



# **FAIR TRADING COMMISSION**

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## **CONSULTATION PAPER**

**REVIEW OF CABLE & WIRELESS (BARBADOS) LTD.**

**STANDARDS OF SERVICE**

**2018 – 2020**

**Document No. FTC/URD/CONSOSCW-2020-01**

**Date of Issue: April 23, 2021**

**DOCUMENT NUMBER: FTC/URD/CONSOSCW-2020-01**

**DOCUMENT TITLE: Review of Cable & Wireless (Barbados) Limited Standards of Service**

**ANTECEDENT DOCUMENTS**

<b>Document Number</b>	<b>Description</b>	<b>Date</b>
FTCUR/DECSOS/CW-2017-03	Decision on Cable & Wireless (Barbados) Limited Standards of Service 2018-2020	September 29, 2017
FTC/URD/CONSOSCW-2017-01	Review of Cable & Wireless (Barbados) Ltd. STANDARDS OF SERVICE 2014 - 2017	March 3, 2017
FTC/DECSOSC/2014-02	Decision on C&W Standards of Service 2014 - 2017	September 12, 2014
FTC/URD/CONSOSC 2013-01	Consultation Paper - Review of C&W Standards of Service	October 2013
FTC/URD/2010-02	Decision on C&W Standards of Service 2010-2013	February 22, 2010
FTC/CONS2008-02	Consultation Paper - Review of C&W Standards of Service	October 29, 2008

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This consultation paper outlines the Fair Trading Commission's (Commission) review process of the Standards of Service Decision for Cable & Wireless (Barbados) Limited (C&W) 2018 - 2020. The Standards of Service for C&W fixed line services were originally established on June 1, 2006 and have undergone three (3) subsequent reviews which resulted in amendments.

The views and opinions of stakeholders will be sought through public consultation. The Commission, in making its determination, will take these contributions into consideration.

This paper is intended to solicit comments on:

- a. The Standards of Service performance of C&W;
- b. Whether any additional Guaranteed or Overall Standards of Service should be implemented;
- c. Whether the current reporting requirements ought to be adjusted; and
- d. Whether any of the current Guaranteed or Overall Standards of Service need to be modified or removed.

The Commission encourages the widest possible participation in this consultation process. In addition to making this document available at its offices, it will be posted on the Commission's website, [www.ftc.gov.bb](http://www.ftc.gov.bb).

The Consultation period will begin on April 23, 2021 and end on May 20, 2021 at 4:00 p.m.

### **Structure of Paper**

This paper is divided into six (6) sections:

- Section 1 provides an update on current developments in Barbados' telecommunications market.
- Section 2 outlines the legislative framework of the Standards of Service and the statutory provisions that give the Commission authority to undertake this process.
- Section 3 reviews the Company's Standards of Service performance from January 2018 to December 2020 and new proposals for the upcoming iteration of the Standards of Service.
- Section 4 lists the grounds for Force Majeure and other exemptions.
- Section 5 outlines Standards of Service administration rules and the Commission's monitoring of the Standards of Service regime.
- Section 6 lists the consultation questions.
- Section 7 provides information on the consultation process.

## **SECTION 1 TELECOMMUNICATIONS SECTOR UPDATE**

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This section offers some insight into developments within the Barbados telecommunications sector during the review period, which featured significant technological advancement and major corporate convergence. The paradigm is ever shifting and the major challenge has been trying to protect the rights of consumers while balancing the interests of service providers. In concert with the rest of the world, Barbados has seen massive leaps forward in the introduction and use of smart technology, the digital economy, Big Data, cyber security issues and rapidly changing digital environments.

Many of the developments during the period had specific regulatory implications. For example, telecommunications giant Liberty Global (LG) purchased C&W, prompting a change in its financial year end to make it congruent with that of LG. This led to C&W's application, on August 29, 2017, to vary and review the Price Cap Plan (PCP) 2016. This involved aligning the PCP 2016's periods and associated reporting requirements with the new financial year. The Commission's Decision on the Motion to Vary and Review the Price Cap Plan 2016 was issued on April 3, 2018.

On April 23, 2019, the Commission issued its Decision on C&W's Draft Reference Interconnection Offer (RIO) 2017. This stemmed from a need to update the original RIO, the RIO 2010. This Decision updated interconnection costs to those that were approved by the Commission's Decision on Long Run Incremental Cost (LRIC) Interconnection Rates in 2015. The new RIO also featured new technological and infrastructure descriptions and definitions to match the massive technological changes in C&W's fixed infrastructure over the years. The infrastructure was updated from circuit switched to packet switched technology and the copper wiring was decommissioned in favour of fibre optic cabling. In order to accurately reflect the state of the infrastructure, the RIO needed to be updated.

In May 2019, the Commission initiated its review process for the PCP 2016, which governs the prices of C&W's fixed line telephony and value-added services. The process involved, among other things, obtaining a market report from C&W and initiating a tendering process meant to select a consultant that would provide

technical assistance. At the end of this process, Frontier Economics Limited (FEL) was chosen. The PCP 2016 was due to expire on December 31, 2019 and by October it was apparent that more time would be required to complete the review. As a result, the Commission issued a public notice requesting comments on its intention to extend the PCP 2016 until such time as a new mechanism is implemented. Having received no objections, the framework was extended and the review proceeded.

In February 2020, the Telecommunications Unit (TU) in the Ministry of Innovation, Science and Smart Technology (MIST) sought the Commission's assistance in the implementation of quality of service (QoS) measures for all licensed telecommunications services within Barbados, due to observed inadequacies in the level of service provided. Consequently, the TU and the Commission jointly prepared and submitted a cabinet paper, which was approved on June 18, 2020. This document sought approval for the development of a suite of QoS standards for all mobile and internet services in Barbados and an expansion of the Commission's regulatory remit to include mobile and internet services. Please note that this document does not cover or address this impending expansion of the QoS framework. It is solely concerned with the Standards of Service for C&W's fixed line voice services.

