Fair Trading Commission

CONSULTATION PAPER

REVIEW OF THE PRICE CAP PLAN 2012

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ANTECEDENT DOCUMENTS

Document Number	Description	Date
FTC/UR/DEC/2012-02	Decision on Price Cap 2012 Compliance Rules and Procedures	May 22, 2012
FTC/UR/DEC/2012-01	Decision on Price Cap Plan	March 29, 2012
FTC/UR/CONS/2012-01	Consultation on Review of the Price Cap Plan 2008	February 10, 2012
FTC/UR/2008-03	Decision on Price Cap Plan 2008	June 23, 2008
FTC/UR/2008-02	Second Decision on Price Cap Plan 2008	June 23, 2008
FTC/UR/2008-01	First Decision on Price Cap Plan 2008	February 1, 2008
FTC/CONS/2007-01	Consultation on Review of the Price Cap Mechanism	September 19, 2007
FTC/UR/2005-02	Decision on Price Cap Mechanism	June 15, 2005
FTC/CONS/2005-01	Consultation on Price Cap Mechanism: Principles and Methodology Part 11	February 2, 2005
FTC/UR/2005-01	Decision on Price Cap Mechanism	April 15, 2005
FTC/CONS/02-04	Consultation on Price Cap Mechanism	September 6, 2004

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This Consultation Paper is not a legal document and does not constitute legal, commercial or technical advice. The Commission is not bound by this document. The consultation is without prejudice to the legal position of the Commission or its rights and duties to regulate the telecommunications market generally.

INTERPRETATION SECTION

Actual Price Index (API) – means the actual level of prices in a service basket and should not exceed the price cap index.

C&W – means Cable and Wireless (Barbados) Limited, the regulated service provider of domestic and international telecommunications services, pursuant to Utilities Regulation Order S.I. 2014 No. 65 and the Barbados subsidiary of Cable and Wireless Communications Plc

Columbus Telecommunications – means Columbus Telecommunications (Barbados) Ltd. and the Barbados subsidiary of Columbus International Inc.

Exogenous Factor (Z-Factor) – means a component of the price cap formula incorporating a change, specific to the telecommunications industry, having a material impact on the regulated telecommunications provider, resulting from actions which are beyond the control of the provider.

Inflation Factor – means the percentage change in the average consumer price index (CPI) between two periods.

Legacy Customers – means customers of the pre-merger entity.

Legacy Fixed Telephony Services means the telephony services in existence pre-merger.

Merged Entity – means the company in existence as a result of the merger between Cable and Wireless Communications plc and Columbus International Inc.

Price Cap Index (PCI) – means the constraint that specifies the maximum level of aggregate price change for a service basket. The PCI consists of an inflation factor (I) a productivity offset (X) and an exogenous factor (Z).

Productivity Offset (X-factor) – means the target productivity to offset the inflation rate in the price cap formula.

Regulated Services - means the utility services designated by the Minister pursuant to the Telecommunications (Regulated Services) Order S.I. 2006 No. 5.

Service Baskets – means a group of services subject to pricing constraints in the Price Cap Plan.

REVIEW OF THE PRICE CAP PLAN 2012

PURPOSE OF CONSULTATION

1. The Fair Trading Commission "the Commission" is reviewing the outcome of the Price Cap Plan 2012 (PCP 2012) Decision, the duration of which was initially from March 31st 2012 to March 31st 2015, with a further extension by a year to March 31st 2016.

   The Commission established a price cap framework to replace rate of return as a system for the economic regulation of Cable & Wireless (Barbados) Ltd.'s (C&W) regulated services[1] in 2005. The Commission's Decision at the time included provisions for a review of the Price Cap Plan prior to its conclusion. The last such review occurred in 2012 (i.e. at the time of the expiry of the Price Cap Plan 2008, which fed into the PCP2012).

   Due to the impending expiry of the current Price Cap Plan, the Commission is now undertaking a review of the PCP2012. This public consultation is an element of the review. The purpose of this consultation is to obtain public input which will help the Commission in ascertaining whether:

   - there remains a need to regulate, on an ex-ante basis, C&W's regulated services; and if so, whether
   - to modify the principles, rules or parameters of the Price Cap Plan

The Commission encourages the widest possible participation in this consultation process.

STRUCTURE OF CONSULTATION PAPER

This Paper is divided into six sections.

2. ***Section 1*** provides an overview of the Price Cap Plan currently in place and recent trends in prices and demand under the Price Cap Plan.

3. ***Section 2*** examines the continued need for price cap regulation, based on a review of the recent market developments.

[1] Information on the Legislative Framework is provided in Appendix 1

4. ***Section 3*** looks at the proposed scope and structure of the Price Cap Plan 2016 if retained. This includes a discussion on the basket structure, duration of Price Cap Plan , the price cap formula and key parameters within it.

5. ***Section 4*** discusses further elements of the proposed Price Cap Plan 2016, including the treatment of fixed telephony customers acquired as part of the merger with Columbus Telecommunications, the merits of a carryover provision and the treatment of specific services within a PCP 2016.

6. ***Section 5*** advises on the price cap administration that will facilitate the Commission's monitoring of the Price Cap Plan in order to ensure compliance by C&W.

7. ***Section 6*** provides details on the consultative process which will begin on Monday, February 8, 2016.

SECTION 1 – EXISTING PRICE CAP PLAN

8. The general principle of the price cap regulation is to allow some flexibility in the structure of prices, provided that overall level of prices is constrained such that the average change in prices charged by C&W and measured by the Actual Price Index (API), does not exceed the Price Cap Index (PCI). The PCI is expressed as Inflation (I) minus Productivity (X).

9. The current PCP 2012 was set up in 2012 upon expiry of the second Price Cap Plan which commenced in 2008.[2] It was initially set to cover the period from March 31st 2012 to March 31st 2015, but was later extended to March 31st 2016[3].

10. The PCP 2012 imposed a required average price change (in the form of an 'I-X' price cap) on C&W's regulated fixed telephony services. The price cap formula required C&W to set its retail prices over a time period (t) such that the price changes for a basket (k) measured by the Actual Price Index (API) is less than or equal to the Price Cap Index (PCI).

$$API_t^k \leq PCI_t^k$$

Where the price cap index is calculated as

$$PCI_{t-1}^k \left(1 + I_t - X_t^k \pm Z_t^k\right) = PCI_t^k \text{ , and}$$

I *is an allowance for inflation adjustment*

X *is the productivity adjustment factor that should incentivise C&W to pass its efficiency savings to its customers, and*

Z *is an additional allowance for unforeseen events, out of the control of C&W which affect the income of C&W negatively.*

Basket Structure

11. The PCP 2012 grouped C&W's regulated services into two separate service baskets:

[2] FTC/UR/DEC/2012-01, Price Cap Plan 2012; Final Decision, March 29, 2012

[3] FTC Public Notice – Extension of the Price Cap Plan, dated 26 November 2014, accessible at: http://www.ftc.gov.bb/index.php?option=com_content&task=view&id=279

a. **'Competitive' basket**

Fixed international outgoing calls, international calling cards

International calls from payphones, domestic and international operator assistance and international private leased circuits are contained in Basket 1.

b. **'Non-competitive' Service Basket**

All remaining regulated services including residential access, business access, voicemail and domestic leased circuits are included in Basket 2.

