> • BTC is required to continue offering its current standalone fixed voice tariff plans to residential and business customers. Any modifications to the current plans need to be notified to URCA before being implemented. • BTC shall not increase its prices of entry-level standalone fixed voice plans above last year’s inflation, without seeking prior approval from URCA (including detailed justification for the proposed price increase).
Retail fixed broadband services	<p><u>Product market</u></p> <ul style="list-style-type: none"> ▪ Retail standalone fixed broadband services, across all relevant customers segments (i.e., both residential and business customers), irrespective of the network technology⁴ used and the advertised download speed at which the service is offered. ▪ Multi-product bundles excluding pay TV (i.e., double-play bundles including fixed broadband and fixed voice), across all relevant customers segments (i.e., both residential and business customers), irrespective of the network technology⁵ used, and the advertised download speed at which the service is offered. <p><u>Geographic market</u></p> <ul style="list-style-type: none"> ▪ Geographic Market 1 - The islands where both CBL and BTC are offering broadband services.⁶ ▪ Geographic Market 2 - All remaining islands where only BTC has deployed network infrastructure to offer fixed broadband services.⁷ 	<ul style="list-style-type: none"> • CBL has SMP in Geographic Market 1 • BTC has SMP in Geographic Market 2 	<ul style="list-style-type: none"> • BTC and CBL are required to continue offering their current standalone fixed broadband plans and bundles including fixed voice and fixed broadband services to residential and business customers. Any modifications to the current plans need to be notified to URCA before being implemented. • BTC and CBL shall not increase their prices of entry-level standalone fixed broadband plans above last year’s inflation, without seeking prior approval from URCA (including detailed justification for the proposed price increase). • BTC is required to offer geographic uniform prices for all its retail broadband services.
Retail pay TV services	<p><u>Product market</u> Retail standalone pay TV services, across all the relevant customers segments (i.e., both residential and business customers), and irrespective</p>	CBL has SMP	<ul style="list-style-type: none"> • CBL is required to continue offering its current standalone pay TV tariff plans to residential and business customers. Any modifications to the current plans

³ This currently includes PSTN technology and Voice over Internet Protocol (VoIP) via FTTx or HFC networks.

⁴In The Bahamas these services are predominantly offered based on wired technologies, via copper (DSL), HFC and FTTx, and recently LEO satellite technology.

⁵Ibid.

⁶ This currently includes New Providence, Abaco, Grand Bahama and Eleuthera.

⁷ This currently includes Exuma, Andros, Bimini, and all remaining islands.

	of the network technology used to deliver these services. ^{8,9} <u>Geographic market</u> National market		need to be notified to URCA before being implemented. • CBL shall not increase its prices of entry-level standalone pay TV plans above last year's inflation, without seeking prior approval from URCA (including detailed justification for the proposed price increase).
Multi-product bundles including pay TV services	<u>Product market</u> All multi-product bundles including retail pay TV services ¹⁰ , across all the relevant customers segments (i.e., both residential and business customers) and irrespective of the technology used to deliver these services. ¹¹ <u>Geographic market</u> National market	CBL has SMP	No market-specific remedies are required, as the combined effect of the ex-ante remedies imposed in the other defined markets will address the anti-competitive concerns identified in this market.

Overarching (Non-market specific) remedies for both SMP operators

Further to the market-specific remedies set out above, both BTC and CBL are subject to the following, Non-market specific remedies:

- Both SMP operators are required to develop separated accounts in accordance with URCA's Accounting Separation Guidelines and submit these to URCA on an annual basis. The new reporting format should already be adopted for the 2024 Accounting Separation submission and SMP operators should notify URCA as soon as possible, if this is not feasible.
- Both SMP operators are required to notify URCA of any amendments, introductions or withdrawals¹² of their retail tariff plans. This obligation requires the notification to URCA of any changes in an existing or new retail tariff plan, set out, at the minimum, the price and Non-price terms of the tariff plan and the current/expected take-up of the plan.
- Both SMP operators are subject to a publication requirement to ensure that end users have access to all tariff plans currently available to them and the price and Non-price terms of each tariff plan offered by BTC and CBL, thus facilitating their ability to compare retail tariff plans and select the most appropriate tariff for them. SMP operators are required to publish all tariff plans offered to residential and business customers on their websites.

To implement these ex-ante remedies, URCA developed revised (and simplified) Retail Pricing Rules and published the revised draft rules as a separate document. URCA's proposed revisions to the 2014 Retail Pricing Rules sought to:

- structure the Retail Pricing Rules in a comprehensive, clear, and accessible manner;
- clarify procedural aspects and information requirements from relevant operators to mitigate any inefficiencies in URCA's investigations and assessments; and

⁸ This currently includes HFC technology, satellite (DTH) technology, and Internet Protocol Television (IPTV) via fiber (FTTx) networks.

⁹ Whilst standalone IPTV services are currently not actively marketed by Licensees, this is based on commercial, rather than technical considerations. Given this, URCA considers it prudent to include these services within this defined market.

¹⁰ This currently includes double-play including fixed voice and pay TV, double-play including fixed broadband and pay TV services, and triple-play including fixed voice, fixed broadband and pay TV services.

¹¹ In The Bahamas these services are currently delivered via HFC, FTTx (IPTV), and satellite (DTH) technology.

¹² Considering the new ex-ante remedies imposed by URCA in the markets for retail fixed voice services, retail broadband services and retail pay TV services set out above, withdrawal of existing retail tariff plans are only permitted for multi-product bundles.

- ensure the Retail Pricing Rules are up to date (in terms of the revised ex-ante remedies set out in ECS 71/2024) and fit for purpose, considering increased competition in the relevant markets.

1.2 Structure of the Remainder of this Document

The remainder of this document is structured as follows:

- Section 2 summarises and responds to the written submissions made by BTC and CBL; and
- Section 3 presents the Conclusion, which sets out the next steps following the publication of this Statement of Results and Final Decision.

2 Responses to the Consultation

In this Section, URCA summarises and responds to the comments submitted by BTC and CBL during the consultation.

2.1 General Comments

BTC's General Comments

BTC welcomes the opportunity to comment on the consultation, noting that the Draft Rules represent a notable improvement on the rate-of-return based retail price rules introduced in 2014. BTC then goes on to explain that certain aspects of the Draft Rules are unfair and not symmetric as they apply to BTC's fixed services compared to CBL/Aliv's fixed services.

To begin, BTC points out that the Draft Rules appear to overlook the fact that CBL provides fixed services under the Aliv brand, noting that the retail fixed services offered under both the CBL and Aliv brands are subject to the Draft Rules and that Aliv is a subsidiary of CBL. Also, according to BTC, Aliv does not own or operate a fixed network and relies on CBL's fixed network facilities to provide retail fixed services (i.e., broadband, pay TV, and fixed voice). In this regard, URCA's findings in ECS 71/2024 that CBL holds SMP in the fixed broadband and pay TV services markets in The Bahamas (Geographic Market 1) includes the retail fixed services offered under the 'Aliv' brand. As such, in BTC's view, the Draft Rules are equally relevant to the retail fixed services offered under the 'Aliv' brand.

BTC asks URCA to confirm in the final version of the Rules that they apply to all retail fixed services CBL offered under its own 'CBL' brand and through or under the brand of any affiliate(s), including Aliv. BTC claims that doing so will eliminate any possibility of CBL bypassing the final Rules by rebranding its retail fixed services from 'CBL' to 'Aliv.' BTC comments that a similar provision could be added for itself, despite not offering retail fixed services through an affiliate.

