



The Bahamas Telecommunications Company
Limited

Response To

**Utilities Regulation and Competition Authority's
Draft Annual Plan 2023
(URCA)**

Legal, Regulatory and
Carrier Services Division

17th February 2023

Introduction

The Bahamas Telecommunications Company Limited (BTC) welcomes the opportunity to respond to the Utilities Regulation and Competition Authority's (URCA) Draft Annual Plan for 2023 which outlines URCA's proposed projects and work plan to effectively regulate the electronic communications sector in The Bahamas. While BTC applauds URCA for some of the initiatives slated for 2023, BTC has identified areas for improvement and alternative suggestions to URCA's work plan.

General Comments

Electricity Reliability and Quality – BTC is concerned about the apparent lack of monitoring and improvement in this area. BTC has stated previously that the lack of reliable and quality electricity especially in the Family Island is the number one challenge facing ECS operators in The Bahamas. Operators are forced to manage and maintain redundant sources of electricity in order to run their networks, a situation that is akin to ECS operators providing telecommunication services as well as being power generation companies. This issue continues to be the source of often and prolonged interruption of telecommunication services in many parts of the archipelago, the result is that it shortens the life of ECS equipment, and it deprives the sector of investment which could otherwise be used to improve the level of services in underserved communities.

Monitoring & Compliance – BTC notes that in 2021 URCA conducted a review of its internal processes relating to the monitoring and compliance of licensees. BTC would like a high-level understanding of this process and URCA's monitoring steps. Yearly, reporting obligations are placed on operators, some of which require development and implementation costs, without any feedback or comment from URCA. BTC recommends that URCA shares its observations from these reports with operators and stakeholders with the goal of improving the sector.

Teaching & Training – BTC maintains that URCA in its position having benefitted from international training and exposure is best placed to teach, train and raise the awareness of all stakeholders on topical issues.

Operational Model – BTC notes URCA's significant budget increases which will be discussed below. However, BTC believes that URCA should judiciously use resources in the discharge of its duties.

Transparency – BTC continues to agitate for more transparency from URCA especially in areas which impact the sustainability of operators, for example URCA's findings and

recommendations around the Feasibility of a 3rd Mobile operator and the new Sector Policy.

Strategic Overview 2023

Increase demand for electronic communication services

BTC is pleased that URCA recognizes the work and innovation that the ECS and ES is doing to keep abreast of the national and global demands for telecommunication and electricity services. It is BTC's view that this work and innovation goes hand in hand with URCA's evolving regulatory role and purpose. BTC believes that at this stage in URCA's regulatory journey, in addition to its core statutory and policy objectives there should be an element of collaboration and partnership with operators. BTC sees this partnership and balancing of operator objectives as essential for URCA to achieve its goals. BTC will admit that within recent times there have been occasions where there have been informal touchpoints with operators for input into URCA's project plans. BTC recommends that this approach should be formalized and become a part of "normal business". It is BTC's view that a more cohesive working relationship will lend more benefits to the sector.

Strategic approach

URCA's plans to take a more strategic approach to deliver its mission of "improving lives through effective utility regulation" BTC is encouraged by this and will continue to support regulation that is thorough, fair, adequate and necessary. BTC congratulates URCA on formulating its four strategic imperatives that will help it deliver on this mission. BTC encourages the regulator to add to these imperatives, "operator engagement". BTC believes that without real, objective operator engagement success may be eluded.

Priorities for 2023-2024

Projects Carried Over from 2022

BTC notes URCA's reasons for the high number of carry over projects in both the ECS and ES sectors during 2022. BTC also notes the shift in priority to the ad hoc projects in 2022 and will await the details of these projects in the 2022 Annual Report. However, BTC is concerned with the growing number of multi-year and carry-over projects which leave very little room for innovative ideas in the sector and flexibility for "ad hoc projects".

General Priorities

Organizational Performance Index

BTC notes that URCA plans to fully implement its Organizational Performance Index this year. BTC reiterates its 2021 response to this initiative and says **“BTC appreciates the importance of any organization developing tools to track its Performance Index, however, BTC is challenged to understand how a self-assessment tool as proposed by URCA will move the industry forward. BTC encourages URCA to also consider an objective assessment element to the Performance Index tool, this will bring another perspective to the organization’s performance.”**

Development and Implementation of an Assessment Tool

BTC finds the description of this assessment tool vague and ambiguous, additionally it is not clear what the current practice is and what exactly URCA is seeking to do. Without a proper description, no real input can be given as to how the tool should function or the matrices or indices that it should take into account. As this is one of URCA’s three general priorities listed for 2023, it is disappointing that more details and transparency has not been provided to stakeholders.