12. There was also a 'sub-cap' placed within Basket 2, specifically applying to residential access services. This takes account of the importance of these services to residential customers.

13. The main aim of this basket structure was to constrain the prices of non-competitive services overall to the level where C&W could expect to earn a reasonable return, whilst separately capping the rate of price change for residential access services.

14. The contents of each basket and the corresponding price control are shown below.

Table 1. **Price Caps and Basket Structure Under the PCP 2012**

Structure		**Price Control**
Basket 1	Fixed international outgoing calls, international calling cards International calls from payphones, Domestic and international operator assistance and International private leased circuits.	These services are not subject to a price control.
Basket 2	All remaining regulated services including residential access, business access, voicemail, call waiting and domestic private leased circuits (DPLC).	0% increase until March 2013. In the remaining years the productivity X factor was set to 5.25%.
Sub cap (within Basket 2)	Domestic residential access services.	0% increase until March 2013. In the remaining years, prices are allowed to increase in line with inflation up to 5%.

Key trends in regulated prices and volumes during the current Price Cap Period

15. The Commission has assessed, where possible, the actual performance relative to the forecasted performance of the PCP 2012, considering both demand for regulated services and the financial performance.

16. As part of this review the Commission considered the following:
    a. the degree to which the Price Cap Plan has been adhered to by C&W when setting prices; and
    b. whether, overall, C&W's operational and financial performance has been in line with the forecasts underlying the current price cap model[4].

17. The key findings of the review can be summarised as follows:
    a. C&W prices for regulated services are in line with the requirements set under the current Price Cap Plan.
    b. Demand for fixed lines was broadly in line with the forecasts contained in the Price Cap Plan, with overall traffic declining less than forecast but with higher reductions for some call services.

Retail Price Changes under the PCP 2012

18. Table 2 sets out the price changes of selected regulated services within the non-competitive service basket (Basket 2) during the first three years of the current price cap regime. As the one year extension of the price control is still on-going, this table does not include price changes in this year.

[4] The Commission has not examined the current profitability of individual services and C&W's overall price capped business, and thus assessed whether the Price Cap Plan has been successful in bringing prices in line with costs. This is because a number of one-off financial events have occurred during the PCP 2012 period, which have distorted the view of C&W's underlying profitability on price capped services over this period. These include a significant re-structuring of the C&W business in this period, and the write-down and divestment of some network assets.

Table 2. Price Changes of Selected Regulated Services During PCP2012

Service	Average retail price April 2012	April 2015	Overall price change
Residential services			
Residential exchange line (excl. VAT)	$37.44	$37.44	**0.0%**
Residential installation charge (excl. VAT)	$98.00	$98.00	**0.0%**
Voicemail	$8.00	$6.81	**(14.8%)**
Call waiting	$7.25	$6.29	**(13.2%)**
Business services			
Business exchange line (excl. VAT)	$80.00	$79.00	**(1.2%)**
DPLC - 64kbps (excl. VAT)	$300.00	$300.00	**0.0%**
DPLC - 256kbps (excl. VAT)	$620.00	$620.00	**0.0%**
DPLC - 1544kbps (excl. VAT)	$1425.00	$1425.00	**0.0%**

19. The table reveals that over the last three years:

    a. Retail prices for key residential fixed telephony services, such as line rental and installation charges, have remained constant in nominal terms, whilst prices for other residential services, such as voicemail and call waiting, decreased.

    b. Prices for business line rental services have declined in nominal terms; those for domestic private leased circuit (DPLC) services have remained constant in nominal terms.

20. Prices for Basket 2 as a whole decreased by 2.4% over the price cap period. This overall decrease is equal to the price decrease specified in the Price Cap Plan. As such, this suggests that the price control acted as a binding constraint on prices for non-competitive services. In other words, if the price control had not been in place, C&W could have set prices at least as high as these prices.

21. In respect to C&W's residential access services, there has been no price changes over the first three years of the price cap period, despite the allowable increases of 4.5% and 1.9% in the second and third years of the cap[5]. This implies that the sub-cap did not act as a binding constraint on C&W's pricing of residential access

[5] The figures of 4.5% and 1.9% represent the actual inflation rate in these years.

services. While the sub-cap did not actively restrict the price setting of these services, such a cap may still be a useful safeguard to ensure that there is a fair distribution of efficiency gains and price reductions across the price capped services.

Demand Trends under the PCP 2012

22. **Table 3** below sets out the changes in volumes of selected regulated services over the years 2011/12 to 2014/15 of the current price cap regime.

Table 3. Volume changes of Selected Regulated Services during PCP2012 – Forecasts underlying PCP2012 and Actuals[6]

Service	Forecast percentage change (2011/12 to 2014/15)	Actual percentage change (2011/12 to 2014/15)
Access lines	0%	(0.8%)
Total domestic calls	(19%)	(15%)
Fixed On-net Local	(19%)	(46%)
Fixed On-net Trunk	(19%)	(6%)
International outgoing calls	(9%)	(27%)
Voicemail	(40%)	(0.7%)
Value Added Services (VAS)	(14%)	(21%)
Payphone	(43%)	(99%)

23. The table reveals that over the last three years:

a. The total number of **fixed access lines** has decreased by 0.8% between 2011/12 and 2014/15, broadly in line with the forecasts underlying the Price Cap Plan.

b. Most **traffic volumes** have declined over time but overall traffic is still higher than originally forecasted. In particular:

[6] The Commission notes that the range of services presented in this table constitute a subset of C&W regulated services only. As stated above, the Commission is still validating certain data points with C&W.

i. International outgoing fixed call traffic volumes also declined.

ii. Traffic for some individual domestic fixed call services, such as on-net local calls, decreased more than was forecast.

c. The recent demand trends for **other residential regulated fixed telephony services** have been varied. For example:

   i. the actual volumes of calls to voicemails remained broadly constant in recent years, compared to an anticipated decline by 40% under the Price Cap Plan;

   ii. the decline in VAS volumes was larger than forecast; and

   iii. the actual volumes of calls made from payphones were significantly below the forecast levels.

   These trends would be further explored in the following section.

SECTION 2 – THE CONTINUED NEED FOR RETAIL PRICE CAP REGULATION

24. When examining the continued need for and design of the retail price control regime, it is important to take into account the expected future competitive dynamics.

25. To this end, the Commission has reviewed the relevant market developments, taking into consideration submissions made by C&W on recent and expected future trends in competition in the fixed telephony market. The Commission expects there to be a number of developments in the telecommunications market in the coming years. These can be broadly divided into two areas: technological changes which may lead to constraints on C&W fixed prices from services that were previously in other markets and; changes in the number of players in the fixed market.

Technological Changes

The key technology developments are the likely deployment of 4G/Long Term Evolution (LTE) mobile technology, and increased penetration of over-the-top (OTT) services (i.e., call and messaging services provided over the Internet, rather than a service provider's own dedicated network).