BTC questions URCA's decision to impose a national uniform broadband pricing obligation on BTC's fixed broadband services, but not CBL/Aliv. Arguing that this gives CBL/Aliv considerable pricing flexibility in Geographic Market 1 where CBL is the SMP operator of retail fixed broadband services. At the same time, BTC is required to price its retail fixed broadband services uniformly across the entire Bahamas, including Geographic Market 1 where CBL, and not BTC, is the SMP operator of retail fixed broadband services.

In BTC's opinion, this obligation is unfair, discriminatory, and puts the company at a significant competitive disadvantage compared to CBL/Aliv. BTC further argues that the obligation is outdated, unnecessary, incompatible with price caps, and poses a significant risk for BTC. Indeed, the combination of price caps and a national uniform pricing obligation effectively extends BTC's price cap to Geographic Market 1 where CBL and not BTC is the SMP operator. According to BTC, this contradicts standard global price cap practices, because it incorrectly imposes price caps on

both the SMP and Non-SMP operator within Geographic Market 1. BTC suggests that URCA should instead apply the national uniform broadband pricing obligation symmetrically to BTC and CBL/Aliv, to ensure the goal of promoting competition in the retail fixed broadband market is not undermined.

CBL's General Comments

CBL welcomes URCA's relaxation of the Rules introduced in 2014 which, in CBL's view, were onerous on operators and URCA. While CBL considers a notification process for most changes will allow operators more flexibility, CBL believes that retail price regulation in The Bahamas is still more extensive and onerous than in some other Caribbean countries. Along with its comments, CBL provides a profile of price regulation in Barbados for URCA's information. Noting URCA's commitment in the SMP Final Determination to conduct the next retail fixed market review in three years' time, CBL regards this to be the maximum desirable gap between reviews given the dynamic fixed market.

Objectives of Notification

CBL states that it is important for both operators and URCA to be clear about the role of the new notification system, which CBL sees as a simple test of whether the proposed change conflicts with CBL's obligations under the Communications Act, 2009 (Comms Act), CBL's Individual Operating Licence ('IOL'), and the rules. For added transparency, CBL recommends that URCA specify these tests. CBL expects that, going forward, there will only be a few grounds for intervention by URCA, since URCA concluded that predatory pricing, margin squeeze, undue bundling, and undue price discrimination were no longer matters of concern that should be addressed by ex-ante regulation, and that most changes in retail tariffs planned by the operators should go ahead unimpeded.

According to CBL, a clear understanding of the purpose of the notification system helps in ensuring that it is designed to fulfil its purpose and does not impose unnecessary requirements on operators or URCA. For example, CBL considers URCA's proposal that operators should submit current and proposed customer numbers in the notification (see Paragraphs 39.3 and 39.4 of the proposed Rules) plays no part in deciding whether the proposed price change contravenes CBL's obligations under the Comms Act, CBL's IOL, or the Rules, and should not be a requirement as part of the notification process.

Non-Withdrawal Services

CBL claims that the Non-Withdrawal Services category is not contained in the Preliminary Determination for the Retail Fixed Market Review (ECS 04/2024)¹³ or discussed in the Statement of Results for the Retail Fixed Market Review. CBL explains that in the Preliminary Determination, URCA set out its proposals for ex-ante regulation (section 8.2.2), which included an obligation on SMP operators to continue offering current standalone fixed voice tariff plans, standalone fixed broadband tariff plans, standalone fixed voice and broadband bundles, and standalone pay TV

¹³ ECS 04/2024 is available here: <https://www.urcabahamas.bs/wp-content/uploads/2024/03/Preliminary-Determination-Retail-Fixed-Market-Review-28Feb2024-Redacted-Version-2.pdf>

plans. URCA's proposals go on to replace the requirement for pre-approval to one of notification for changes to the relevant tariff plans (and a change could include a discontinuation of the service). The second over-arching remedy set out in the Preliminary Determination requires SMP operators to notify URCA of any '... amendments, introductions, or withdrawals of their retail tariff plans.', and consultees had an opportunity to comment on these proposals. However, in the Final Determination, URCA added Note 16, which prevents the withdrawal of any existing fixed retail service (except for multi-product bundles), which CBL claims was not in the Preliminary Determination.

CBL considers that the proposals for Non-Withdrawal Services in the draft rules are significantly different from the proposals that were subject to consultation in the Preliminary Determination because:

- There is no mention of a separate category of regulated services with the title of Non-Withdrawal Services (with capitalised initials) in either the Preliminary Determination or the Final Determination, but this plays a large part in the new draft rules.
- The Preliminary Determination and Final Determination state that changes (and, according to CBL, it is reasonable to assume from the context that this includes withdrawals) are subject to notification, whereas the draft rules require URCA's approval for the withdrawal of Price Capped Services.
- It appears a process is provided for the withdrawal of entry-level or Price Capped standalone services (even though these are included in the Non-Withdrawal Services category in Table 3 of the draft Rules document). However, for standalone services that are not entry-level or Price Capped Services, no avenue for withdrawal is provided in the draft rules. Such a distinction is not mentioned in either the Preliminary Determination or Final Determination.

CBL further claims that operators and the public have not had an opportunity to comment on the concept of Non-Withdrawal Services and the ban on withdrawing any Non-Withdrawal Service that is not a Price Capped Service. CBL considers this to be unfortunate given the serious implications of the Non-Withdrawal Service category for operators, who must continue offering certain services to the public without any means of withdrawing them through an approval or notification process, adding that this is much worse than the position under the 2014 Rules, where a withdrawal was subject to URCA's approval. CBL therefore hopes that URCA will give utmost consideration to its views, as set out below.

Implications for CBL

In Table 3 of the draft Rules, URCA lists the services deemed to be Non-Withdrawal Services. For CBL, these would be standalone broadband services, fixed voice and broadband bundles, and standalone pay TV services for residential and business customers. Apart from its fixed voice service and bundles with TV services, all of CBL's fixed services would be classed as Non-Withdrawal Services. Under Paragraphs 30.3 (page 12) and 41 (page 15), SMP operators may not

discontinue or withdraw these services. However, Paragraphs 42 (page 15) and 47 (page 16) clearly contemplate the possibility of a withdrawal of a Price Capped Service subject to URCA's approval. CBL emphasizes that the rules provide no avenue for the withdrawal of a Non-Withdrawal Service that is not Price Capped, resulting in a harsher regulatory regime for Non-Price Capped Services compared to Price Capped services, which cannot be justified. For these reasons, CBL urges URCA to resolve these contradictions. CBL also mentioned that the draft rules do not state whether operators can change the price or Non-price terms and conditions of a Non-Withdrawal Service, and if so, under which parts of the new rules this can be done.

In response to changing customer needs and (often unilateral) actions from its programmers, CBL explains that it makes changes to all its retail services, including services labelled 'Non-withdrawal' on a regular basis and may also consider changes to the structure of its service portfolio. CBL provided examples of scenarios where if CBL wants to reduce the number of plans in its REV or AlivFibr portfolios, due to either low customer uptake or to simplify its offerings, the changes would not be allowed under the draft Rules and CBL would not be able to make its case to URCA on whether the proposed changes benefit consumers or would otherwise be justified. CBL considers these scenarios to be reasonable and relevant and such changes should be possible under the Rules.