## SECTION 2 LEGISLATIVE FRAMEWORK

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C&W Standards of Service first came into effect on June 1, 2006, in accordance with Sections 3 (1) (d) and 4 of the Utilities Regulation Act, CAP. 282 (URA)<sup>1</sup> of the Laws of Barbados. Sections 3 (1) (d) and 4 of the URA set out the Commission's authority to determine the Standards of Service and the relevant considerations that must be taken into account. Standards of Service are important and applicable, as C&W is at present subject to price cap regulation. Price cap regulation involves the imposition of a price cap index (PCI), which is a constraint that specifies the maximum level of aggregate price change for a basket of regulated services.

The imposition of these Standards of Service for C&W's residential and business landline services is to ensure that a minimum, mandatory level of service is extended to customers routinely. Standards of Service regimes are increasingly important in an environment where service providers are subject to price cap regulation as these companies may, in order to minimise costs and therefore maximise profits, seek to offer a lower quality of service or product. Rather, service providers are encouraged to improve the efficiency of their operations.

The Commission is also charged with the responsibility of monitoring and periodically reviewing the Standards of Service in accordance with Section 3 (1) (e) and (f) of the URA. The Commission continues to hold the view that these Standards are necessary to ensure that C&W, the dominant provider of domestic fixed line telecommunications services, would provide adequate service to its customers.

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<sup>1</sup> The text of Section 3 (1) and 4 of the URA is presented in Appendix 1 for reference.



## SECTION 3 PERFORMANCE REVIEW AND NEW PROPOSALS

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### 3.1 Theoretical Foundation and Continued Applicability of the Standards of Service

The Commission carried out extensive research on best practices in QoS standards from across many international jurisdictions. This involved examining the work of major institutions such as the International Telecommunications Union (ITU), European Telecommunications Standards Institute (ETSI) Body of European Regulators for Electronic Communications (BEREC), as well as other regional and international regulatory authorities. The literature and data revealed that the most common best practices tend to focus mostly on broad themes and concepts. For example, QoS parameters are usually captured by three (3) types of measurements, i.e:

- Rate - This refers to the frequency of particular actions.
- Ratio - This refers to the proportion of actions that succeed or meet a prescribed standard.
- Time - This refers to the average time taken to complete successful actions.

The ITU's Quality of Service Regulation Manual 2017 (the Manual) outlines three (3) categories for QoS parameters, i.e.:

- Customer interface parameters;
- Network infrastructure parameters;
- Service functionality parameters.

The Manual gives examples of useful, appropriate and recommended QoS measures for various service types, as illustrated in the following tables:

**Table 1 - Customer Interface**

Broad QoS Area	QoS Parameter
Customer Interface	Complaint resolution times
	Rate of complaint submission
	Answer ratio for customer service calls

**Table 2 - Network Interface Parameters**

Broad QoS Area	QoS Parameter
Network Interface Parameters	Network coverage
	Fault repair time
	Time taken to supply service
	Rate of fault report submission

**Table 3 - Service Functionality**

Broad QoS Area	QoS Parameter
Service Functionality	Call setup success rate
	Call retention ratio
	Message transmission ratio
	Packet transmission ratio
	Voice call quality
	Data transmission capacity

The concepts outlined above are adhered to as best practice by regulators across the globe, such as the Bureau Telecommunications and Post St. Maarten and The Electronic Communications and Postal Regulatory Authority in France. In contemplating this review, the Commission sought to ensure that these concepts were carefully considered in order for the Standards of Service framework to remain informed by the sector's most current developments. It is against this backdrop that any adjustments proposed herein are made.

It has been found that many regulators continue to utilise measures similar to the Commission's Overall Standards of Service, as these measure the overall efficiency of providers in delivering service to the public. There are also some jurisdictions which impose measures similar, but not identical, to the Guaranteed Standards, in that financial penalties

are imposed per standard for non-compliance. For example, Singapore's Infocomm Media Development Authority prescribes a penalty of S\$50,000 (USD\$37,054) for each instance of non-compliance by service providers. The Telecommunications Regulatory Authority of India also imposes financial disincentives for failure to meet prescribed targets. While it is acknowledged that competitive environments engender high standards, as consumers themselves have greater choices in the selection of telecommunications service providers, this paper will attempt to illustrate that the level of competition in Barbados' market is still quite minimal and as a result a significant level of QoS regulation remains necessary.

Barbados' domestic fixed line services market is still, to a significant extent, controlled by a single provider. Digicel (Barbados) Limited (Digicel) has been a player in the fixed voice market for three (3) years and its network covers approximately 60% of premises in the country, indicating that C&W is fundamentally a monopoly provider for more than one-third of the country. In terms of total connections, Digicel's market share remains below C&W's and the Commission opines that this is unlikely to change significantly within the next few years. Moreover, C&W is the only provider in the country that provides a fixed voice-only service. Digicel's fixed voice service is only available bundled with a broadband subscription. Consequently, a significant proportion of the population, i.e. those who require only a home phone, has no choice besides C&W. The Commission opines that this segment of the population should remain protected in terms of the level of service available to them. Therefore, it is envisaged that a form of price control, such as the existing Price Cap Plan (PCP), will remain in place. When such a measure is in place, regulated entities can sacrifice service in order to lower costs and maximise profits. Thus, based on regulatory best practice, it is the Commission's view that the Standards of Service framework should remain in place for the foreseeable future or at least until other providers become more competitive in the domestic fixed line segment of the market.

**Q1: What are your views on the Commission's continued imposition of Standards of Service for Cable & Wireless' domestic fixed line service?**

### **3.2 Guaranteed Standards of Service**

The Guaranteed Standards of Service measure the performance of the regulated service provider in the delivery of its services to individual customers. Failure by the provider to meet the targets associated with these Standards requires compensatory payments to the individual customers in the form of credits to their accounts. Credits are normally applied in the month following the confirmation of the breach of the Standard.