Fixed to mobile substitution

26. Demand for mobile services has remained high over the current price cap period, with this likely to continue to be the case. For example, mobile calls that use C&W's network increased by over 50% between 2011/2012 and 2014/2015. However, the Commission has not seen evidence to date that mobile calls are substitutes for traditional fixed telephony call services in Barbados, and in turn, that such calls will be a sufficient constraint on C&W's pricing behaviour for fixed telephony services[7]. As a result, the Commission remains of the view that fixed

[7] For example, there is no evidence of significant increase in C&W's mobile connections and average voice traffic per connections, combined with decreases in C&W's fixed line connections and average voice traffic per fixed connection. As such, this does not support fixed-to-mobile substitution in Barbados. Although a consumer survey cited by C&W highlights that people use their mobile handset to make a large proportion of their calls, this does not necessarily imply that consumers switch away from fixed telephony services (as shown above), but may instead indicate that customers are making more calls in total. Additionally, 4.5% (17.5%-22.0%) in Value Added Tax (VAT) has been levied on all mobile services which could have some impact on mobile usage.

telephony services should still be considered separately from mobile calls at this stage, and in turn, that fixed telephony services are part of a separate product market. This is also in line with the Commission's findings as part of its C&W-Columbus Telecommunications merger investigation, which concluded that these services are in separate product markets.

Payphone Services

27. Total call volumes from payphones have continued to decline and now appear to play a very limited role in the overall market. However, despite increasing coverage and use of mobile services in Barbados, the Commission considers that payphones continue to serve an important social role by providing access to fixed telephony services to selected consumer groups or in selected geographic locations.

Fixed to VOIP substitution

28. The availability of OTT-based services allows for voice calls to be made over the Internet (VOIP)[8], both through mobile services and fixed broadband services.

29. LTE[9] and LTE-Advanced is expected to be deployed by Digicel and C&W in the next year, which will enable mobile users to achieve faster Internet access on their mobile devices. Digicel's fibre network roll-out (see page 16) alongside C&W's existing fibre network will also mean that higher-speed fixed broadband will be available to more customers in Barbados. Both these likely developments could facilitate demand and take-up of OTT-based services going forward.

30. As such, it is important to consider whether end users in Barbados would consider OTT-based services to be substitutes for fixed telephony services and if so, whether this imposes a sufficient constraint on C&W's pricing behaviour for fixed telephony services going forward.

31. The Commission has no information on the demand for and take-up of OTT-based services in Barbados at this stage. Despite this, the Commission is of the view that

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[8] Voice Over Internet Protocol (VOIP)
[9] Long Term Evolution (LTE) is a 4th generation technology standard for wireless communications of high speed data for mobile phones and data terminals.

such services are unlikely to be substitutes for fixed access and fixed domestic (local and national) call services in Barbados[10], and in turn, that these services should still be considered as part of a separate product market to OTT-based services. On the other hand, the Commission believes that such calls are more likely to be a substitute for fixed international services, and in turn, may provide a competitive constraint on international fixed telephony calls over the next price cap period.

Changes in the Number of Players

32. In terms of the number of fixed players, the entry of Digicel (and potentially other alternative providers) in the market for fixed telephony and business connectivity services, and the recent market consolidation due to C&W acquiring Columbus Telecommunications are also likely to have an impact over the coming years. Below, the Commission reviews each of these developments and how they may impact the need for and structure of any retail price control of C&W's fixed telephony and other services going forward.

Consolidation in the fixed telephony market

33. The Telecommunications landscape changed significantly during the 2012 Price Cap Period. Two new operators entered the local market in 2012. The first was Karib Cable Inc. and the second was Columbus Telecommunications (Barbados) Limited which subsequently purchased the assets of TeleBarbados Inc. Columbus Telecommunications subsequently purchased Karib Cable Inc. and became a quickly growing market player in the fixed telephony market.

34. In 2015, Cable and Wireless Communications plc merged with Columbus International Inc. which resulted in a consolidation between their Barbados subsidiaries, C&W and Columbus Telecommunications. Since Columbus

[10] In particular, differences in price and product characteristics between these and OTT-based services mean that these are unlikely to be substitutes. For example, OTT-based services are not assigned a geographic number, require the associated device (mobile/laptop) to be switched on for calls to be received, and do not have calling features. In relation to price, both fixed local and national calls are unmetered in Barbados (i.e. C&W offers local and national calls as part of its fixed telephony plans), whereas OTT-based calls are only free (subject to having internet connectivity) if they are "on-net' (i.e. to another device using OTT also) – OTT calls to landlines and mobile devices are priced above zero. Also, as mentioned above, there is no evidence of significant decreases in C&W's fixed line connections and average domestic fixed voice traffic per fixed connection, which does not support substitution from fixed access or domestic call services to OTT-based services in Barbados.

Telecommunications provided retail fixed telephony services (amongst other services) over its cable network, the merger removed one potential external constraint on C&W's fixed prices.

35. All other things being equal, this merger therefore increases the need for continued ex-ante regulation of C&W's retail fixed telephony services as compared to when the previous charge control was set in 2012.

Digicel's Fibre Network Roll-out

36. In recent months, Digicel has deployed its own fibre network infrastructure in Barbados, has started offering fixed telephony and broadband services (residential and business) in the near future. The fibre network divested by C&W, as required in the conditions of its merger with Columbus Telecommunications, also provides an opportunity for an additional player to enter the market in the coming years, which may also be expected to provide fixed telephony services (amongst others) over this network.

37. Digicel's enhanced network presence and service offerings will be expected to increase the level of competition in the market for (residential and business) fixed telephony services and as such is a potential constraint on C&W's pricing.

38. However, at this stage, it is not clear what the full extent of Digicel's entry will be as the impact on the fixed telephony market will depend on the pricing and take-up of Digicel services. It is also unclear at this stage whether the fibre network assets to be divested by C&W will be bought and used to provide fixed telephony services. As any positive impact on competition from further entry may also take time to evolve, the extent of this impact materializing in the next price cap period is unclear.

39. The Commission is currently of the view that fixed telephony and business connectivity services should continue to be part of a separate product market from mobile and OTT-based services. The Commission remains of the view that there will be a continued competitive constraint on C&W's pricing for international fixed services. However, given the recent and expected market developments

highlighted above, the Commission has not seen sufficient evidence that C&W will face a competitive constraint on all remaining regulated services to allow removing the current ex-ante price cap regulation at this point in time. The Commission considers it prudent and in line with its responsibility to protect consumers to continue price regulating fixed telephony services until there is clear evidence that this market has become effectively competitive.

40. The Commission has taken into consideration the prevailing uncertainty of future market developments and the potential resulting impact on the competitive dynamics in the fixed telephony market and proposes the continued use of a price cap plan. These matters will also be taken in to consideration in the setting of the duration of a Price Cap Plan (see Section 3). The Commission's rationale for the use of price cap regulation is that it allows for a flexible pricing framework, which provides the incentive for the Company to maximize efficiency. These efficiency gains may then be passed onto customers.

Consultation Issue No. 1.

Do you agree with the Commission's current view on the continued need for price cap regulation for the services covered by the PCP 2012?

SECTION 3 – SCOPE AND STRUCTURE OF THE NEXT CONTROL

41. If Price Cap is retained as the form of regulation then the suggested scope and structure would be as outlined below.