Government and International Relations Priorities

BTC notes URCA’s comments and its impetus for the formation of the IGRU, though BTC does have some concerns regarding the necessity of an URCA sponsored unit. In the circumstances, BTC shares URCA’s vision that “a more focused and strategic international engagement programme in 2023 will form greater alliances with other small island developing states, to influence initiatives and changes at international and regional bodies that are universally beneficial to growth and development.”

That being said, BTC again recommends that stakeholder short-term benefits from these international experiences should be more visible for example, in the form of press releases, workshops, training or any other method of conveying what transpired at these forums. URCA’s current approach plays well into the long term “big picture” but brings no short-term benefits to stakeholders.

Additionally, BTC encourages URCA to advocate for more of these forums to be held closer to home so that there can be more stakeholder participation.

Corporate and Consumer Relations Priorities

BTC is pleased to read of URCA's plans to reintroduce Regulation 101, provide increased access to regional and international resources, and engage with ministry officials responsible for regulated sectors. BTC believes that this is a step in the right direction towards an inclusive sector, thereby avoiding duplicity of work and efforts.

ECS Sector Priorities

Review of Licenses due to expire in 2024

BTC notes the impending expirations of licenses and URCA's plan to review to ensure the existing licenses are fit for purpose. BTC looks forward to fair discussions and URCA's engagement with licensees regarding the review of all licenses before a consultation is issued.

Review of the Consumer Protection Regulations

BTC looks forward to a robust consultation process encompassing all relevant factors contributing to a fit for purpose Consumer Protection Regulation regime. However, BTC is concerned that since the inception of the Consumer Protection Regulation reporting, URCA has not provided any feedback on the reports. BTC questions how any serious review can be conducted without the benefit of a comprehensive analysis of the previous reporting regime. BTC requests that URCA share analysis on the previous reports which informs the proposed review of the existing Consumer Protection Regulations.

Review of the Electronic Communications Sector Policy

BTC notes that URCA is also focused on developing a new ECS Sector Policy that reflects the Government's vision and objectives for the sector for the next three years. BTC also notes that the current Sector Policy will expire in March 2023, and therefore assumes that URCA is in the throes of developing the new policy. It is noteworthy, that at this stage operators have not been invited to provide input on a policy that will no doubt directly impact upon them. However, BTC is optimistic that it will be afforded such an opportunity soon.

Review of Quality of Service Framework

Much like the Consumer Protection Regulation reporting previously addressed herein, BTC implores URCA to consider the value of a review of the Quality of Service and Consumer Protection Regulation reporting in the of absence of an examination of previous reporting regime.

BTC is open to collaborating with URCA on identifying challenges that hinder reporting requirements. BTC believes that URCA working along with its ECS partners offers telecommunication consumers the best opportunity for quality services. We look forward to partnering with URCA is this endeavor.

Review of Universal Service Obligations (USO)

BTC agrees with URCA that there are challenges associated with the “new normal” for many. BTC looks forward to being a part of a “unified, systematic and well-structured approach” led by URCA.

BTC notes URCA’s intention to address the challenges of accessibility and affordability in unserved and underserved Family Island communities as well as facilitating digital transformation initiatives. BTC is pleased that URCA intends to review the Universal Service Obligations Framework and Implementation as one of its Tier I projects. In this regard, it should be noted that the country’s major ECS operators are private companies who have endured through the OTT upsurge, Hurricane Dorian, Covid-19 Pandemic and Inflation. Without a functioning and operational universal service framework and a fund that is fit for purpose these challenges cannot be overcome.

Additionally, while BTC appreciates the necessity for basic access to electronic communication services for all, BTC is strongly of the view that the selection of a universal service should be relevant and useful service for the consumer and cost effective for the service provider. Enshrined in Schedule 5 of the Communications Act, is a list of services for which BTC is the designated Universal Service Provider, namely, basic dial-up internet services to populated areas, basic dial-up internet services free of charge to specified institutions, basic telephony services to all populated areas and public access to pay apparatus. Services such as dial-up internet and pay phones are non-existent with the ubiquity of mobile phones and OTT services. Furthermore, BTC is of the view that a gap analysis of the USO should be done in concert with the results of the 2022 Mobile Market Review and the upcoming Fixed Service Review to make a conclusive decision.