Changes, new services, and withdrawals

Additionally, CBL recommends that the Rules need to clarify when a change to a Non-Withdrawal Service is considered a modification or an introduction of a new service and a withdrawal of an old service. As examples, if CBL wants to:

- Add the Disney Jr channel to CBL's REVTV Prime package at the same monthly subscription charge;
- Increase the upload speed on the REVNET Pro broadband service from 15 to 18 Mbps at the same monthly subscription charge; and/or
- Increase the download speed of the REVNET Prestige broadband service from 105 to 250 Mbps and increase the price of the monthly subscription charge.

CBL is very concerned that the Rules as currently drafted give no definition of when a modification to a service constitutes the introduction of a new service and the withdrawal of the old service. CBL invites URCA to consider the three examples above and indicate which would represent a modification and which of them an introduction/withdrawal. Having considered the matter, CBL concludes that it is not possible to make an objective distinction between when a modification to a service makes it a 'new' service (and hence the previous service becomes withdrawn), and that URCA needs a different approach to the issue.

Market failures and appropriate remedies

While CBL acknowledges that URCA may wish to ensure that customers have a reasonable range of services available so that they can choose a service that best suits their needs and resources, CBL considers customer segmentation and product differentiation to be well established

commercial strategies, and profit-maximising operators will ensure that the customers have a range of services available without regulatory intervention. CBL also notes that URCA may also be concerned that (at an extreme) an operator could withdraw all its low-priced premium services and only offer a 'top of the range' service, as a means of excessive pricing. But CBL explains that by means of its controls on Price Capped Services, URCA can ensure that entry-level services continue to be offered, and a competing operator would quickly move to fill any gaps in the market left by the withdrawal of low-priced premium services. Hence, CBL finds it difficult to identify a regulatory justification for the concept of Non-Withdrawal Services over and above URCA's other proposals for the regulation of retail services. CBL asks URCA to identify which market failure the proposal for Non-Withdrawal Services is designed to address, and why the other remedies set out in the Preliminary and Final Determinations have been deemed inadequate.

Moreover, CBL contends that an outright ban on withdrawing a wide range of services, as proposed by URCA, is not proportionate, targeted, and efficient in these circumstances. CBL also believes this approach presents an infringement of CBL's right to due process because a prohibition on withdrawing services is proposed here without any analysis, justification, and without a description of the goals URCA is trying to achieve, making it an arbitrary approach that will be detrimental to the industry and will very likely impede the commercial freedom of operators.

It is CBL's view that the introduction of Non-Withdrawal Services in the Rules without a clear articulation of the market failure being addressed is not efficient, transparent, fair, proportionate, or Non-discriminatory and will lead to reduced innovation and competition in the market because CBL will be restricted in its ability to respond to market developments and changing customer needs. For these reasons, CBL deems the Non-Withdrawal Services category to be against sections 4 and section 5 of the Comms Act.

CBL's suggested approach

CBL suggests the following alternative approach:

- The withdrawal of entry-level (Price Capped) services should be subject to URCA's approval.
- SMP operators would be able to modify, introduce, and withdraw other Regulated Services after notifying URCA under Part 3C and 3F of the Rules.
- Premium TV services should not be classed as Regulated Services and should not be subject to notification or pre-approval requirements. URCA could then focus its regulatory efforts on entry-level TV services, in line with its concern that vulnerable groups could be subject to excessive pricing.

According to CBL, the above approach offers flexibility for CBL to adapt to changing market circumstances and still protect vulnerable customers, while simplifying the new Retail Pricing Rules. This approach would also enable URCA to remove the category of Non-Withdrawal Services as it would still have control over the withdrawal of Regulated Services through the approval process (for Price Capped Services) or the notification process (other Regulated Services).

Price regulation of standalone and premium services

Under the current proposals, URCA intends to require CBL to notify it of all changes in prices and in Non-price terms and conditions for all standalone pay TV services, standalone broadband services, and bundles of broadband and voice packages (without TV). CBL offers the following main fixed entry-level and premium services:

Table 2: CBL retail pay TV services

CBL Brand	Basic (Entry-level) Services	Premium Services
Residential		
REV	Prime TV and Prime Local	Pro, LifeStyle Extra, News & Science, Kids, Rhythms and Sports
AlivFibr (IPTV)	Prime Local	Pro, LifeStyle Extra, News & Science, Kids, Rhythms and Sports
Business (SME)		
REV Business	CBBS TV	Pro, LifeStyle Extra, News & Science, Kids, Rhythms and Sports
Aliv Business	Biz TV Prime	Biz TV Prime Lounge, Pro, LifeStyle Extra, News & Science, Kids, Rhythms and Sports

Table 3: CBL retail fixed broadband services

CBL Brand	Basic (Entry-level) Services	Premium Services
Residential		
REV	BB: RevNet Prime	BB: RevNet Pro, RevNET Premium, RevNet Prestige
	BB+TEL: RevNet Prime + RevTalk Prime	BB+TEL: Remaining combinations of RevNet services listed above and 3 RevTalk plans (Prime, Pro, Premium)
RevNet Fibre	BB: RevNet Prime Fibre	BB: RevNet Pro Fibre, RevNet Premium Fibre, and RevNet Prestige Fibre
AlivFibr ¹⁴	BB: AlivFibr 100	AlivFibr 250, 500 and 1GB
	BB+TEL: AlivFibr 100 + AlivFibr Talk	BB+TEL: all other combinations of AlivFibr broadband plans listed above + AlivFibr Talk
Business (SME)		
REV Business	BB: Pro 1	BB: Pro 2 and Pro 3
	BB+TEL: Pro 1 + CBBS Voice Line	Any other combination of CBBS calling plans + Pro 1, Pro 2 and Pro 3
Aliv Business	BB: Pro Fibr 1	BB: Pro Fibr 2 and Pro Fibr 3
	BB+TEL: Pro Fibr 1 + Voice Line	Any other combination of Aliv Business calling plans + Pro Fibr 1, Pro Fibr 2 and Pro Fibr 3

CBL notes that the market review undertaken by URCA analysed the markets at a macro-level, in line with international best practice, but CBL considers that in designing detailed regulations to

control retail prices URCA should take a more nuanced approach. CBL believes that premium TV services should not be Regulated Services and not subject to any approval or notification requirements, therefore regulation can then be focused on entry-level standalone TV services.

In CBL's view, the demand for standalone TV services is in significant decline due to pressure from over-the-top ('OTT') alternatives with customers migrating from cable to IPTV infrastructure in large numbers. This segment of the market is therefore under both commercial and technological pressure and, while CBL does not currently anticipate that the withdrawal of standalone TV services would be necessary, market forces may accelerate the need to reposition and adapt CBL's content offerings to such a degree that this issue becomes relevant. Noting that the previous Retail Pricing Rules were in force for more than ten years, CBL considers that over such a planning period, the traditional TV broadcasting model is likely to change substantially. CBL therefore proposes for the withdrawal of entry-level TV services to be subject to approval by URCA. This would allow CBL to make the case if needed, and for URCA to review this application on its merits taking account of market circumstances at that time.