C&W's overall performance under the Guaranteed Standards for 2018 was commendable, having attained high levels of compliance across the board with very few exceptions. The percentage scores in general for the Guaranteed Standards were all in the 80s and 90s, indicating above average levels of performance and more consistency than in previous years. As it relates to the business category of GTS 4, for letter-based complaints, there were a number of months where there were no instances from which to judge whether a breach had occurred. Hence, N/A was indicated here in lieu of a percentage compliance figure, as a true twelve (12) month average could not be computed. Under GTS 7, the residential category saw no instances of wrongful disconnection and consequently, there was no data from which to assess breaches and no meaningful average compliance percentage could be computed. With respect to the business category, there was one (1) instance of wrongful disconnection and this was not reconnected within the stipulated period, leading to an average compliance of 0%.

C&W's performance in 2019 was comparable to 2018, as C&W achieved commendable average compliance figures in all of the Guaranteed Standards. With respect to the lack of data for Wrongful Disconnection (GTS 7), it must be noted that in the business category there were sixteen (16) breaches and C&W reported an average compliance of 73.17%. However, for several periods during the year, there were no data, i.e. no instances of wrongful disconnection were reported and as such, a true twelve (12) month average could not be computed. It must be noted that in the fourth quarter, performance was unsatisfactory because of a high number of cases requiring investigation before corrective action could be taken. In the residential category, there were twenty-four (24) breaches and C&W reported an average compliance of 71.44%. Again, for several periods during the year, there were no data, i.e. no instances on which to report, and as such, a true twelve (12) month average could not be computed. It must be noted that performance was unsatisfactory in the third quarter, as C&W's automated disconnection system underwent

some technical changes during which there was an error. This error was not recognised until it had impacted customers and led to delays in service restoration. While in each instance a true average could not be computed based on the general methodology employed in the Commission's reports, C&W reported 303 instances of wrongful disconnection for the year, across both categories, with just 40 breaches, i.e. instances where service was not reconnected within the target time. All customers were appropriately compensated. C&W acknowledged the need to be prudent in ensuring that instances of wrongful disconnection are kept to a minimum. Overall, therefore, the performance gives no cause for concern.

In 2020, C&W continued to perform generally at the same level of average compliance as in the previous two (2) years. Performance in the Guaranteed Standards remained satisfactory, with a few exceptions and variances in performance for each Standard from period to period remained small. For example, with respect to Fault Repair (GTS 2), C&W achieved 87.03% compliance in the residential category, which was a reduction of just over 1% versus the previous year. In the business category, the average compliance achieved was 83.47% which represents a reduction of approximately 6% versus the previous year. Neither instance raised any major concerns.

Under Response to Customer Complaints (GTS 4) in the business category, average compliance for telephone/email complaints suffered greatly due to the COVID-19 pandemic. As many of the business agents are still subcontracted and need to interface with C&W corporate sales teams to exchange information, the fact that said teams were not in office for a period of the year meant that contractors' reports were not handled in the usual manner, leading to the poor performance. Regarding service delivery under the GTS 7 business category, C&W attributes poor performance to the fact that when customers report these disconnections to the contact centre, the more complex issues must be escalated to business support teams for investigation. This process usually takes much longer than the one (1) hour target time to complete. Table 4 below offers a comparative summary of C&W's performance from 2018 to 2020.

**Table 4 - Performance under the Current Guaranteed Standards of Service  
January 1, 2018 - December 31, 2020**

STANDARD	TARGET	AVERAGE % COMPLIANCE JAN 2018 - DEC 2018	AVERAGE % COMPLIANCE JAN 2019 - DEC 2019	AVERAGE % COMPLIANCE JAN 2020 - DEC 2020
<p><b>GTS 1 - Installation or Transfer of Service</b></p> <p>The time taken between the customer's application for service or transfer of service and the actual installation or transfer of service (from one location to another).</p>	<p>Residential Customers - No more than 7 working days<sup>2</sup></p> <p>Business Customers - no more than 5 working days</p>	<p>Residential - 94.75</p> <p>Business - 92.83</p>	<p>Residential - 98.54</p> <p>Business - 97.96</p>	<p>Residential - 97.99</p> <p>Business - 94.37</p>
<p><b>GTS 2 - Fault Repair</b></p> <p>The speed with which faults due to failure of C&amp;W equipment are repaired.</p> <p><b>Faults due to inside wiring or customer-owned equipment are not included. 'Fault' and 'Loss of Service' carry the same definition, which is outlined below.</b></p>	<p>No more than 2 working days</p>	<p>Residential - 83.75</p> <p>Business - 87.04</p>	<p>Residential - 88.11</p> <p>Business - 89.41</p>	<p>Residential - 87.03</p> <p>Business - 83.47</p>
<p><b>GTS 3 - Repeated Loss of Service</b></p> <p>The reoccurrence of a fault of the same nature, within 30 days of occurrence of the original fault, on C&amp;W's network.</p> <p><b>Loss of service is defined as disrupted or degraded service including, inter alia, no dial tone.</b></p>	<p>Faults should not reoccur within 30 days of repair of first failure.</p>	<p>Residential - 94.69</p> <p>Business - 94.31</p>	<p>Residential - 95.68</p> <p>Business - 94.03</p>	<p>Residential - 96.94</p> <p>Business - 94.36</p>
<p><b>GTS 4 - Response to Customer Complaints</b></p> <p>This refers to the timeframe in which</p>	<p>Acknowledgement within 7 working days after receipt of letters.</p>	<p>Residential - Letters - 100</p>	<p>Residential - Letters - 99.82</p> <p>Business -</p>	<p>Residential - Letters - 99.82</p> <p>Business -</p>

<sup>2</sup> "Working Days" refers to Mondays to Fridays from 8:00 a.m. to 4:00 p.m. only and excludes public holidays and weekends. In measuring the response time for targets expressed in terms of working days, the day the complaint is made is excluded. Any other reference to days means calendar days.

