

Co-Regulatory Approaches to Regulation:

Content Regulation and Number Portability in The Bahamas

**by Vincent Wallace Whitfield and Stephen
Bereaux**



November 2012

CONTENT REGULATION IN THE BAHAMAS

- Piecemeal approach towards broadcasting and content regulation through primary and subsidiary legislation over the years
- Legislation primarily directed at Broadcasting Corporation of The Bahamas as sole broadcasting entity
- 1993/1994 - licensing of 2 privately owned radio stations and introduction of cable TV
- Broadcasting Regulations were created, but not known if they were ever applied



COMMUNICATIONS ACT 2009

- URCA's obligations under Communications Act
- Requires URCA to issue codes of practice [s. 53; s. 52]
- Gives URCA the power
 - to allow Industry Groups potentially to play a major role in the development of codes for content provision
 - to help monitor compliance [s. 55]



CO-REGULATORY MODEL FOR THE BAHAMAS



- Benefits of co-regulatory approach
 - Collaboration between industry and regulator
 - Commitment by WG members to participate constructively in the process



ROLES OF URCA AND INDUSTRY WORKING GROUP

- Role of URCA
 - Manage and administer Working Group
 - Provide research material which aided group's discussions
 - Consult on full draft of Code and complaints-handling process
 - Publish codes and complaints handling process
- Role of Industry Working Group
 - Be focused and goal-oriented
 - Share their views
 - Seek consensus



HIGH-LEVEL PRINCIPLES OF THE CODE

- Objectives:
 - Meet standards and expectations of residents of The Bahamas through a combination of:
 - Positive rules, e.g. Promoting accuracy and fairness
 - Negative rules, e.g. Restrictions on some content
 - Information and tools to empower viewers and listeners
 - Ensure level playing field for broadcasters
 - Reflect impact of convergence
- Overarching themes:
 - Freedom of expression
 - Respect
 - Context



CATEGORIES FOR CODE OF PRACTICE

Categories for inclusion in Code of Practice

General laws and standards

- Law and order
- Harm and offence
- Crime and violence
- Contests and promotions
- Positive rules
- Operational rules

News, factual and political broadcasts

- Accuracy and impartiality
- Fairness and privacy
- Elections and referendums
- Natural emergencies and disasters

Advertising

- Advertising and sponsorship

Children

- Protection of young people
- Advisory assistance, classifications

Miscellaneous

- Listed events
- Access services (subtitling, etc)
- Ancillary services (e.g. teletext)
- Competition issues

Social values

- Taste and decency
- Discrimination and denigration
- Religion



CONTENT CODE TIMELINES



1 September 2009

Communications Act comes into effect.



2 June 2010

Statement of Results issued supporting proposal for co-regulatory approach.



18 February – 9 June 2011

URCA drafts Bahamian Code based on WG's recommendations.



9 November – 30 December 2011

Public Consultation on draft Content Code.



3 February – 12 March 2010

Public Consultation on Process for developing Codes of Practice.

29 June 2010 – 17 February 2011

Working Group meetings to review Codes from other countries and international best practice.



23 June – 18 August 2011

URCA meets with WG to review draft Code and ensure its suitability to The Bahamas.



2 March 2012

Statement of Results and final version of Content Code published.



**2009 to
2012**

Composition of Industry Group Members

Proposed Composition (9)

- URCA
- ZNS/Broadcasting Corp.
- Cable Bahamas
- Private radio/TV x 2
- Independent producers
- Mainstream public opinion
- Minority views
- Family Islands x 2
- Young people

Final Composition (10)

- URCA
- Public Service Broadcasters
- Content/On-demand AVMS
- Private radio/TV
- Independent producers
- Ministry of Education
- Internet TV/audio webcasts
- Family Islands broadcasters
- Teletext services



Role and Functions of Industry Group

- Delegated and advisory responsibility for content provision operations of each section of broadcasting industry
- Licensees nominate persons to serve
- URCA appoints Members for 3 years
- Monitors Licensees' compliance with Content Code
- Prepares report on IG's activities for inclusion in URCA's Annual Report



NUMBER PORTABILITY

- Number Portability is defined as “*a facility whereby subscribers who so request can subject to the numbering plan retain their telephone number on a public network, independently of the licensee providing the service at the network termination point of a subscriber*”.



LEGISLATIVE CONTEXT

- Communications Act, s. 80, requires URCA to consult and make a determination on number portability.
- When required to do so, Licensees must provide operator to operator number portability, where technically feasible, and according to requirements prescribed by URCA.



CONSULTATION ON NUMBER PORTABILITY

- Public consultation commenced on 15 April 2011 discussing key policy, procedural and technical issues:
 - Determine the scope of number portability (service provider, service, and geographic);
 - Determine the technical method to be used;
 - Number Portability database(s) for The Bahamas;
 - Timing of implementation;
 - Procedural issues regarding implementation.



STATEMENT OF RESULTS

- Issued on 16 November 2011:
 - NP on fixed networks as soon as economically and technically feasible
 - NP for mobile communications in place and operational in time for introduction of competition in mobile communications in The Bahamas.
 - Fixed NP solution must also be technically compatible and adequately robust and scalable for mobile NP.



WHY USE A CO-REGULATORY APPROACH FOR NUMBER PORTABILITY?

- High degree of intervention in networks and business processes plus very high degree of understanding of networks and operations required
- Formation of joint industry/regulator Number Portability Working Group (NPWG) to make recommendations on and oversee implementation of NP



FORMATION OF THE NP WORKING GROUP

- NPWG is an URCA-appointed body under s. 39 and s. 40 of the URCA Act, subject to rules and terms of reference set by URCA
- Comprises up to 4 representatives from URCA [1 of whom is chairperson] and two (2) representatives from each licensee which has been granted telephone numbers by URCA.



TERMS OF REFERENCE OF THE NPWG

- Propose detailed work-plan within sixteen (16) weeks of formation.
- Make recommendations
- Assist in implementing fixed number portability
- Formulate procedures and processes
- Prepare NP guidance and procedures documentation for users/operators



DECISION-MAKING MODEL

- Makes decisions by consensus where possible, or by votes of operator members (URCA has no votes)
- URCA decides any matter remaining deadlocked for more than 7 days without a recommendation by the NPWG but may consider representations by individual members of the NPWG



ACHIEVEMENTS TO DATE

- 30 April 2012 – NPWG recommended:
 - Technical method for implementation
 - Timeframes and work-plan for fixed number portability implementation;
 - Proposals for a NP Admin. Service.
- 24 September 2012 – Shortlist of NP administration service bidders.
- October 2012 – Recommendations for final selected vendor



LESSONS LEARNED

- Co-regulatory approach useful in regulatory decision-making where information asymmetry makes operators repositories of knowledge and expertise.
- In time sensitive/competing interests situations, regulator must control, progress and, if necessary, override group deliberations to avoid deadlock and undue delay.



QUESTIONS

- **Any Questions?**



THE END

Thank You for participating!