Premium Pay TV Services

CBL referred to pages 122 and 123 of URCA's Preliminary Determination in the previous review of retail fixed services market (ECS 10/2014), where URCA considered whether premium Pay TV services should be subject to regulation, and concluded that:

... ex-ante regulatory obligations should focus on the access and content pay TV packages (i.e. PRIME and PRIME Ultimate) only, as these represent the essential means to gain access to pay TV services in The Bahamas. In URCA's view the remaining product offerings represent by-products, in the sense that they offer existing pay TV customers additional channels or features URCA does not consider it appropriate to price regulate PRIME Ultimate, as this consists primarily of specific 'add-ons' to the other access and content bundles and it does not believe that it is appropriate to price regulate these add-ons.

In CBL's view, URCA decided that premium Pay TV services should not be regulated. CBL also referred to page 113 of URCA's more recent Preliminary Determination (ECS 04/2024) where URCA made the following assessment:

End users can purchase a (post-paid) subscription to a pre-defined set of TV channels with several different subscription packages available. These monthly subscriptions are available on a standalone basis and as part of multi-product bundles, including fixed voice and/or fixed broadband services.

Licensees offer a range of supplementary services, in terms of:

- *TV channel packages providing end users access to additional movie, sports, or international TV channels; and*

- *Pay-per-view and video on demand services, which allow customers to view and pay for individual TV content and/or to catch-up on TV programs.*

CBL agrees with the above description of CBL's pay TV service which suggests that standalone TV services are seen as separate to premium or supplementary services.

CBL suggests that the same logic that URCA used in 2014 applies today. CBL's Pay TV premium services are still add-ons and customers have the choices of not buying them (and keeping the entry level services) or purchasing them from other suppliers such as BTC or IPTV operators. In addition, since the above quote was written, Prime Ultimate (now branded 'Pro') has lost its 'gateway' function to the premium TV plans, i.e., such plans may now be bought without first buying Pro. This suggests Pro is now a premium TV plan like the others listed. Finally, CBL notes that premium Pay TV services are not available on a standalone basis and these services therefore do not fit the definition of regulated Pay TV services provided by URCA.

CBL further states that URCA's draft proposals do not clarify whether premium (or supplementary) TV services are Regulated Services or not. CBL's assumption, based on the above history, is that such services are not subject to the new Rules. CBL believes that to do otherwise would be an extension of regulatory reach rather than the reduction that URCA seeks to achieve with its new Rules. CBL kindly requests URCA to confirm its understanding. If premium TV services are subject to the Rules, CBL invites URCA to indicate what has changed since 2014 to justify a reversal of this policy and the extension of regulatory obligations to premium Pay TV services.

Broadband Premium Services

The table below shows CBL's premium broadband services for residential and SME customers in more detail.

Table 4. CBL's premium broadband services for residential and SME customers

CBL Brand	Download speed	Upload speed	Data allowance	Price
	Mb/sec	Mb/sec	per month	BSD/month
Residential				
REV NET Pro	45	9	Unlimited	71.50
REV NET Premium	75	15	Unlimited	90.50
REV NET	105	18	Unlimited	124.75
ALIVFibr 250	250	125	Unlimited	74.50
ALIVFibr 500	500	250	Unlimited	90.50
ALIVFibr 1 Gb	1000	500	Unlimited	150.00
SME				
PRO2	25		Unlimited	235.00
PRO3	30		Unlimited	335.00

CBL expects to be able to make amendments to these premium broadband services and notify

URCA under the Rules but also to be able to simplify the product structure and reduce the number of service tiers if needed.

According to CBL, the withdrawal of a premium service by CBL does not impact vulnerable customers in the same way as the withdrawal of entry-level (Price Capped) services. CBL ascertains that the availability of entry-level standalone services ensures that vulnerable customers have continued access to broadband and TV services separate from other services and that their terms and conditions, including prices, are subject to oversight by URCA, adding that this reduces the risk of social exclusion for such vulnerable customers.

CBL contends that premium broadband services are for high-usage customers prepared to pay a premium for higher speeds. CBL notes that URCA identified excessive pricing as the main market failure for both vulnerable customers and those who use entry-level standalone services. CBL does not consider such market failure concerns to be relevant to premium services. As such, their amendment *and withdrawal* should be subject to notification only.

Broadband and voice packages

CBL offers the standalone broadband services listed in Table 4 above as double play (bundled with voice services) and triple play (bundled with voice and Pay TV services). On its REV platform, CBL offers residential customers three voice alternatives with four broadband services, giving a total of 12 different combinations of double play packages.

CBL accepts that entry level broadband services (currently REVNET Prime for residential customers and PRO 1 for SME customers) should be Price Capped Services and will be subject to URCA's oversight. CBL recognises that it does not have SMP in voice services, hence the prices charged by BTC, the SMP operator in fixed voice services, are a constraint on CBL's pricing power for this element of the double play bundle.

Regarding bundles of broadband and fixed telephony services, CBL anticipates declining usage and take-up of fixed telephony as customers migrate to alternative means of communication, particularly mobile and OTT services. CBL went on to explain that operators have simplified their telephony offers by, for example, extending the concept of unlimited usage to an increasing number of call options while at the same time reducing the number of telephony (and sometimes also broadband) tiers. CBL considers this to be a rational approach in the interest of consumers and the new Rules should not impede on its execution.

For the same reasons set out above for premium broadband services, CBL therefore recommends that its broadband and voice packages that are not entry level services or packages should be subject to notification for both the amendment *and withdrawal* of services.

Finally, while the removal of entry-level standalone broadband and entry-level bundles of broadband and telephony services are highly unlikely, CBL proposes that the withdrawal of such services be subject to URCA approval. As a point of principle, CBL concludes that any product

change should potentially be possible under the Rules, with varying degrees of URCA oversight depending on the interest of such services for vulnerable customers.

URCA's Response

Concerning BTC's query on the treatment of Aliv, URCA is aware that AlivFibr is a CBL product and confirms that URCA's SMP findings and remedies, including requirements set out in the Retail Pricing Rules, apply to products offered by CBL under both the CBL and AlivFibr brands in the relevant product markets. URCA reminds BTC that the SMP Final Determination set out in./ detail the products that these remedies apply to.

URCA disagrees with the request to include SMP designations into the Rules. As the SMP Final Determination identifies which operators hold SMP and the ex-ante remedies that apply to each SMP operator, URCA does not see a need to then also identify the SMP operators in the Rules. Furthermore, there is not always a direct link between a change in the SMP designations (resulting from a market review) and the need to update the Rules. Hence, URCA prefers not to include the SMP designations into the Rules. URCA also reminds BTC that the Rules do not 'apply to all CBL's fixed services' but only to those where CBL has been designated an SMP operator, as set out in the SMP Final Determination (or Table 1 above).

Concerning BTC's comments on the national uniform pricing obligation proposed for Geographic Market 2, as URCA explained in Section 3 of the 2024 SMP Final Determination, this obligation is a continuation of an existing obligation on BTC as part of the 2014 market review after considering it had SMP in Geographic Market 2. URCA is not aware of this having had an adverse impact on BTC's ability to compete in Geographic Market 1 and has not seen any submission from BTC to that effect.

Further, URCA does not share BTC's concern that the uniform pricing obligation in combination with its retail prices currently being lower than CBL's retail prices unduly constrain BTC in its pricing strategy for these services. The uniform pricing obligation only requires BTC to set the same prices across Geographic Markets 1 and 2. BTC does not face any direct constraints on increasing its retail prices, as CBL does. As such, any prevailing price differentials between its prices and those of CBL would only allow it further pricing flexibility (i.e., BTC could increase its prices to those of CBL, as long as these are offered across both geographic markets).