STANDARD	TARGET	AVERAGE % COMPLIANCE JAN 2018 - DEC 2018	AVERAGE % COMPLIANCE JAN 2019 - DEC 2019	AVERAGE % COMPLIANCE JAN 2020 - DEC 2020
C&W acknowledges a customer's complaint relating to billing or other standard of service issues.	Acknowledgement within 5 working days for telephone, fax or e-mail complaints.	Business - Letters - 100 <sup>3</sup>  Residential - Tel/Email - 96.21  Business - Tel/Email - 98.78	Letters - 100 <sup>4</sup>  Residential- Tel/Email- 96.74  Business - Tel/Email - 62.61	Letters - 83.33 <sup>5</sup>  Residential- Tel/Email- 99.46  Business - Tel/Email - 56.38
<b>GTS 5 - Customer Appointments</b>  These scheduled appointments pertain to visits by C&W's representatives to correct faults on their network up to and including the network interface device (NID) or optical network terminal (ONT), where access to the customer's premises is necessary but restricted.	All customer appointments should be honoured.  Appointments may be scheduled: Morning (8:00 a.m to 12:00 noon) or afternoon (12:01 p.m. to 4:00 p.m.).  This does not include appointments pertaining to customers' premises equipment.  Appointments may be rescheduled, however, the customer must be notified at least 8 working hours prior to the scheduled appointment.	Residential - 99.30  Business - 96.12	Residential - 99.06  Business - 96.58	Residential - 98.54  Business - 96.05
<b>GTS 6 - Reconnection after Disconnection for Non-Payment</b>  The timeframe in which customers are to	Reconnection of the service should occur within 6 working hours <sup>6</sup> of C&W's acknowledgement of payment.	Residential - 97.61  Business - 93.58 <sup>7</sup>	Residential - 99.89  Business - 100	Residential - 99.57 <sup>8</sup>  Business - 100 <sup>9</sup>

<sup>3</sup> Based on just 3 months of data as there were no instances in the remaining months to assess.

<sup>4</sup> Based on just 5 months of data as there were no instances in the remaining months to assess.

<sup>5</sup> Based on just 3 months of data as there were no instances in the remaining months to assess.

<sup>6</sup> "Working hours" are between 8:00 a.m. and 4:00 p.m. on a working day.

<sup>7</sup> Based on just 11 months of data as there were no instances in the remaining month to assess.

<sup>8</sup> Based on just 11 months of data as there were no instances in the remaining month to assess.

<sup>9</sup> Based on just 9 months of data as there were no instances in the remaining months to assess.

STANDARD	TARGET	AVERAGE % COMPLIANCE JAN 2018 - DEC 2018	AVERAGE % COMPLIANCE JAN 2019 - DEC 2019	AVERAGE % COMPLIANCE JAN 2020 - DEC 2020
be reconnected after settling outstanding balance and reconnection fee. Customers must notify C&W and provide proof of payment. C&W must acknowledge receipt of payment.				
<p><b>GTS 7 - Wrongful Disconnection</b></p> <p>This refers to situations where customers are deprived of service due to system errors by C&amp;W.</p> <p>This standard is not applicable where disconnection arises out of circumstances pertaining to an overdue amount, specifically C&amp;W's non-acknowledgement of payment.</p>	Reconnection within 1 working hour of notification.	Residential - n/a <sup>10</sup>  Business - 0	Residential - 71.44 <sup>11</sup>  Business - 73.17 <sup>12</sup>	Residential - 94.50  Business - 41.18 <sup>13</sup>
<p><b>GTS 8 - Billing Accuracy</b></p> <p>This refers to the incidence of billing errors on customers' individual billing statements.</p>	Billing errors are to be corrected within 30 days of notification by customer.	Residential - 99.98  Business - 100	Residential - 100  Business - 96.52 <sup>14</sup>	Residential - 100  Business - 82.28

## Proposed Changes to the Guaranteed Standards of Service

<sup>10</sup> N/A is used where there was no data from which to derive an average.

<sup>11</sup> Based on just 6 months of data as there were no instances in the remaining months to assess.

<sup>12</sup> Based on just 6 months of data as there were no instances in the remaining months to assess.

<sup>13</sup> Based on just 11 months of data as there were no instances in the remaining month to assess.

<sup>14</sup> Based on just 11 months of data as there were no instances in the remaining months to assess.



The Commission is of the view that the current Standards of Service framework has been effective and is not in need of significant overhaul at this point. However, there are a few changes that ought to be made in order to prudently adhere to international best practices and in so doing, enhance the usefulness of the framework. Perusal of a number of QoS frameworks imposed by regulators across the globe, such as those mentioned above, shows some common parameters with respect to fixed line telecommunications. A number of those are indeed currently captured in the Standards of Service, e.g. Fault Repair (GTS 2), Billing Accuracy (GTS 8) and Installation or Transfer of Service (GTS 1). However, when the area of consumer complaints is considered, these are handled differently under the Commission's current framework when compared to the aforementioned jurisdictions. The vast majority of examples seen tend to focus on two (2) main parameters, i.e. complaint resolution time/rate and complaint frequency. Since this section is concerned with the Guaranteed Standards, the relevant parameter is complaint resolution time as, due to their very nature, complaint resolution rate and complaint frequency would more appropriately fall within the Overall Standards.