Scope of Price Control

42. The services to be regulated under the PCP 2016 should continue to be the retail services specified by the Telecommunications (Regulated Services) Order 2006, as set out below.

Table 4. Regulated Retail Services

Category	Services
Domestic voice services	Residential and non-residential fixed line access and installation, value added services, voicemail, internal voice network calling, domestic payphone calling, emergency calling
International voice services	Fixed outgoing international calling, international toll-free calling, international call centres, international calling cards, international payphone calling
Dedicated lines services	Domestic private leased circuits, international private leased circuits, direct exchange lines, dedicated lines used for internet

Inclusion of legacy Columbus Telecommunications services within the next Price Cap Plan

43. As mentioned in Section 1 above, C&W acquired Columbus Telecommunications in 2015 including a significant number of customers with services that would now have to be subject to price control. In the absence of the price control or any competitive constraint, C&W could set the prices for any of these customers above a competitive level.

44. The Commission is currently of the view that the PCP 2016 should apply to the overall merged entity, i.e. covering the regulated services provided to legacy C&W

and Columbus Telecommunications customers, as well as any new customers acquired going forward.

<u>Consultation Issue No. 2:</u>

Do you agree with the Commission's proposed scope of the next Price Cap Plan?

Basket Options

45. The primary objective of a price cap regime is to set prices at such a level that C&W can expect to make a reasonable return across the services subject to a price cap. The design of the price cap will, as a secondary objective, aim to not unduly constrain C&W's pricing flexibility on individual services. In addition, where prices are largely constrained by competition, the price cap should give flexibility to facilitate response to competition.

46. The price cap structure (i.e., the number of baskets and distribution of the services within these baskets) plays an important part in meeting these objectives.

47. Generally, the basket structure of the Price Cap Plan regime determines the pricing flexibility provided to the regulated operator. Within an individual basket, changes in the price of one service can be offset by changes in the prices of other services as long as the overall cap is met. The narrower a basket is defined, the less pricing flexibility the operator will retain for individual services within that basket. For example, under a single basket structure covering all regulated services, C&W would retain full pricing flexibility on individual services, as long as it meets the overall cap across the entire basket.

48. Defining separate baskets for 'competitive', and 'non-competitive' services, as currently undertaken, allows for the controlling of prices for those services where competition is not likely to be a constraint, whilst leaving the competitive services uncapped. Under this structure, the 'X Factor' would be set to allow C&W to make a reasonable return across the services subject to a price cap.

49. Further, introducing sub-caps on particular services within a basket ensures that prices on these services are not disproportionately increased, and thus ensures that there is a fair distribution of benefits and price reductions across services in the basket. For example, the current price control includes a sub-cap on residential access services, so that these customers are protected from large price increases.

50. As considered during the previous review, the Commission has assessed the merits of three potential basket structure options for a proposed PCP 2016. Note that these baskets only relate to C&W's services. The treatment of Columbus Telecommunications legacy fixed telephony services is discussed in paragraph 52 to 55 below.

- **Option 1 (Status quo): Separate baskets for 'competitive' and 'non-competitive' services with a specific control on price increases for residential users.** If there is a concern that C&W would disproportionately increase residential prices while decreasing business prices (because there is potentially more competition for business services) then a specific control (sub-cap) can be placed on residential access services. The sub-cap level can restrict residential price increases to or below a given rate. The sub-cap level would be set independently of expected productivity trends.

- **Option 2 (Wider baskets): Single basket covering all regulated services with a specific control on residential access services.** This option sets a price control on all regulated services. As is the case with the Option 1, a specific control can be placed on residential access services to address concerns of residential prices being disproportionately increased. However, this option does not distinguish between competitive and non-competitive services.

- **Option 3 (Narrower baskets): Separate baskets for 'competitive', 'residential access' and 'other' services.** This would imply splitting services into three baskets with:

  (i) the 'competitive' services being 'uncapped' (currently Basket 1),

(ii) the X Factor for the residential basket (currently sub-cap within Basket 2) set with the aim to limit price rises for residential users, and

(iii) the X Factor for the 'other' service basket (currently Basket 2 with the exclusion of residential access services) set to allow C&W to make a reasonable overall return on its investment. C&W would retain the freedom to price services within the overall basket of non-competitive services, being able to raise prices for individual services (excluding residential access prices), as long as these were balanced by reductions to other services within that basket.

51. The table below summarises the key characteristics of the three basket structure options.

Table 5. Summary of Basket Structure Options

Option	Returns	Pricing flexibility	Protection from price increases	Cost Allocation Requirements
1: Separate baskets for 'competitive' and 'non-competitive' services, plus sub-cap on residential access prices	Controlled for all non-competitive services.	Full flexibility (within each basket) except for residential access.	Residential customers	Exclusion of competitive services
2: Single basket covering all regulated services, plus sub-cap on residential access services	Controlled for all regulated services.	Full flexibility except for residential access services	Residential customers	To all regulated services (aggregate only)
3: Separate baskets for 'competitive', 'residential access' and 'other' services	Controlled for all non-competitive services	Limited flexibility to balance negative returns for residential access services with increases for other regulated services.	Residential customers	Exclusion of competitive services

Price Regulation of Legacy Columbus Telecommunications Customers

52. As set out in paragraph 43 and 42 above, the Commission is of the current view that the price cap should apply to all services, including those formally offered by Columbus Telecommunications. There are prevailing differences in prices for retail fixed voice services on legacy Columbus Telecommunications packages and current C&W packages (i.e. legacy customers on Columbus Telecommunications' "One voice basic" package are charged a monthly line rental of $30 (incl. VAT) per month which includes free local landline and mobile calls and free basic calling features (includes call waiting, call forwarding, voicemail and caller ID)[11]. This compares to $43.99 (incl. VAT) per month for C&W's Home Phone Basic package (i.e., this includes local calls) which are available to new and existing customers of the merged entity[12,13].

53. The Commission is concerned that the potential exists for a unilateral increase in prices for legacy Columbus Telecommunications customers.

54. The Commission considers that there are four potential approaches to ensuring the overall level of prices across the total subscriber base does not increase due to the inclusion of the legacy Columbus Telecommunications customers:

a. Maintain the existing differential in relative terms between legacy Columbus Telecommunications and other C&W customers for the duration of the price control;
b. Move to a uniform set of prices for all customers based on weighted average prices of the legacy Columbus Telecommunications and C&W customers; or
c. Allow C&W the continued flexibility to set its prices so that the overall level of prices, averaged across the total customer base (legacy Columbus Telecommunications and C&W customers) do not increase.
d. Set the price at the minimum of C&W and Columbus Telecommunications.

[11] Note this package was only available to COLUMBUS TELECOMMUNICATIONS customers with Video and/or Broadband services.

[12] The Commission understands that whilst COLUMBUS TELECOMMUNICATIONS's legacy products have been closed to new customers, existing customers are currently allowed to remain on these products on the existing terms and conditions.

[13] The Commission notes that there are additional legacy COLUMBUS TELECOMMUNICATIONS and C&W fixed packages to those discussed here. However, the majority of subscribers are on the 'entry level' packages.

55. The Commission is of the view to adopt the third approach above. As such, there is merit in ensuring that the overall level of prices does not increase, whilst allowing C&W the continued flexibility to set individual prices.