Regarding CBL's comments about the objectives of the notification system, CBL did not explain what it meant by its recommendation for URCA to 'specify tests'. As explained in the Preliminary Determination for the Retail Fixed Market Review, excessive pricing remains a concern across all retail fixed product markets and anti-competitive customer lock-in remains a concern in the retail fixed broadband and multi-product bundles markets, hence the continued need for ex-ante regulation of these services. While URCA considers the replacement of pre-approval requirements with a notification requirement to be a clear step towards deregulation, URCA still sees a need for having such a notification requirement to allow URCA to monitor price developments and compliance with the rest of the ex-ante remedies imposed on SMP operators.

URCA disagrees with CBL's claim that URCA did not consult on the Non-Withdrawal Services. Sections 2.3 and 8.2 of the Preliminary Determination (ECS 04/2024) clearly proposes that SMP operators would be required to continue offering current standalone fixed voice plans, standalone fixed broadband plans, standalone fixed voice and broadband bundles, and standalone pay TV plans. Within its consultation response, CBL reasoned that it had no issue with this obligation (see Sections 3.10 and 3.11 of the Final Determination (ECS 71/2024)). In reference to CBL's assumption that changes including withdrawals are subject to notification, URCA emphasizes that the changes subject to notification as described in the Final Determination are modifications to existing plans that the operator continues to offer and in the context of the Rules. Withdrawals have always and will continue to be categorized separately from changes/modifications.

In general, the Non-withdrawal requirement seeks to protect end users on standalone services, as they tend to not value other services available in multi-product bundles and thus are unlikely to be willing to pay any incremental prices for bundles. However, URCA understands CBL's concerns about being required to continue offering all their standalone plans especially ones that may not be commercially viable or that consumers do not value. Considering CBL's feedback, if an SMP operator wishes to withdraw a specific standalone tariff plan, the SMP operator would have to apply to URCA and, within its tariff application, demonstrate to URCA that the withdrawal would not be disadvantageous to consumers, by demonstrating, inter alia, that:

- there are only a few customers, the number of which is declining;
- there is a comparative alternative plan available to these customers;
- there will be a transition plan in place for these customers; and/or
- there is a comparative replacement plan with equal benefits to consumers.

With the above stated, URCA will change the title of category 'Non-Withdrawal Services' to 'Required Services' with the caveat that withdrawals or discontinuations will be subject to URCA's approval.

Also, CBL appears to have interpreted in multiple statements of its submission that Price Capped Services are not included in the Non-Withdrawal Services category. URCA clarifies that all standalone products including entry-level standalone products, i.e., Price Capped Services, are included in the Non-Withdrawal Services category which, as stated above, will be referred to as Required Services going forward. URCA will add this clarification to the Rules.

Regarding CBL's request for clarity on what constitutes a 'change' versus a 'replacement' of a Non- Withdrawal Service, URCA clarifies that any change to the price or Non-price terms and conditions of an individual tariff plan that provides the service constitutes a change or modification. In the three examples that CBL provided within its consultation response, URCA considers those to be changes to the Non-price terms and conditions.

URCA acknowledges that a multitude of changes to a plan can technically result in that plan becoming a 'new plan' while still being marketed under the same name. However, SMP operators

will be required to submit a notification for any modifications to their tariff plans. URCA will assess these notifications on a case-by-case basis to determine whether any intervention is necessary. URCA reminds CBL that the competitive concerns that remain are excessive pricing and anti-competitive customer lock-in. If a proposed change to a tariff plan would result in a reduction in the effective price, then it is unlikely that URCA will oppose that proposed change.

Regarding CBL's comments on premium pay TV and broadband services, URCA refers CBL to Sections 5.1.1.1 and 6.1.1.1 of the Preliminary Determination (ECS 04/2024) which specifically included the standalone plans and multi-product bundles within the product markets in which CBL is designated to be a SMP operator. URCA therefore rejects CBL's claim that premium services should not be considered Regulated Services. While URCA agrees that add-on packages, i.e., currently marketed as LifeStyle Extra, News & Science, Kids, Rhythms, and Sports are not standalone pay TV plans, URCA confirms that all the other products set out in Tables 2, 3, and 4 above are Regulated Services. For the avoidance of doubt, URCA does not consider REVTV Pro to be an add-on package and it is therefore also a Regulated Service.

URCA also reminds all licensees that the ex-ante remedies imposed on both SMP operators are not limited to the plans and bundles listed in the relevant sections of the Preliminary and Final Determinations. Tariff plans and bundles are subject to change; however, the concept of what constitutes a standalone pay TV plan and a bundle remains the same.

In reference to CBL's recommendation that Non-entry-level broadband and fixed voice bundles should be subject to notification for both amendments and withdrawals, URCA disagrees with this approach for withdrawals. Despite CBL's claims that fixed voice is a declining service therefore a notification requirement should also apply to withdrawals, URCA reminds CBL that the ex-ante provision stems from CBL's SMP in broadband. For this reason, once CBL bundles a service in which it does not have SMP with broadband, then the relevant ex-ante provisions apply to that bundle.

2.2 Comments on the Consultation Questions

Question 1:

Are the regulatory requirements (in terms of notification to URCA and approval by URCA) set out in the new Retail Pricing Rules clear, comprehensive, and complete? If not, please provide details on what requirements for what services are not clear or missing.

Question 2:

Are the regulatory processes governing the notification to URCA and approval by URCA set out in the new Retail Pricing Rules clear, comprehensive, and complete? If not, please provide

BTC's Comments

Regarding **Section 1** (the Introduction) of the Draft Rules, BTC comments that the term SMP is defined and it is noted that the Rules apply to SMP operators. BTC comments that although there is a reference to BTC and CBL, no clear identification of either operator is provided in the section. BTC restates that the Retail Pricing Rules should clearly identify all fixed services provided under the CBL brand that are Regulated Services, including any fixed services provided through an affiliate including the 'Aliv' brand.

BTC comments that the term 'bundles' in the Draft Rules is used in the context of the Non-Withdrawal Services listed in Table 3 (page 6), and that in URCA's Final Determination, bundles are 'Regulated Services' and 'Non-Price Capped Services'. BTC therefore takes issue with the definitions of 'Regulated Services' and 'Non-Price Capped Services' only relating to individual 'services', not bundles, in the Draft Rules. BTC suggests that in the final version of the Retail Pricing Rules, URCA should add a definition of 'Regulated Bundles' and clarify that the terms 'Regulated Services' and 'Non-Price Capped Services' include service bundles.

BTC finds the list of Price Capped Services in Table 2 of the draft Rules to be unclear and not concise, with the actual Price Capped Services buried in a series of footnotes. BTC also finds information about broadband and pay TV services to be both incomplete and incorrect. BTC suggests that price capped broadband services should include entry-level standalone fixed broadband plans for residential and business customers, covering both legacy (HFC or DSL) and fibre technologies. With respect to CBL which has SMP in the fixed broadband services market (Geographic Market 1), BTC notes that:

- Footnote 5 of the Draft Rules includes CBL's RevNetPrime Fiber (50 Mbps) but omits *RevNetPrime* (HFC 30 Mbps). BTC claims both services should be price capped, as they are often available exclusively in different areas of Geographic Market 1.
- The CBL 'Aliv' branded entry-level fibre broadband plans should be unbundled and classified as Price Capped Services in the Retail Pricing Rules.
- None of CBL/Aliv business broadband services are defined as Price Capped Services in the Draft Rules, an oversight that should be corrected. As with residential services, URCA needs to classify both entry-level standalone business HFC and fibre broadband services as Price Capped Services for CBL/Aliv. Where CBL offers the entry-level standalone business fibre broadband service under the 'Aliv' brand, this too should be classified as a Price Capped Service in the Rules.