The action proposed herein involves the removal of Response to Customer Complaints (GTS 4), which measures how quickly customer complaints are acknowledged, in favour of a parameter which measures how quickly and efficiently C&W resolves these complaints. Based on current observations of international frameworks, measures such as GTS 4 are no longer prevalent. Currently, GTS 4 seeks to measure the timeframe in which C&W acknowledges particular complaints across different media. It therefore invites a definition of what constitutes acknowledgement for each type of media and an evaluation of the importance of acknowledgement itself. While acknowledgement of complaints is not a trivial matter, extant QoS measures prescribed by the ITU seem to focus on measures such as frequency of complaints and complaint resolution times. Moreover, in practice, the data requirements and monitoring of GTS 4 tend to be cumbersome and onerous especially considering that the usefulness of this Standard has simply waned with the passage of time. Finally, in recent times, it is reasonable to consider that the social and economic fallout caused by the COVID-19 pandemic has had a negative impact on C&W's ability to achieve consistently satisfactory results under the Standard. C&W's contact centre in Guyana has been fraught with staff deficiencies due to the pandemic.

Notably, this proposed replacement parameter would be distinct from Fault Repair (GTS 2) in that GTS 2 is defined quite narrowly and refers specifically to faults on the network and the time in which they are repaired subsequent to the complaint being made. The proposed Standard would be general and cover all types of complaints including, inter alia, overbilling, failure to provide a printed or online bill, incorrect service allocation and C&W's failure to provide clear explanations about changes that affect the customer. For example, if a customer makes a complaint that there are charges on his/her bill that are abnormal or refer to calls that they did not make, this Standard would assess how quickly this issue is resolved in a fair and equitable manner. This Standard would also seek to address disputes between C&W and the customer. If for example, the customer's service is barred and this leads to a dispute over the validity of said bar, the Standard would stipulate the maximum time in which C&W must resolve said dispute.

### *The Proposal*

In view of the analysis outlined above, the Commission is proposing the establishment of two (2) new Guaranteed Standards. The first is to be called Customer Complaint Resolution Time and this will replace the existing Response to Customer Complaints Standard. This parameter would measure the time taken by C&W to resolve a customer's complaint or dispute from the time the complaint is made either via telephone, email or post. As customary, complaints would be broken down into residential and business categories. Based on conversations with C&W, a target time of seven (7) days from the time the complaint is submitted by the customer is proposed. For the avoidance of doubt, **the term 'complaint' would be defined as any expression of dissatisfaction by a consumer of C&W's regulated services, related to service/network functionality, billing or customer service. Issues caused by customers' internal wiring shall not be covered by this Standard.**

The Commission would consider a complaint as resolved once the final action is in line with established and known procedures, based on the evidence provided by both C&W and the complainant and there is evidence of that action (including notifying the affected party of the final action taken). This Standard will require an adjustment to the existing complaint handling mechanism. Resolution will be interpreted as compliance by the service provider with the relevant Acts, License Agreement, regulations, service level agreements and other

provisions for complaint determination. In contentious matters where there is a dispute between C&W and the customer, the Commission would review all of the available evidence and make a final determination.

As it relates to the issue of account cancellation requests, the second new proposed Guaranteed Standard would be Account Cancellation Time after Customer Request. This would stipulate target times for the complete cancellation of accounts after the receipt of a request by a customer. The Commission proposes that the target time should be five (5) working days for both residential and business customers. There would be a requirement that all requests for cancellation be recorded via analog or electronic means and each customer be given a copy of said request. C&W would not be allowed to issue any new charges on the account for any period after the request is made. Account cancellations should not be conditional on settlement of balances owed. This, however, does not suggest that customers are excused from settling outstanding debts. It merely dictates that account cancellations should proceed regardless of those debts. Should C&W fail to cancel the account within the specified time, each affected customer would be entitled to a compensatory credit as outlined below.

**Table 5 - New Proposed Guaranteed Standards**

<b>STANDARD</b>	<b>SERVICE CATEGORY</b>	<b>TARGET</b>	<b>COMPENSATION</b>
<b><u>GTS 4</u></b>	<b>Customer Complaint Resolution Time.</b> This refers to the time taken to resolve an individual customer’s complaint from the time the complaint is made.	No more than 7 days for both business and residential customers.	A credit of \$30.00 to each affected customer.  <b>Automatic Compensation</b>
<b><u>GTS 5</u></b>	<b>Account Cancellation Time after Customer Request.</b> This stipulates the time taken to completely terminate an account after a request by a customer.	No more than 5 working days for both business and residential customers. C&W is not allowed to bill the customer beyond the allowed 5 working days after the termination request was made.	A credit of \$15.00 to each affected customer.  <b>Automatic Compensation</b>

**Q 2: What are your views on the establishment of a new Guaranteed Standard called Customer Complaint Resolution Time that replaces Response to Customer Complaints (GTS 4)?**

**Q 3: What are your views on the establishment of a new Guaranteed Standard called Account Cancellation Time after Customer Request?**

**Claims Summary**

Between 2018 and 2019, the percentage of eligible customers that received compensation fell slightly from 97.9% to 92.1%. A further decline to 85.0% was recorded in 2020.

**Table 6 - Customer Claims Summary January 2018 to December 2020**

<b>CATEGORY</b>	<b>January 2018 - December 2018</b>	<b>January 2019 - December 2019</b>	<b>January 2020 - December 2020</b>
Persons eligible for compensation	7,316	4,404	3,733
Persons actually receiving compensation	7,162	4,055	3,159
Percentage of eligible customers receiving compensation	97.90	92.1%	85.0%

In 2018, total eligible compensation was \$66,330.00. For the subsequent years in the period under review, the corresponding amounts were \$35,925.00 (2019) and \$40,590.00 (2020). While it appears that there is no need for substantial changes to the compensation and claims system at this time, the matter of unclaimed compensation must be examined. The Commission is concerned that in many instances, eligible compensation is unclaimed either due to certain Standards still requiring manual claims or a general lack of knowledge of the Standards of Service framework. As shown in the table above, for each year the number of persons actually receiving compensation is less than those that were actually eligible. A proposed course of action to remedy this would be to have automatic compensation for all Guaranteed Standards.