56. The Commission has considered two options for treating Columbus Telecommunications legacy products within the next Price Cap Plan:

a. **Single basket for all price capped services**. Columbus Telecommunications legacy products could be included in the basket containing C&W's legacy and new price capped services. This would allow setting a single price cap across all price capped services, with C&W having enhanced flexibility on setting individual prices within the basket. Given the expectations that the prices for Columbus Telecommunications legacy products would have to increase from their current levels to align them with the cost of delivering these services, all things being equal, this would result in enhanced pressure for C&W to lower prices, on average, across all remaining price capped services within the basket in order to comply with the overall price cap on that basket.

b. **Separate basket**. Alternatively, Columbus Telecommunications legacy fixed telephony packages could be placed in a separate basket. The price cap for this service basket could then be set to allow C&W to align prices with those across its remaining price capped services over time (e.g. by the end of the Price Cap Plan).

57. Based on its preliminary assessment, the Commission is minded to create a single basket for all price capped services (including Columbus Telecommunications legacy fixed telephony packages). This will achieve the objective of allowing C&W the continued flexibility to set prices such that the overall level of prices, averaged across the total customer base would not increase.

Proposed Basket Structure

58. Considering the evidence from the review of the current regime set out in Table 6 above, the Commission sees merit in applying the same basket structure (i.e. Option 1 presented in Table 6 below) to the next Price Cap Plan. As discussed in the market developments section above, there remains uncertainty over how competition for non-competitive services will evolve over the coming years. Given this, it is prudent to keep a cap on the non-competitive services while allowing the competitive basket to remain uncapped. It is also reasonable to keep the sub-cap on residential access service, given the importance of these services to consumers alongside the lack of evidence that consumers would not experience price increases if this cap was not in place.

The current structure also ensures that price controls focus on those services where competition is not expected to be a sufficient constraint on price increases.

59. As such, the Commission is of the view that Option 1 continues to be the most appropriate basket structure for the purposes of a proposed PCP 2016. As was the case in the previous price cap:

- Any regulated services where prices are assumed to be constrained to a reasonable level by competition will again be placed in a separate basket and uncapped (as is the case for Basket 1 for PCP 2012).

- The remaining regulated services (including the legacy fixed telephony services offered by Columbus Telecommunications – see paragraph 56 above) will then form a single, separate basket (Basket 2 in PCP 2012). The cap for this basket will be set such that C&W would be expected to earn a reasonable return on this set of services at the end of the period.

- Basket 2 will continue to have a sub-cap for residential access services. These services will remain in the overall 'capped' service basket, with a specific sub-cap applied to them. This provides protection for residential customers from large price increases.

60. The table below details the proposed basket structure for the PCP 2016.

Table 6. Proposed Basket Structure for a PCP 2016

Basket	Services	Caps
Basket 1: **'Competitive' services**	Fixed international outgoing calls, International calling cards, International calls from payphones, Domestic and International operator assistance	Uncapped
Basket 2: **'Capped' services**	All remaining regulated services, including all legacy fixed telephony packages offered by Columbus Telecommunications before the merger	'RPI-X'

Consultation Issue No. 3:

Do you agree with the Commission's proposed basket structure of a new Price Cap Plan?

Duration of the Next Price Cap Plan

61. The chosen duration of a proposed PCP 2016 is important, as this will impact both the incentive power and the accuracy of the price cap.

  a. A longer price cap period gives greater incentive to C&W to operate efficiently, as it creates a longer period over which C&W can retain any additional cost savings (i.e., over and above those consistent with the productivity ('X') factor in the price cap formula (see below)). A longer price cap period also creates greater certainty on prices and allowable unit revenues, because price changes required on each of the capped services are known over a longer period of time. In addition, a longer price cap period also reduces the regulatory burden on both the Commission, C&W, and any relevant stakeholders (as the price caps will be set less frequently), and increases the amount of data available to inform the need and form of any subsequent price control regime.

b. However, a longer price cap period increases the risk of mis-specifying the price cap, as forecasts of service volumes and costs underpinning the setting of the price cap will need to extend over a longer time period, which will tend to be less accurate. The risk of significant errors forecast is heightened when there is uncertainty surrounding the impact of expected market developments.

62. Recent market developments mean that it is unclear how competition will develop. In particular, as discussed in section 1, the merger of Columbus Telecommunications and C&W will likely have an impact on both C&W's performance and overall competition in the market. Likewise, the potential entry of Digicel and other potential players may change the competitive dynamics in the market.

63. In line with the previous Price Cap Plan, the Commission proposes to again adopt a three-year price control period (i.e., from April 2016 to March 2019). Such a length of time is also consistent with the practice in other small island jurisdictions[14].

64. Overall, the Commission believes that a three year price cap balances the risks associated with price control periods that are too long or too short. The Commission is of the view that a three-year price cap period will ensure that any impact of these changes are reflected in the regulation on C&W's regulated services in a timely manner, whilst ensuring that data is available over a sufficient time period to allow the Commission to adequately evaluate the impact of the developments during the next price cap review.

65. In addition, the Commission proposes to implement an option to extend the Price Cap for a fourth year. The proposed normal duration of the PCP is three (3) years, which would see the Plan expire on March 31st, 2019. Application of the extension would result in the Plan expiring on March 31st, 2020. The option to extend the PCP for another year is at the sole discretion of the Commission after consultation

[14] For example, as part of its proposed price cap which is currently being consulted on, Channel Islands Competition Regulatory Authority (CICRA) has also proposed a 3-year period for the next price cap regime in the Channel Islands, and Eastern Caribbean Telecommunications Authority (ECTEL) with an optional 1 year extension.

with the C&W. To exercise such discretion and implement an optional fourth year of the PCP, the Commission shall issue a decision at least sixty (60) calendar days prior to the expiry of the PCP, by way of notice in writing.

<u>Consultation Issue No. 4:</u>

Do you agree with the Commission's proposed three-year duration for a new Price Cap Plan with the option of an extension for one year? If not, suggest the duration with appropriate reasons.

Price Cap Formula

66. The price cap formula sets the allowable (weighted) average annual price change across the price capped services.

67. In line with the proposed objectives and structure set out above, the Commission is minded to apply a similar price cap formula as contained in the PCP 2012. The proposed price cap formula allows C&W to change its average retail prices within each price capped basket (i.e., the Actual Price Index, API) by less than or up to the predetermined Price Cap Index (PCI)[15].

$$API \leq PCI$$

The PCI for each year (t) is then calculated as

$$PCI_t = PCI_{t-1}\left(1 + I_t - X_t \pm Z_t\right)$$

Where:

I is the inflation factor; and

X is the productivity factor.

Z is the exogenous factor

[15] The annual (weighted) average price change per basket is derived based on the price changes of individual services within that basket, where service traffic volumes are used as weighting factors.

I Factor

68. The I-factor within the price cap formula aims to allow C&W to recover changes to its input prices during the price cap period as well as ensuring that prices for price capped services move in line with those for other services and consumer goods in Barbados.