Additionally, there are several errors in footnote 6 of the Draft Rules relating to BTC's price capped broadband services. In particular, the footnote incorrectly lists Internet 100 as business

user entry-level. The correct entry-level services are Internet Starter 8 Mbps and Broadband Starter 30 Mbps. It also notes that only CBL/Aliv's residential pay TV services are stated in footnote 7 and business pay TV services are not stated.

The current entry-level services should be explicitly mentioned in the main body of the Rules rather than in footnotes.

BTC requests that URCA restructure the Draft Rules by reorganizing **Sections 2 and 3** into four sections, as follows:

- General Rules (as in the current sub-section 2A)
- Approval versus Notification Classifications (combining what is now repeated in sections 2 and 3)
- Approval and Notification Processes (as currently included in section 2, but excluding sub-section 2B)
- Approval and Notification Filing Requirements (as currently in section 3, but excluding Paragraphs 30, 33, 37, 43, 46, 51 and 54)

This aims to simplify the Draft Rules by eliminating unnecessary repetition and resulting confusion.

BTC raises concerns regarding the *filing requirements for both 'approval' applications and 'notification'* in the Draft Rules (Section 3). For "approval" applications, BTC notes that items 3 and 4 in Paragraph 35 require the current and expected number and profile of customers/users of the Price Capped Service. BTC claims the term 'profile', which also appears in other filing requirements in Section 3, is unclear and/or ambiguous. BTC suggests that URCA define the term, and explain its relevance, or eliminate the term completely from the Rules.

For 'notifications' of permanent price changes to Regulated Services, BTC notes that items 3 and 4 in Paragraph 39 require the provision of the current and expected number and profile of customers/user volumes of the Regulated Service(s) in question. BTC feels these requirements are unnecessary and have no bearing on whether a price change to a Regulated Service complies with URCA's Final Determination. BTC says URCA already collects a considerable amount of industry data each year in addition to the annual tariff filing requirements of the Draft Rules. In view of this, BTC suggests URCA remove these requirements in relation to notifications for permanent price changes to Regulated Services. Otherwise, URCA should provide justification for its inclusion, including what purpose it would serve in the context of a notification process.

BTC comments that while current/expected number and profile of customers/users may be relevant for 'notification' of the withdrawal or discontinuation of a Regulated Service (sub-section 3C), this is not necessary or relevant to notifications for the introduction of a new Price

Capped Service, new Non-Price Capped Services, or changes to the Non-price terms or conditions of Regulated Services (sub-sections 3D, 3E, and 3F). BTC restates that URCA should remove the requirement to describe the current/expected number and profile of customers/users from the Rules in these cases.

BTC would like URCA to extend the deadline for annual tariff filing in **Section 4** of the Draft Rules from five business days to ten business days from the start of each calendar year. BTC notes that many staff members are away during the year-end holiday period.

BTC restates that URCA should either delete the national uniform pricing obligation in Paragraph 58.4 in Section 4 of the Draft Rules or apply the obligation symmetrically to both BTC and CBL/Aliv.

BTC agrees with URCA's methodology (in the **Annex**¹⁴) to check if a price change to a Price Capped Service exceeds last year's inflation rate, and the use of the all-items Bahamas Consumer Price Index (CPI) as the inflation measure.

BTC suggests that if the new price caps are delayed and not implemented until the end of the first quarter of 2025, the year-end 2024 CPI data could be available (i.e., for December). Additionally, if the new price caps are in place at the beginning of the second quarter (e.g., April 1, 2025), it would be more appropriate to use the December rather than September annual Bahamas CPI rate as the inflation measures each price cap year (i.e., April 1 to March 31). BTC requests URCA to update the price cap year and the associated date of the applicable CPI inflation measure, as appropriate, when the final Rules are issued by URCA.

BTC notes that the September 2024 CPI was -0.8%. BTC states that if inflation, as measured by the relevant CPI rate, is negative, this should not necessitate reductions in Price Capped Service rates. Similarly, if the rate of inflation is positive, there is no requirement to increase Price Capped Service rates. BTC explains that under these conditions, BTC would be forced to reduce the price of its Basic Landline service, which is already below cost. This situation could be potentially harmful to BTC.

CBL's Comments

CBL considers that the draft Rules are not clear, comprehensive, or complete in setting out the regulatory requirements. CBL repeats its previous comments that premium pay TV services should not be included in the definition of Regulated Services.

CBL notes that the draft Rules do not include a list of the Regulated Services, and hence, in CBL's view, the regulatory requirements are not clear. The Regulated Services are listed in the various footnotes in URCA's Final Determination and CBL believes their inclusion as a table in the final version of the Rules would give the general public and the operators a fuller understanding of

¹⁴ Details for Determining an Above-Inflation Price Increase

what services are categorised as ‘Regulated Services’. CBL also recognises this list may change periodically.

As explained previously, CBL suggests that the withdrawal of premium services should only be subject to the notification process, or they should be excluded from the definition of Regulated Services (in the case of premium TV services). CBL also repeats that the withdrawal of entry-level (Price Capped) services should be subject to URCA’s approval, to allow CBL to make such a case if needed. CBL believes that while such scenarios, particularly for broadband services, may be unlikely, it is not prudent to rule them out without further analysis or discussion.

CBL repeats previous comments regarding Non-Price Capped Services that are also Non-Withdrawal Services (most of CBL’s Regulated Services) having no avenue for withdrawal. CBL again recommends that the withdrawal of Price Capped Services should be subject to URCA’s approval, and the withdrawal of other Regulated Services should be subject to the notification process.

Regarding Paragraph 2.1.5, CBL states that the definition of “Withdrawal” duplicates the definition of ‘Discontinuation’ in Paragraph 2.3 of the Draft Rules. CBL asks whether the definition of should state: Withdrawal refers to SMP operator ceasing to provide the service to all *existing* customers.

Regarding Paragraph 54, CBL fails to see why URCA has any interest in changes to Non-price terms and conditions that affect the costs incurred by an operator. CBL accepts that URCA has an interest in changes that affect the effective price paid by the customer. If an operator can reduce its cost base and provide the same service to the customer, then CBL believes this has no regulatory consequences and should not be subject to the notification process. CBL accepts that if the change in the cost base does have an impact on the effective price paid by the customer (for example, a reduction in the availability of Pay TV channels), then a notification to URCA would be required. CBL therefore proposes that the words ‘or the costs incurred by the SMP operator’ should be deleted (also in Paragraph 30.2.5). This would then align with the approach taken to the 2014 Retail Pricing Rules.