**Q 4: What are your views on implementing automatic compensation for all Guaranteed Standards?**

C&W's public education requirement as it relates to Standards of Service is outlined below. While this mandate has been fulfilled, the placement of the Standards on C&W's website is sub-optimal as it cannot be easily located and therefore does not generate significant traffic. C&W must be reminded of the need to assist the general public in gaining awareness of

consumer rights under the Standards of Service and about the Company's fault reporting process. Therefore, the Commission proposes that C&W continue to be required to:

- a) Publish the Standards of Service clearly **and prominently, to the satisfaction of the Commission** on its website and in **all** of its social media channels;
- b) Twice a year, publish in at least two (2) forms of local news media the Standards of Service as well as its fault reporting process; and
- c) Inform customers who make complaints of the means via which compensation may be sought, via telephone, email and the post.

**Q 5: Should C&W be required to publish the Standards of Service and its fault reporting process, clearly and prominently, to the satisfaction of the Commission, via its website, social media channels, as well as two (2) forms of news media, in addition to informing customers who make complaints of the means via which compensation may be sought? Please give reasons for your answer.**

### **3.3 Overall Standards of Service**

Overall Standards assess the company's countrywide performance in its provision of fixed line services and are not associated with compensation to individual customers. However, where a breach persists, the Commission may, at its discretion, invoke Section 43 of the FTCA and Sections 31 and 38 of the URA, which allow for the imposition of fines.

The performance of C&W with respect to the Overall Standards for the past three (3) years is shown in Table 7 below. Fault Repair (OTS 1), despite not achieving the required target in 2020 shows a general upward trend, going from 68.38% in 2018 to 72.01% in 2020. A number of explanations were given for dips in the performance of this Standard that occurred during the year. For example, in the fourth quarter C&W indicates that rainfall during the period hampered technicians' ability to fix issues that required pole climbing. Moreover, there was an issue with the receipt and deployment of equipment necessary to effect repairs where replacements were required, likely exacerbated by the COVID-19 pandemic. With respect to Customer Service Response Time (OTS 6), C&W failed to meet the target, with average performance of 58.43%. C&W states that performance under this Standard for 2020 was negatively impacted by the COVID-19 situation in Guyana, where the call centre is located, as it suffered from significant staff depletion. In 2019 C&W

attributed its subpar performance to the quantum of outage complaints, due to copper theft, in combination with a move to a new contact centre in Guyana.

In general, C&W performed admirably in the remainder of the Overall Standards and met or exceeded the required targets. While Standards such as Billing Accuracy (OTS 5) and Fault Incidence (OTS 4) continue to show commendable performance from year to year, no data was collected for Working Payphones (OTS 3) in the three (3) year period.

**Table 7 - Overall Standards of Service January 2018 to December 2020**

<b>OVERALL STANDARDS</b>	<b>TARGET</b>	<b>AVERAGE % COMPLIANCE JAN 2018 - DEC 2018</b>	<b>AVERAGE % COMPLIANCE JAN 2019 - DEC 2019</b>	<b>AVERAGE % COMPLIANCE JAN 2020 - DEC 2020</b>
<b>Fault Repair (OTS 1)</b>	80% of faults should be repaired within a 24-hour period.	68.38	82.32	72.01
<b>Repeated Loss of Service (OTS 2)</b>	No more than 5% of faults should reoccur within 30 days of repair of first failure.	94.62	95.04	96.63
<b>Working Payphones (OTS 3)</b>	At least 75% of the public payphones should be in working order daily.	N/A	N/A	N/A
<b>Fault Incidence (OTS 4)</b>	No more than 3 faults per 100 subscribers per month.	1.9	1.65	1.20
<b>Billing Accuracy (OTS 5)</b>	Billing errors must be no more than 0.5% of the total bills issued.	99.60	99.68	87.59
<b>Customer Service Response Time (OTS 6)</b>	At least 80% of calls must be answered within 60 sec. of being handed off by the IVR system to the service representative queue.	78.96	50.91	58.43

### **OTS 3 Working Payphones**

C&W has failed to submit data over the past three years under this Standard in breach of the Standards of Service. C&W claims that it no longer uses its previous payphone management system due to the declining revenues from payphones. This now defunct system provided reports on the income generated by the various payphones around the

island. This report would give an indication of the numbers of payphones that were faulty. While the Commission acknowledges that payphone use is declining locally and internationally, C&W's status as the universal service provider requires it to provide payphones as a part of this service. As such the Commission is inclined to maintain the current Standard. There is indeed merit in advocating for changes in the universal service obligations (USO) to bring this more in alignment with current technologies and this may be pursued in due course. Therefore, it is proposed that the Standard remain unchanged at this juncture.

### **Proposed Changes to the Overall Standards of Service**

In terms of adding to the framework, it is proposed that a Standard which measures and evaluates the rate of complaint resolution be implemented. As mentioned previously, a Standard which could be designated Complaint Resolution Rate, would be in line with international best practices in QoS. It would set a minimum target for the amount of total complaints versus the amount of total complaints resolved on a monthly basis. This could be an effective measure of overall customer satisfaction as well as the effectiveness of C&W's customer service framework with respect to dissatisfied customers. Due to the wide ranging complexity of complaints, from not complex at all to highly complex, C&W has indicated that it is likely to achieve a minimum acceptable rate of 75%. Moreover, given C&W's suggestion that the corresponding Guaranteed Standard have a target of seven (7) days, the Commission considers it appropriate to, in this instance, follow a structure used by the ITU in outlining the target. This structure would be dual in nature, with one target tied to one time period and another tied to a different period. As such, the target for this Standard would be on a monthly basis, 75% of all complaints should be resolved within seven (7) days while 95% of all complaints should be resolved within fourteen (14) days.