69. There is no single ideal measure of inflation in the context of retail price regulation of fixed telephony services. However, it is common practice to measure the 'I-Factor' based on the national Retail Price Index (RPI) or Consumer Price Index (CPI) as it has favourable properties. In particular, Retail Price Indices are a generally accepted measure of overall inflation, are readily available, transparently derived, and measured consistently over time. The PCP 2012 uses the latest annualised Barbados Retail Price Index (RPI), computed on a monthly basis by the Barbados Statistical Service.

70. It is the Commission's current view to continue computing the inflation factor in the price cap formula based on the annualised Barbados RPI.

X Factor

71. In line with the overall objective of the Price Cap Plan set out above, the X factor would be determined to set a 'glide path' to align capped prices with the underlying costs of providing these services by the end of the next control period. This is equivalent to setting the expected revenues for all 'capped' services equal to the relevant costs including an appropriate return on the investment for delivering these services at the end of the price cap period.

72. As undertaken for the PCP 2012, this requires, amongst others, forecasting the expected volume of demand for the controlled services and the expected costs to C&W of delivering these services.

73. Demand forecasts will be derived by projecting current trends, adjusted for any expected structural changes in the market.

74. The level of costs for the capped services will be determined taking into account the demand forecasts, expected inflation, C&W's cost of capital as determined for the PCP 2016[16] and expected efficiency gains over the PCP 2016. The expected efficiency gains will be informed by, amongst others, historic trends in C&W's total factor productivity, international benchmarking of efficiency and a review of financial information provided by C&W.

75. C&W has submitted a Total Factor Productivity (TFP) study based on the Enhanced Allocation Model (EAM) data setting out recent TFP trends for its regulated business. This will be considered by the Commission when developing an appropriate X factor. Total factor productivity can be defined as growth of real output beyond what can be attributed to increases in the quantities of new materials, labour and capital employed. The TFP study allows one to be informed on future productivity improvements based on historic trends. Additionally, the study contains partial productivity measures (i.e., the three main input components of TFP - capital, material and labour).

76. It should be noted that the sub-caps RPI-X for residential access services will be set separately. This will take into account the need to ensure a fair distribution of the benefits of price control and ensure consumers are shielded from inordinate increases in residential tariffs.

Z Factor

77. The Z factor is a specified, cost pass-through variable, intended to address instances where the regulated company faces extreme variations in input prices outside of the inflation factor, which are not accounted for in the X factor, and which are beyond the control of the company. The Z factor will increase or decrease the PCI thereby restricting or increasing the company's ability to vary its prices in response to the exogenous shock.

78. There were no filings for the Z factor during the current Price Cap Plan, or during PCP 2008.

[16] As for previous price cap reviews, C&W has again provided the Commission with a Weighted Average Cost of Capital (WACC) study. The Commission will review the study when determining the appropriate WACC value for the PCP 2016.

79. The Commission proposes that a Z factor adjustment would continue to be considered for inclusion in the PCI where any of the following conditions are satisfied:

a. The event is a legislative, judicial or administrative action which is beyond the control of the company;

b. The event relates to the telecommunications industry; or

c. The event has a material impact on services within C&W's price capped baskets.

<u>Consultation Issue No. 5:</u>

Do you agree with the proposed price cap formula and method of deriving the various parameters to be used in the proposed Price Cap Plan?

SECTION 4 –FURTHER ELEMENTS OF THE PCP 2016

80. Further elements of the PCP 2016 are set out below.

Treatment of C&W acquisition of Columbus Telecommunications in setting the next Price Cap Plan.

81. As mentioned in Section 2 above, the Commission proposes to apply a new price cap to the overall merged entity, i.e. it will cover the regulated services provided to legacy C&W and Columbus Telecommunications customers, as well as any new customers acquired.

82. In practice, the average price changes (APIs) calculated for each year over the price cap period would be calculated on the basis of prices, revenues, and volumes on regulated services provided to both legacy C&W and Columbus Telecommunications customers and new customers with the merged entity.

83. Given this, there is a further question on whether the revenues generated from the use of regulated services by legacy Columbus Telecommunications customers, and the associated services volumes and the costs of providing these services, should be considered when setting the price cap (i.e., whether they should be included in the price control model and if so, how this will impact the financial forecasts underlying the price control model).

84. The merger has by definition reduced the number of alternative providers of fixed telephony services in Barbados. It has therefore reduced the competitive pricing pressure on C&W hence setting the next price cap based on the "hypothetical operator" reflective of premerger C&W should not lead to consumer harm.

85. Modelling the "hypothetical operator" is more practical at this point in time, as modelling the merged entity would be constrained by the data available to the Commission. In particular, only the historical financial and operational data from C&W's EAM is available to the Commission as it stands, which does not currently include any information on the volumes and costs related to Columbus Telecommunications customers. As such, any forecasts of volumes and costs for the

merged entity would have to be based on a number of assumptions on usage and costs for Columbus Telecommunications customers.

86. In addition, by including the lower prices of legacy Columbus Telecommunications customers, with lower prices, in the calculation of the price cap, customers overall would not be negatively affected by the merger. Although one may expect that the merger will result in some additional efficiency gains, and thus lower costs, over the price cap period, the Commission is not in a position to fully quantify these additional cost savings and other potential impacts of the merger. As such, the Commission believes it to be prudent to model a situation in the absence of the merger at this stage.

87. With regards to this, the Commission is of the view that the price cap (i.e., the allowable price change indices (PCIs) of the PCP 2016) should be set on the basis of a "efficient hypothetical operator", reflective of premerger C&W. Any estimates of efficiency and cost of capital used to inform the level of the price cap would also only consider data relating to C&W. The Commission considers this approach to be appropriate at this stage, both on theoretical and practical grounds.

<u>Consultation Issue No. 6:</u>

The Commission invites comments on its proposed treatment of the C&W-Columbus Telecommunications merger in setting a new price cap.

Carry over provision

88. If C&W chooses to reduce prices more (or increases less) than the maximum amount allowable under the price cap in any year, then the PCI will exceed the API and 'headroom' is created.

89. On the price capped basket (i.e. Basket 2), the Commission proposes to again allow C&W to carry-over any headroom from one year of the price control period to the next period. This would allow C&W to implement smaller average price decreases (or larger price increases) in later years than those defined by the relevant difference between the inflation factor and productivity factor (I-X) in those years.

This will provide C&W with greater pricing flexibility, as well as an incentive to reduce prices early on during the PCP 2016 (which will benefit end users).

90. However, the Commission proposes that the carry-over of headroom regarding the proposed sub-cap on residential access services will not be allowed between years. In other words, any increase in the average price of residential access services below that allowed under the sub-cap would not provide C&W the opportunity to increase prices on these services above the allowable level in later years. This will protect customers from unduly significant price rises on these services in any given year.

91. In addition, the Commission is of the view that no carry-over provision across price cap periods shall be allowed (i.e. if prices are reduced more than mandated in one price cap period, this will not allow C&W to reduce their prices by less in the next price cap period). Instead, the existence of any price reductions greater than that mandated by the price cap will be considered when setting the next price control regime, for example when assessing the need for a one-off adjustment at the start of the next price control period.

Consultation Issue No. 7:

What are your views on the Commission's proposals on the carry-over of headroom?

Treatment of Specific Services

92. The Commission proposes to treat new services, bundled offers and promotions in the same way as under the current Price Cap Plan (PCP 2012).