Regarding part 3D, it is not clear to CBL whether Paragraphs 46 – 50 address the **introduction** of an additional price capped service or the **replacement** of an existing price capped service with a new service. While the rationale for requiring URCA’s approval set out in Paragraphs 46 and 47 concern the replacement of a Price Capped Service, the scope of this part covers both introductions and replacements. If an operator decides to introduce an additional Price Capped Service, this does not affect the provision of the existing Price Capped Services, hence this should be subject to the notification process of Part 3E, which still gives URCA an opportunity to intervene if it so chooses. CBL accepts that URCA should give more attention to the removal of a price capped service and its replacement with an alternative service. CBL therefore suggests that Part 3D should address the replacement and/or withdrawal of a price capped service while Part 3E should address the introduction on any new service, whether price capped or not.

Regarding the structure of the document, CBL notes that information and instructions about approvals and notifications and about price changes occur in both Section 2 and Section 3 of the draft Rules. CBL suggests that the document should be restructured so that all the relevant instructions and information about each type of application or notification are in one place under one heading to make the rules easier to use. CBL also recommends the following:

- Avoid two lists of information requirements that are inconsistent (the information requirements for an approval in Paragraph 16 are not the same as in Paragraph 35)
- Enable the text to be shortened (for example, Paragraph 21 would become unnecessary)
- Remove the need for frequent cross-references.

The new rules would then follow the structure of the previous Rules document which was easy to follow and implement (even if the contents were onerous).

Regarding Paragraph 16, CBL finds that the list of information required from operators for an Approval differs significantly from the requirements in Paragraphs 35 and 49. CBL considers that this list in Paragraph 16 is unnecessary and will lead to confusion. URCA should provide only one comprehensive list of information it requires for each type of approval.

Regarding Paragraph 18, CBL finds the list of information required for a notification here to be incomplete compared to those in Paragraphs 39, 45, and 56 (for example, it does not include the date from which the change will take place). As above, CBL suggests that this list be removed so that there is only one comprehensive list of information required for each notification.

Regarding Paragraph 23, CBL considers that the requirement to advertise an above-inflation increase of a Price Capped Service in a national newspaper is now outdated and unnecessary. Under the Consumer Protection Regulations, an operator is required to give its existing customers one month's notice of any material changes in prices. CBL believes that advertising it in a national newspaper will add no value to this process, and instead only an additional cost for the operator. CBL therefore proposes that this requirement should be removed.

Regarding Paragraphs 39.3 and 39.4, CBL considers that an operator should not have to submit information or data on current and expected take-up as part of a notification. URCA's role with a notification should be to check that it does not contravene CBL's obligations under the Comms Act, CBL's IOL, or the Rules, hence the existing or forecasted number of users has no relevance to whether the application is compliant. If URCA persists with this requirement CBL, in the interest of proportionality and transparency of regulatory intervention, CBL requests that URCA explain the function and use of the data submission under the new Rules.

Regarding Paragraph 45.3, while CBL acknowledges that URCA has a valid interest in the number and profile of customers affected by a proposal to withdraw a Regulated Service, CBL does not see how sales revenue data is relevant to URCA's assessment of the withdrawal. CBL states that it is not a factor that features in the Comms Act, CBL's IOL, or the Rules, and suggests that URCA delete this paragraph.

Regarding Paragraph 53.4.1, CBL believes an operator should be able to repackage a service and that if an operator wishes to repackage a service, for example, by giving it a new name or providing additional benefits, then that is a commercial decision with no regulatory implications. If URCA intends for a repackage to not be subject to the notification requirements (which CBL would welcome), CBL suggests that this should be stated in the Rules, along with some guidance to distinguish between a repackaged service and a new service.

Regarding Paragraph 53.4.2, CBL also believes URCA should not require an operator to provide its rationale for launching a new service, because CBL views it as a commercial decision with no regulatory implications. CBL suggests that if URCA wishes to retain this paragraph, it could give some guidance on how similar the new service must be to an existing service for this paragraph to apply to it.

Regarding Paragraph 56.4, CBL believes the provision of information or data on the current take-up of a Regulated Service is unnecessary, as it does not help URCA ascertain whether CBL is compliant with its obligations. CBL suggests that this requirement should be deleted. CBL provides the regional example of Barbados as support to their suggested approach. According to CBL, the Fair Trading Commission ('FTC'), the Barbados communications regulator, does not require the regulated company Cable & Wireless Barbados to provide customer data (or sales data) as part of the notification process. Instead, such information is required on an annual basis to provide FTC with visibility of relevant market dynamics. CBL also notes that service projections are not required under the regulatory reporting requirements. CBL proposes URCA introduce a similar regime in The Bahamas, by including actual customer data and other required data in the annual tariff filing. CBL believes the requirement to submit customer data and projections as part of the notification process could then be removed from the Rules.

Regarding Paragraph 58.1, CBL believes that URCA's requirement for a filing within five business days of the start of each calendar year takes no account of the holiday season at this time of year. CBL considers that a period of fifteen business days to be much more reasonable.

Regarding page 21, CBL highlights that URCA proposes the rate of inflation used to assess whether a price increase is above or below inflation should be the annual increase observed each September. CBL states that, at the extreme, this results in a cost increase experienced in October not being reflected in the increased price of the service until the January 15 months later. CBL believes that this could have a significant financial impact on operators in times of high inflation. CBL suggests that URCA should give itself the latitude of changing the approach set out in the Annex if economic conditions change significantly. For example, URCA could use the rate of inflation recorded in March to evaluate price rises, as well as in September.

Regarding Paragraph 13, CBL does not see how Part XI of the Comms Act provides URCA with the powers to investigate if 'the actual outcome in the market differs from that assumed'. CBL accepts that other parts of the Act give URCA wide powers to investigate (e.g., sections 8(1)(j)

and 9(1)), but section 77 in Part XI gives URCA powers to require information only in the context of a merger control (hence the use of the words ‘acquirer and licensee’ in this clause). CBL suggests URCA reword this paragraph so that it more accurately reflects the legal position. Moreover, CBL considers that if the take-up of a service is double (or half) of that projected in an operator’s application or notification, this does not provide URCA with the grounds for an investigation unless it can point to a contravention of the Comms Act, CBL’s IOL, or the Rules. CBL states that any forecast of customer numbers or revenues is likely to be wrong because it is not possible to anticipate accurately how economic and market conditions will develop. CBL believes that an investigation by URCA into differences between forecast and actual numbers would be a waste of URCA’s time and resources, not to mention the operator’s time and resources of satisfying URCA’s requests for information from the operators.

Regarding Table 2 on page 6, CBL questioned whether the heading should be ‘Non-Withdrawal Services’ instead of ‘Price Capped Services’.

Regarding Paragraph 60, CBL believes that SMP operators are only required to publish tariffs for the markets in which they have SMP, referring to Condition 35.1 of the IOL. Because of this, CBL considers the statement in Paragraph 60 of the draft Rules that SMP operators are required to publish ‘all tariffs’ to be incorrect. CBL suggests that Paragraph 60 be reworded to refer to the tariffs of Regulated Services.

Regarding Paragraph 67, CBL suggests that URCA should use the following simplified formula instead of that in the draft Annex:

$$\frac{\text{Proposed price}}{\text{Price end of calendar year}} > \frac{\text{Inflation index in September}}{\text{Inflation index in previous September}}$$

URCA’s Response

Regarding BTC’s comments about identifying the operators and the Aliv brand, URCA refers to its response in Section 2.1 of this document.