#### ***OTS 6          Customer Service Response Time***

C&W has indicated that under this Standard, it provides data based on its own internal key performance indicator (KPI), where the target is 70% of calls answered within 40 seconds. This measure is more stringent than the Standard set by the Commission. As a result, the Commission's Telecommunications Panel determined that C&W's stricter KPI would automatically indicate compliance with the Commission's measure. Consequently, the

Commission considers it prudent to propose adjusting the target for OTS 6 to match that of C&W's KPI.

**Proposed adjustments to the Overall Standards of Service**

**Table 8 - Adjustments to Overall Standards**

STANDARD	TARGET	STANDARD	NEW TARGET
<p><b>OTS 6 - Customer Service Response Time</b></p> <p>This Standard stipulates the target for the time taken by a customer service representative to answer a call after it is handed off by the Interactive Voice Response (IVR) system.</p>	<p>At least 80% of calls must be answered within 60 sec. of being handed off by the IVR system to the service representative queue</p>	<p><b>OTS 6 - Customer Service Response Time</b></p> <p>This Standard stipulates the target for the time taken by a customer service representative to answer a call after it is handed off by the Interactive Voice Response (IVR) system.</p>	<p>At least 70% of calls must be answered within 40 sec. of being handed off by the IVR system to the service representative queue</p>

**Table 9 - Proposed addition to Overall Standards**

STANDARD	TARGET
<p><b>OTS 7 - Complaint Resolution Rate</b></p> <p>This Standard stipulates the target for the amount of customer complaints successfully resolved given the amount of total complaints submitted on a monthly basis.</p>	<p>On a monthly basis, a minimum of 75% of all complaints must be resolved within 7 days while a minimum of 95% of all complaints must be resolved within 14 days.</p>

**Q 6: What are your views on the implementation of a new Standard for Complaint Resolution Rate?**

**Q 7: What are your views on adjusting the target for OTS 6 to match that of C&W's internal KPI?**





## SECTION 4 GENERAL EXEMPTIONS

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The Commission acknowledges that failure to meet the Guaranteed Standards of Service may be driven by circumstances or events beyond the control of the service provider. Consequently, the Standards of Service are placed in abeyance in circumstances where conditions, outside the control of C&W, make it impossible to meet the targets. The term used to define these events is *Force Majeure*. Black's Law Dictionary (2009) defines *Force Majeure*<sup>15</sup> as:

*"An event or effect that can be neither anticipated nor controlled; esp., an unexpected event that prevents someone from doing or completing something that he or she had agreed or officially planned to do. The term includes both acts of nature (e.g. floods and hurricanes) and acts of people (e.g. riot, strikes and wars)."*

The Standards of Service regime states that the *force majeure* conditions under which the exemptions from the Standards of Service may be granted are:

- (a) An act of war (whether declared or not), hostile invasion, act of foreign enemies, terrorism or civil disorder;
- (b) A strike or strikes and/or other industrial action or blockade or embargo or any other form of civil disturbance (whether lawful or not);
- (c) Landslides, lightning, hurricanes, floods, storm, earthquakes, volcanic eruptions tsunami or any other natural disaster of overwhelming proportions;
- (d) Riots;
- (e) Civil commotion;
- (f) Acts or threats of terrorism;
- (g) Insurrections;
- (h) Epidemics and/or Pandemics
- (i) Trade restrictions;
- (j) Inability to obtain any requisite Government permits; and

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<sup>15</sup> Bryan Garner, Black's Law Dictionary (United States: Thomson Reuters, 2009), 718.

- (k) Breakdown of machinery or equipment or any other force or cause of similar nature not within the control of the company and which by the exercise of diligence it is unable to avoid, prevent or mitigate.

#### **4.1 Other Exemptions and Conditions**

The Commission is cognisant that other circumstances may exist from time to time which might impede C&W's ability to meet the prescribed Standards of Service. In such circumstances, where a customer is dissatisfied with C&W's application of an exemption, that customer may seek the Commission's guidance. Thereafter, the Commission may authorise C&W's action or require an alternative approach.

The situations which might fall into this category may include but are not limited to the following:

- (a) Where C&W is requested by a public authority to provide emergency communication to assist in emergency action and the provision of such services restricts the connection of a customer to a specified service or the rectification of a fault or service difficulty;
- (b) Where C&W is prevented from providing a connection to a specified service, or the rectification of a fault or service difficulty due to the service provider being unable to obtain lawful access to the land or a facility;
- (c) Where a law of Barbados prevents C&W from complying with the service standard;
- (d) After following C&W's credit and disconnection guidelines, the customer has not paid applicable charges and remains disconnected;
- (e) Where the customer is required to pay a charge to the service provider for the connection to the service or for the use of the service;
- (f) Where C&W has reasonable grounds to believe that the customer would be unwilling or unable to pay the charge as it becomes due;
- (g) Where there is a negligent and willful act by the customer;
- (h) Where the breach is due to malfunction of the customer's own equipment;
- (i) Where C&W is unable to gain access to the customer's premises at the time agreed with the customer for such access; and

- (j) Other unforeseeable circumstances beyond the control of the parties against which it would have been unreasonable for the affected party to take precautions and which the affected party cannot foresee by using its best efforts.

It is proposed that these aforementioned established exemptions be maintained. The Commission expects that reasonable consideration will be given to the customer under similar circumstances including but not limited to the customer's obligation as aforementioned.

## SECTION 5 MONITORING AND ENFORCEMENT OF STANDARDS

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The performance of C&W must be monitored over time to ensure that there is adherence to the set standards. Furthermore, it is proposed that these standards will be valid for a period of three (3) years, with a review at the end of this period. Ultimately, standards are important in ensuring there is public accountability.

C&W will be required to submit quarterly regulatory reports. These reports must include information on:

- The number of breaches under each Guaranteed Standard;
- The actual average time taken to respond to and/or rectify issues referred to under each Guaranteed Standard;
- The level of compliance, as a percentage, of each Overall Standard; and
- Details of any extenuating circumstances that would have prohibited the Company from achieving the targets of the Overall Standards.