New Services

93. C&W may introduce new services (or combination of services currently not provided) during the next PCP 2016. The Ministry of Telecommunications would then determine if such services are to be classified as "regulated".

94. Where a new service is classified as a regulated service, the Commission is of the view that this service should be placed in the 'uncapped' basket for the remainder of the next Price Cap Plan. In a subsequent period the services may be made subject to a price control.

Bundled Offers

95. It is common practice to offer individual telecommunications services as bundle products. For example, Columbus Telecommunications/C&W currently offers fixed-line telephony, broadband, TV, and mobile services as a standalone product, and in a variety of bundles. These may either include a combination of all regulated services or a combination of regulated and unregulated services.

96. The Commission proposes that where bundled offers include at least one price capped service[17], the individual rate elements of the bundled offering, as provided on a stand-alone basis, will count towards compliance. For example, when calculating the price changes for fixed telephone services as part of the previously mentioned bundle, C&W must use the individual price for the relevant fixed telephony services rather than the price as part of the bundle. This also applies to new bundled offerings introduced after the start of the next Price Cap Plan (with the exception of those only including price capped services).

97. In addition, for the volumes used to set the weights in the price control, the Commission proposes to take account of the volumes of all products, whether bundles or standalone products. This will ensure that the weighted price changes calculated will accurately reflect the revenue impact of the individual price changes. It will also minimise any incentives on C&W to potentially "game" the compliance rules of the price cap by, for example, moving demand onto bundled services which would not be captured (directly or indirectly) in the PCP2016. As such, this approach would constitute an additional safeguard for consumers.

[17] For example C&W's "My Bundle" bundle, which includes the 'Home Phone Plus' fixed voice plan (including price capped services such as unlimited fixed local calls), as well as fixed international calls, fixed broadband, and pay TV services, which are not subject to the price cap.

Discounts and Promotions

98. The Commission recognises the need for C&W to retain some degree of flexibility in respect to the use of discounts and promotional offers. The Commission however does not consider that discounts which apply only to a specific set of consumers should be included in the compliance checks as this could motivate C&W to introduce subjective patterns of price discrimination.

99. As such, the Commission will only allow discounts, temporary reductions and promotional offers to count towards compliance on the condition that such discounts or promotions for an individual service are offered to all customers.

Consultation Issue No. 8:

The Commission invites comments on its proposed treatment of new services, bundled offerings and discounts under a new Price Cap Plan.

Quality of Service

100. As part of the price control it is important to consider the quality of service that C&W provides on its price controlled services. The Commission has recently identified concerns regarding the quality of service offered by C&W on its regulated services. The Commission's most recent Standards of Service report has indicated that C&W is underperforming in a number of areas[18]. In particular, there are concerns regarding fault repairs for business lines, response to customer complaints and requests for appointments and installation times.

101. Quality of service (QoS) is relevant for the price control, because the control sets the allowable price based on an assumed level of quality of service. In other words, the price control requires C&W to decrease prices while providing the same service more efficiently, not to reduce costs by providing a lower standard of service.

[18] Analysis of Cable & Wireless (Barbados) Limited: Annual Standards of Service Report – July 2014-March 2015. http://www.ftc.gov.bb/library/sos/2015-10-10_annual_report_2014-2015_candwbl_sos_analysis.pdf

102. The Commission has considered including a quality of service requirement, for example a Q factor, in the price control. A Q factor is an adjustment which would be made to the allowable price changes under the price cap, if C&W does not achieve a particular level of quality of service performance.

103. However, including such a requirement in the next price control would result in inherent difficulties in setting the Q factor.

   a. For instance, there are difficulties in choosing appropriate ways of measuring quality of service, determining which measures should be considered most important when creating an overall QoS performance measure (i.e. the relative weight of individual QoS indicators in an overall QoS index/Q factor), and when deciding how the resulting Q factor will then be used to adjust allowable revenues (i.e. there is no direct, quantifiable link between a change in the QoS index/Q factor and the cost savings by the operator which could be used to inform changes in the allowable revenues).

   b. In addition to these measurement issues, it is not clear how the optimal level for quality of service would be determined. As such, it is difficult to set thresholds below which a Q factor adjustment would occur.

104. The Commission considers it prudent to continue with the requirement that C&W quality of service meets certain standards as per the Standards of Service decision. Additionally, the Commission will continue to review C&W's quality of service performance and consider ways to improve the current regime (outside of the price control mechanism).

<u>Consultation Issue No. 9:</u>

The Commission invites comments on its proposed treatment of quality of service under a new Price Cap Plan.

SECTION 5 – PRICE CAP ADMINISTRATION

105. The review of the Price Cap Plan may require revision of the administration of the compliance monitoring. The exact details of the compliance monitoring arrangements will be determined taking into account the final decisions on the implementation of the PCP 2016.

Compliance Filing

106. The Commission is of the view that it will continue to apply the same approach for monitoring and ensuring compliance with the Price Cap Plan as was implemented under the PCP 2012, as follows:

(i) **Annual compliance filing:** On March 1st of each period of the PCP 2016, that is, one month before the start of each new period, C&W shall file with the Commission the API for the relevant service basket. The Commission expects that this will include data for the merged entity. This filing shall be recorded as the Annual Compliance Filing (ACF). The ACF allows the Commission to measure the degree of compliance by C&W in each year. The Commission will re-set the PCI at the start of each year (i.e., annually on April 1st), and will use the annual filing to determine the extent to which C&W has accumulated head room for the relevant service basket.

(ii) **Rate Increase Compliance Filing:** Subject to price cap rules C&W may increase or decrease its rates for services in the relevant service basket based on the following procedure: - C&W is permitted to increase each tariffed service within the relevant service basket once in each of the years covered by the Price Cap Plan. For any price increase, the Company must file a Rate Increase Compliance Filing (RICF) with the Commission.

(ii) **Exogenous Factor Filing:** Should C&W consider that an exogenous event has occurred consistent with the criteria defined in Section 3, C&W may file for the proposed Z-factor adjustment to be included in the PCI. Using actual data, C&W shall demonstrate the financial impact of the event, and provide evidence to prove that the event was outside of its control. At the time of filing, C&W shall propose the value of the Z-factor necessary to mitigate the impact of the exogenous event. The exogenous factor filing shall be submitted at least two months before the end of any period. The Commission will consider the filing and if accepted, the proposed Z-factor will be included in the calculation of the PCI for the following period.

Consultation Issue No. 10:

The Commission invites your comment on the suggested approach for monitoring and ensuring compliance with the proposed Price Cap Plan throughout the PCP 2016 period.

Notification

107. During the PCP 2016, C&W would be subject to the following notification process:

108. **Rate Decreases:** C&W shall not be required to seek approval from the Commission for any proposed decrease in rates for any regulated service. C&W shall notify the Commission in writing of any proposed rate decreases for regulated services subject to the Price Cap Plan, no later than three (3) business days before the rate decrease takes effect. The public shall be notified no later than the same business day the rate decrease takes effect.