In response to BTC’s comments about definitions, the ‘Regulated Services’ definition refers to all retail electronic communications services and it does not specify that these are individual services. Therefore, URCA does not think an additional definition for bundles is necessary. Also, the tables in Section 1 of the draft Rules specify which plans and bundles are included for Price Capped Services and Non-Withdrawal Services (to be referred to as Required Services going forward).

Regarding BTC’s comments around the definition of Discontinuation vs. Withdrawal, URCA confirms that a withdrawal occurs when an operator ceases provision of a service to new customers, whereas a discontinuation occurs when an operator ceases provision of a service to all customers. Definitions have since been clarified within the Rules.

In reference to CBL's comments about the draft Rules not containing a list of the Regulated Services, URCA will take the approach adopted in the 2014 Rules where specific plans are not identified in the Rules to make the document future-proof. URCA responded to CBL's comments about premium Pay TV services in Section 2.1 of this document.

Regarding BTC's comments about the list of Price Capped Services, URCA emphasizes that the relevant tariff plan considered to be the entry-level service may change in the future, subject to changes in the tariff offering and subject to URCA's approval thereof. To avoid confusion about which plan is the entry-level standalone plan at any given point in time, URCA will remove the footnotes identifying specific plans as these are subject to change and, as stated above, to make the document future-proof.

In response to BTC's comments that URCA incorrectly identified BTC's entry-level services, at the time of drafting and publishing the consultation document for the revised Rules, information about BTC's offerings, particularly its lower-priced plans, was not available on BTC's website.

Considering the feedback from BTC and CBL about the document's structure, URCA will delete Section 2B.

In response to BTC's query about the term 'profile', this means whether the customer is a residential or business customer, and whether they are high, medium, or low usage customers. However, upon further consideration, URCA considers that the description of the customer segment captures this information therefore URCA will remove the 'profile' requirement.

Regarding BTC's and CBL's comments that the Paragraph 39 requirement to provide the current and expected number and profile of customers is unnecessary, URCA will maintain the requirement to provide the **current** number of customers/users and will remove the requirement for the **expected** number and profile of customers/users. The reason for requiring the current number of customers/users is to help URCA ascertain the impact of the price increase.

Considering CBL's feedback that the requirement in Paragraph 45.3 requiring sales revenue data is unnecessary for a withdrawal or discontinuation, URCA will delete this requirement from the Rules.

As stated in Section 2.1 of this document, the withdrawal of standalone fixed voice plans, standalone fixed broadband plans, standalone pay TV plans, and bundles including fixed voice and fixed broadband will require URCA's pre-approval. This addresses CBL's comments regarding Non-Withdrawal Services which will now be referred to as Required Services.

Regarding changes to Non-price terms and conditions, URCA advises CBL that Footnote 11 of the 2014 Rules also mentions the costs incurred by an operator in addition to the effective price paid by consumers. URCA also refers CBL to the definition of Non-price terms and conditions in

Section 1 of the updated Rules. Both the definition of Non-price terms and conditions in the updated Rules and Footnote 11 from the 2014 Rules give examples of Non-price changes to a service that affect the operator's costs including but not limited to: the quality of service; the time taken to provide the service, including the time taken by the service provider's technician or customer service representative to install the service on the customer's premises and/or activate the service; and maintenance terms.

To provide CBL with greater clarity around part 3D, the introduction of a new Price Capped Service occurs when a new product becomes the entry-level standalone product whether the SMP operator still offers the original entry-level standalone product or withdraws/discontinues the original entry-level standalone product. URCA will add more clarity to Part 3D of the Rules.

Regarding CBL's concerns around the advertisement requirement in national newspapers, URCA remains concerned that segments of the population without internet access or who are not on social media will not be made aware of an above-inflation price increase for a Price Capped Service prior to the price increase taking place. In URCA's view, an above-inflation price increase for a Price Capped Service is unlikely to occur frequently therefore URCA does not consider the additional costs to be burdensome.

In response to CBL's comments on Paragraph 53 about repackaging an existing service as a new Non-Price Capped Service, URCA advises CBL that the Rules do not prohibit an operator from repackaging a service. If an operator chooses to repackage a service, they must provide the rationale as set out in Paragraph 53.4.2. The purpose of providing the rationale is so that URCA can understand how the services or plans are different from one another. URCA considers the requirements to be reasonable.

Regarding CBL's comments on the requirement in Part 3F for an operator to provide the current take-up of the existing plan, URCA repeats its previous comments that the current take-up data allows URCA to ascertain the impact of the changes.

Regarding Paragraph 13, in reference to CBL's comments that Part XI of the Comms Act is not relevant to the Rules, URCA advises CBL that Part XI also covers the abuse of a dominant position in section 69. To clarify, the statement in the Rules that 'URCA may investigate if the actual outcome in the market differs from that assumed at the time of relevant Approval' relates to there being harm to consumers and/or competition that was not anticipated upon approving the application. This statement does not refer to an SMP operator's forecasted numbers as part of an application differing from the actual numbers.

URCA agrees with CBL that the Table 2 heading should have been 'Non-Withdrawal Services' instead of 'Price Capped Services'. As stated previously, URCA will change the category to 'Regulated Services'.

Regarding Paragraph 60 and CBL's claim that SMP operators are only required to publish tariffs

for the markets in which they have SMP as per Condition 35.1 of the IOL, URCA reminds CBL that the Consumer Protection Regulations require all Service Providers, whether they hold SMP or not, to publish all tariffs.

Based on feedback from both BTC and CBL, URCA will amend the deadline for the submission of the annual tariff filing to within fifteen business days of the start of each calendar year. On a related note, URCA advises BTC and CBL that their respective tariff database should be updated internally on a regular basis throughout the calendar year to allow for a timely and accurate submission rather than waiting for the approaching deadline to make all the updates that occurred throughout the year.

Regarding BTC's comments on the Annex, URCA notes BTC's general agreement with the methodology. Following the publication of the finalised Rules, URCA will use the most recently available inflation figures for 2025 due to the publication's timing. For subsequent years, URCA will use the all-items year-on-year inflation to September of the previous year as set out in the draft Rules. Regarding BTC's concern about forced reductions when inflation is negative, URCA advises that it has no intention of forcing reductions.

Regarding CBL's comments on the Annex, URCA acknowledges CBL's concerns around the time lag in inflation measurements used for the price cap during a period of high inflation. A footnote has been added to the Rules stating that URCA would consider allowing exceptional price increases above the price cap in times of high inflation, but only where it considers that the price cap fails to account for inflationary pressure to the extent that significant damage would be done to the operators without allowing such an increase. Such exceptional allowances would then result in a reduction in the extent to which operators are allowed to increase prices the following year, such that the price cap does not increase by more than inflation over a two–three-year period.

Regarding CBL's proposed rearranged formula, URCA is happy to accept and adopt this structure and have rewritten it to be the following:

$$\frac{Proposed\ Price_{(\$, 202X)}}{Price_{(\$, End\ of\ 202X-1)}} > \frac{CPI\ Index_{(September\ 202X-1)}}{CPI\ Index_{(September\ 202X-2)}}$$

3 Conclusion

URCA has published as a separate document the revised Retail Pricing Rules as ECS 04/2025. Copies of the document may be downloaded from URCA's website at www.urbahamas.bs. The Revised Rules ECS 04/2025 will come into effect on **12 June 2025** and will repeal and replace the Rules referenced ECS 04/2014. From that date going forward, all new retail pricing applications by SMP operators will be governed by and conducted under the Revised Rules.