C&W will be required to submit annual reports. These reports, in addition to the above, must include information on:

- The number of customers eligible for compensation during the previous financial year;
- The total value of eligible compensation;
- The number of customers actually receiving compensation; and
- The value of compensation remitted.

The Commission, in the last Decision on the Standards of Service (September 29, 2017), determined that C&W is required to submit the value of compensation payable under each Guaranteed Standard of Service in each quarterly and annual report. At present C&W submits the actual rebates paid under each Guaranteed Standard. This does not specifically comply with what was outlined in the aforementioned Decision. Consequently, the Commission proposes that C&W be required to continue providing actual rebates under each Guaranteed Standard as well as introduce reporting on the eligible rebates payable under each Standard as was originally required.

**Q 8: What are your views on requiring C&W to provide the value of eligible AND actual compensation broken down by Standard?**

**Q 9: What other improvements would you suggest for the level of reporting?**

The Commission reserves the right to conduct independent investigations that seek to determine the extent to which the service provider is meeting the Standards of Service.

If the service provider continually fails to meet an Overall Standard, particularly to the point where service is severely hampered, and it appears that the service provider has not made a reasonable effort to rectify the breach, the service provider will provide an explanation to the Commission.

The authority to make rules, regulations and orders in respect of penalties for non-compliance of the relevant Standard comes from Section 38 of the URA which states the following:

*“The Commission may make*

*a) rules;*

*b) regulations;*

*c) orders with respect to*

*i) imposing penalties for non-compliance with prescribed standards of service;*  
*and;*

*ii) prescribing amounts to be paid to the person referred to in section 21 for failure to provide a utility service in accordance with the standards of service set by the Commission.”*

### **Public disclosure of information**

Information pertaining to the level of compliance by the Company, with the prescribed Guaranteed and Overall Standards of Service, will be made available to the public on an annual basis. All Standards of Service data, including compensation amounts, would be publicised periodically

## **Public Education**

The service provider will be required to make available to its customers a detailed list of the approved Guaranteed and Overall Standards of Service. This list shall include information on the service categories, target times and compensatory payments, where applicable. The Company's fault reporting process is to be made known to the public and the appropriate contact numbers included. The service provider will also be required to widely publicise the means via which compensation for breaches may be sought.

## SECTION 6 LIST OF QUESTIONS

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- Q 1:** What are your views on the Commission's continued imposition of Standards of Service for Cable & Wireless' domestic fixed line service?
- Q 2:** What are your views on the establishment of a new Guaranteed Standard called Customer Complaint Resolution Time that replaces Response to Customer Complaints (GTS 4)?
- Q 3:** What are your views on the establishment of a new Guaranteed Standard called Account Cancellation Time after Customer Request?
- Q 4:** What are your views on implementing automatic compensation for all Guaranteed Standards?
- Q 5:** Should C&W be required to publish the Standards of Service and its fault reporting process, clearly and prominently, to the satisfaction of the Commission, via its website, social media channels, as well as in two (2) forms of news media, in addition to informing customers who make complaints of the means via which compensation may be sought? Please give reasons for your answer.
- Q 6:** What are your views on the implementation of a new Standard for Complaint Resolution Rate?
- Q 7:** What are your views on adjusting the target for OTS 6 to match that of C&W's internal KPI?
- Q 8:** What are your views on requiring C&W to provide the value of eligible AND actual compensation broken down by Standard?
- Q 9:** What other improvements would you suggest for the level of reporting?



## SECTION 7 CONSULTATION PROCESS

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This consultative document includes a series of specific questions for which the Commission is seeking comments. To facilitate the analysis of submissions, respondents should reference the relevant question numbers in the document. If they consider it appropriate, respondents may wish to address other aspects of the document for which the Commission has not prepared specific questions. Failure to provide answers to all questions will in no way reduce the consideration given to the entire response. Commercially sensitive material should be clearly marked as such and included in an annex to the response.

### **Responding to this Consultation Paper**

The Commission invites and encourages written responses in the form of views or comments on the matters discussed in the Paper from all interested parties including C&W, other licensed operators, Government ministries, non-governmental organisations (NGO'S), consumer representatives, consumers, businesses and all other interested parties.

The Consultation period will begin on April 23, 2021 and end May 20, 2021 **at 4:00 p.m.** All written submissions should be submitted by this deadline. The Commission is under no obligation to consider comments received after 4:00 p.m. on May 20, 2021

The Consultation Paper may be downloaded from the Commission's website at <http://www.ftc.gov.bb>. Respondents to the Consultation may submit responses in electronic format. The Commission would prefer that email responses forwarded to [info@ftc.gov.bb](mailto:info@ftc.gov.bb) be prepared as Microsoft Word documents and attached to an email cover letter.

Responses may also be faxed to the Commission at (246) 424-0300. Mailed or hand delivered responses should be addressed to the Chief Executive Officer, Fair Trading Commission, Good Hope, Green Hill, St. Michael.

## **Confidentiality**

The Commission is of the view that this consultation is largely of a general nature. The Commission expects to receive views from a wide cross section of stakeholders and believes that views and comments received should be shared as widely as possible with all respondents.

**Respondents should therefore ensure that they indicate clearly to the Commission any response or part of a response that they consider to contain confidential or proprietary information.**

## **Analysis of Responses**

The Commission expects, in most consultations, to receive a range of conflicting views. In such circumstances, it would be impossible for the Commission to agree with all respondents. Through its decision, the Commission will seek to explain the basis for its judgments and where it deems appropriate, give the reasons why it agrees with certain opinions and disagrees with others. Instances may arise where analysis of new evidence presented to the Commission will cause it to modify its view. In the interests of transparency and accountability, the reasons for such modifications will be set out and where the Commission disagrees with major responses or points that were commonly made it will, in most circumstances, provide justification.