109. **Rate Increases:** C&W shall not be required to seek approval from the Commission for any proposed increase in rates for any regulated service subject to the Price Cap Plan. The Company shall notify the Commission of any proposed increase in rate for any regulated service subject to the PCP 2016 no later than 25 business days before such rate increase takes effect. Before the Company issues its notification to the public it must await the

Commission's review and response on the Company's compliance with the stipulated Price Cap as it relates to the proposed rate increase. The Commission requires that for every rate increase, C&W shall advise the public by way of advertisement in two daily publications in at least two editions no later than 20 business days before the date of the expected price increase.

110. The Commission is of the view that it will continue to apply the same notification requirements as obtained in PCP 2012 under the PCP 2016.

<u>Consultation Issue No. 11:</u>

The Commission invites your comment on the notice period that ought to be provided to the Commission and consumers.

Regulatory Reporting

111. The Commission is minded to continue to apply the regulatory reporting requirements under the PCP 2012 to the next Price Cap Plan.

112. C&W is required to provide the Commission on an annual basis with the following information:

a. Audited Statutory Financial Statements;
b. Audited Annual Regulatory Statements including a reconciliation to the audited statutory financial statements; and
c. Annual updated versions of the Enhanced Allocation Model (EAM) and the associated EAM Manual or any other costing model used by C&W and approved by the Commission[19].
d. An audited EAM should be submitted biannually (every 2 years).

[19] The EAM should be based on the merged entity of C&W and COLUMBUS TELECOMMUNICATIONS going forward, minus any required divestments as part of the merger approval.

113. The regulatory statements shall be prepared by C&W in accordance with the accepted accounting principles and may be subject to a Regulatory Compliance Review and Audit by the Commission.

114. In general, regulatory compliance reviews are carried out to provide reasonable assurance that the entity is not in any significant default in complying with provisions such as but not limited to:

- Licensing obligations
- Regulatory framework to which it is subjected
- Covenants and obligations
- Allocation
- Rate setting

115. On the issuance of a PCP 2016 Decision the Regulatory Compliance Review/Audit is carried out to provide reasonable assurance that:

(i) the Company's rates for services regulated under a PCP 2016 are set in accordance with these Rules and the PCP 2016 Decision;

(ii) the Regulatory Financial Statements reconcile to the Audited Statutory Financial Statements;

(iii) the Regulatory Financial Statements were prepared in accordance with the Commission's guidelines where applicable; and

(iv) C&W acts in accordance with a PCP 2016 Decision, the Price Cap Compliance Rules and Procedures and the Fair Trading Commission Act, Utilities Regulation Act, and Telecommunications Act.

Consultation Issue No. 12:

The Commission invites your comment on the proposed approach regarding regulatory monitoring.

SECTION 6 – CONSULTATION PROCESS

116. The Commission is specifically charged under the Fair Trading Commission Act, CAP. 326B to consult with interested persons when it is discharging certain functions.

Section 4 (4) of the Fair Trading Commission Act, CAP. 326B states:

> "The Commission shall, in performing its functions under *subsection* (3) (a), (b), (d) and (f)[20], consult with the service providers, representatives of consumer interest groups and other parties that have an interest in the matter before it."

117. This requirement generally involves the Commission issuing a consultative document, in which the Commission:

   a. brings to public attention important issues relating to utility regulation in order to promote public understanding and debate;
   b. puts forward options and/or proposals as to the approach to adopt in dealing with these issues, to seek to resolve them in the best interests of the consumer, the service provider and the society at large; and
   c. invites comments from interested parties, such as consumers, service providers, businesses, professionals and academics.

118. The views and analyses set out by the Commission in a consultative document are intended to invite comments which may cause the Commission to revise its position.

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[20] Section 4(3) of the Act states:

> The Commission shall, in the performance of its functions and in pursuance of the objectives set out in subsections (1) and (2):

(a) establish the principles for arriving at the rates to be charged by service providers;
(b) set the maximum rates to be charged by service providers;
(c) determine the standards of service applicable to service providers;
(d) carry out periodic review of the rates and principles for setting rates and standards of service of service providers.

119. If considered appropriate, respondents may wish to address other aspects of the document for which the Commission has not prepared specific questions. Failure to respond to all identified issues will in no way reduce the consideration given to the entire response.

Confidentiality

120. 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.

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

Responding to this Consultation Paper

122. 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, regulated utilities, other licensed operators, government ministries, non-governmental organisations (NGO'S), consumer representatives, residential consumers, businesses of all sizes and their representatives, the academic community and all other stakeholders.

123. The Consultation period will begin on Monday, February 8th, 2016 and ends on Monday, February 29th, 2016. All written submissions should be sent to the Commission by this deadline. The Commission is under no obligation to consider submissions received after 4:00 p.m. on Monday, February 29th, 2016.

124. Copies of this Consultation Paper can be collected between the hours of 9:00 a.m. to 4:00 p.m., Monday to Friday during the consultation period from the Commission's offices at the following address:

Fair Trading Commission
Good Hope
Green Hill
St. Michael
BB12003
BARBADOS

125. The Consultation Paper can also be downloaded from the Commission's website at www.ftc.gov.bb

126. Persons may submit their response either in written or electronic format.

127. Mailed or hand delivered responses should be addressed to the Chief Executive Officer at the above mailing address.

128. Responses can be faxed to the Commission using fax number (246) 424-0300.

129. Responses in electronic format may be prepared in either Word or PDF format, attached to an e-mail cover letter and forwarded to info@ftc.gov.bb.

Analysis of Responses

130. 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. In the interest of transparency and accountability, the reasons for any modifications as a result of the consultation will be set out and, where the Commission disagrees with responses or points that were commonly made, it will in most circumstances, explain why.

APPENDIX 1

Legislative Framework

131. Under Section 4 (3) (a) of the Fair Trading Commission Act, CAP.326B the Commission is charged with the responsibility to, inter alia, *"establish principles for arriving at the rates to be charged by service providers".* The Commission is also charged with this responsibility under Section 3 (1) of the Utilities Regulation Act, CAP.282.

132. Further in Section 39 (1) of the Telecommunications Act, CAP.282B it states that the Commission shall:

> *"establish and administer mechanisms for the regulation of prices in accordance with this Act, the Fair Trading Commission Act and the Utilities Regulation Act."*

133. The Telecommunications Act also states in Section 39 (2) that the rates should facilitate the policy of market liberalisation and competitive pricing.

134. In changing any principles of rate setting, the Commission is obligated to consult with interested parties in accordance with Section 4 (4) of the Fair Trading Commission Act, CAP. 326B which states that:

> *"The Commission shall, in performing its functions under subsection (3) (a), (b), (d) and (f) consult with the service providers, representatives of consumer interest groups and other parties that have an interest in the matter before it."*

Services to be Regulated

135. Under Statutory Instrument (S.I.) No. 5 Telecommunications (Regulated Services) Order 2006, the following categories of telecommunications services were determined to be subject to regulation by the Commission:

   a. International telecommunications services;
   b. Domestic voice telecommunications services;
   c. Services in respect of interconnection charges;

d. Leased circuits; and
e. International simple resale.

136. The Unregulated Services Policy of the Ministry of Energy and Public Utilities dated November 11th, 2003 specifies that all other telecommunications services will be unregulated. These include but are not limited to:

a. Mobile Retail Services;
b. Internet Retail Services; and
c. Customer Premises Equipment (CPE).