Review of Retail Fixed Market Service

As URCA has highlighted, the last review of the fixed services market was completed in 2014, therefore this assessment of the sector is long overdue. BTC is pleased that this project is finally prioritized for this year and looks forward to the outcome of this exercise. BTC anticipates that this will result in the removal of the ex-ante retail price rules for fixed services - in particular fixed voice. URCA's review and analysis of the Bahamas' mobile sector in 2022 proved mobile voice and data to be a substitute for fixed voice services. With the evolution and expansion of means to communicate, services that were once essential - such as fixed voice, are now almost obsolete. Against this background, the relaxation of this regulation can only benefit customers through the increase in innovation and possibly competition.

Assessment of the Third Mobile Operator

BTC has noted URCA's preliminary work relative to the feasibility study of a third mobile operator and the impending recommendations to the Government of The Bahamas. BTC will await the outcome of the recommendations - however it should be noted, as was stated in BTC's feasibility study response, URCA's formal recommendation to the Government should be made public. The public is an important stakeholder and BTC believes that the public should view the rationale for any recommendations URCA submits to the Government.

Spectrum Management Project

BTC supports URCA's Spectrum Management Project initiative. As spectrum resources have become more important for the delivery of telecommunication services throughout our archipelago, it is our hope that the cost realities of our unique geography and population profiles and densities become apparent. BTC looks forward to a more efficient licensing and costing model based on the result of this initiative.

Public Consultation on 5G

BTC notes that the Public Consultation on 5G continues this year. BTC hopes that URCA will lead the way in public education and awareness before this consultation is formally completed.

Electricity Sector Priorities

BTC applauds URCA's intention to promote the effective integration of renewable energy into the country's energy mix. BTC also notes that URCA will concentrate inter alia on the quality of electricity services throughout The Bahamas, as stated above and on previous occasions, BTC believes that the issue of reliable power especially in the Family Islands requires equal but separate focus.

Key Performance Indicators

BTC reiterates that it does not agree or support any initiative that requires URCA to measure itself in a vacuity.

That being said, it is assumed that table 4.1-4.5 which sets out the KPIs URCA will use to measure its performance in 2023, was included in the Draft Annual Plan for comment. However, because much of URCA's operational processes are unknown to BTC as well as what goals or standards URCA is seeking to achieve, BTC is of the view that without target goals in mind, constructive commentary is not possible. Is it that URCA intends to align itself with regional counterparts, international best practices or ITU standards in terms of goals, timelines or efficiency measures? Or is it simply a year over year self-measurement (in which case what would be the purpose)?

URCA's Budget

BTC notes that there are significant increases forecasted in 2023 in all categories over 2022 and most of 2021. While URCA provided some explanations for the year over year variances in the expenses outlined in the budget, the explanations were not comprehensive.

Additionally, from an overall perspective, URCA provides no indication on how cost is apportioned amongst the sectors as well as amongst shared resources. BTC is interested in understanding the allocation methodology that URCA employs should be included in the draft annual plan.

On the budget presented firstly, URCA notes the staff count increased by one in 2022 and suggested unexpected team member turnover resulted in the shortfall of scheduled projects for 2022. Nonetheless, URCA's non-executive compensation in 2022 equated to \$184,000 and is estimated to climb to \$408,000 in 2023. URCA reasons this exponential increase is led by the potential onboarding of 6 additional staff members. BTC finds this growth in staff compensation to be extreme and unexplainable.

Secondly, most notably is the significant increase for conferences, training and travel, understandably this is an increase over 2021 and 2022 budget but it is also an increase from the pre-pandemic years of 2018 and 2019. Most organizations across the world have adopted the “new normal” and are relying on a healthy mix of in person and virtual training. BTC urges URCA to adopt this practice, as these significant costs are ultimately being passed on to operators. Bearing in mind, these operators are now emerging from the Covid-19 pandemic, facing threats of diminishing revenues due to inflation and reduced consumer spending, the continued proliferation and expansion of OTT providers and now competition from low orbiting satellite providers.

Lastly, Capital expenditure saw a large increase for 2023 due to the Frederick Street Infrastructure Development and other smaller projects. That means, for 2023 the budget for capital expenditure is more than 2 million. BTC suggest a prioritization and phased approach over a few years for the planned projects be considered.

Conclusion

BTC anticipates the work URCA has organized for 2023 and URCA’s engagement with its licensees will lead to the establishment of effective electronic communication policies.

Reservation of Rights

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

Legal and Regulatory Division

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February 17, 2023