



# **Fair Trading Commission**

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## **Consultation Paper**

**Review of Cable & Wireless (Barbados) Limited**

**STANDARDS OF SERVICE**

**2010 - 2013**

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# **REVIEW OF THE STANDARDS OF SERVICE FOR CABLE & WIRELESS (BARBADOS) LIMITED**

## **Purpose of Document**

The Fair Trading Commission (Commission) is reviewing the Standards of Service Decision for Cable & Wireless (Barbados) Limited (C&W) 2010 - 2013. These Standards of Service for C&W landline services were originally implemented on June 1, 2006.

The views and the opinions of stakeholders are being sought through the process of a public consultation. Their opinions will be taken into consideration by the Commission in its determination.

This paper is intended to solicit comments on:-

- (a) The standards of service performance of the company;
- (b) Whether any additional Guaranteed or Overall Standards of Service should be implemented;
- (c) Whether any of the current Guaranteed or Overall Standards need to be modified or removed;
- (d) Whether the system of compensatory payment is adequate; and
- (e) Whether the number of Exemptions should be revised.

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 located at [www.ftc.gov.bb](http://www.ftc.gov.bb).

The Consultation period will begin on October 25, 2013 and end on December 06, 2013 at 4:00 p.m.

## STRUCTURE OF PAPER

This paper is divided into six sections. Section 1 consists of an update of the Barbadian telecommunications market up to March 31, 2013. Section 2 revisits the legislative framework of the Standards of Service and the statutory provisions that give the Commission the authority to undertake this process. Section 3 looks at the Company's Standards of Service performance from April 01, 2010 to March 31, 2013 and new proposals for Guaranteed and Overall Standards of Service. Section 4 lists the grounds for exemptions and a proposed revised definition for *Force Majeure*. In Section 5, the Commission invites interested parties to share their views on the Standards of Service administration rules which facilitate the Commission's monitoring of the Standards of Service regime. The complete list of questions is given in Section 6 while Section 7 provides information on the consultation process.

## **SECTION 1      UPDATE OF CURRENT TELECOMMUNICATIONS ENVIRONMENT AND LEVEL OF COMPETITION IN BARBADOS**

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This section provides a short insight into recent developments within the telecommunications industry. The telecommunications environment in Barbados has become more diversified and there has been new investment in the domestic telecommunications sector.

The telecommunications sector was liberalised in 2005 and the subsequent merging of the three previous Reference Interconnection Offers (RIO) for Mobile, Domestic and International services into the Consolidated RIO in February of 2009 brought the supervision of interconnection under one document, and simplified its administration. Additionally, there were two new operators that entered the market during 2012. The first was Karib Cable Inc. and the second was Columbus Communications which purchased the assets of TeleBarbados Inc. which was previously owned by Atlantic Crossings LLP. Columbus Communications subsequently purchased Karib Cable Inc.

Cable & Wireless has expanded its service offering to include television content to its product mix of landline, mobile and Internet, converting itself from a monopoly provider of mainly voice services, into a provider of multiple telecommunication services to Barbadian customers. Columbus Communications Inc. provides triple play services consisting of landline, Internet and television content to the market. Digicel (Barbados) Limited on August 22, 2013 was granted a full domestic service license, enabling them to offer landline service to the domestic market in addition to their existing mobile services.

## SECTION 2      LEGISLATIVE FRAMEWORK

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The Standards of Services for regulated utilities came into effect on June 1, 2006 in accordance with Section 3 (1) and 4 of the Utilities Regulation Act Cap 282 “URA”<sup>1</sup>. Sections 3 (1) 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.

The imposition of these Standards of Service for C&W residential and business landline services were to ensure that consumers did not experience a decline in the quality of service they received from C&W during the transition period to full liberalisation and the introduction of price cap regulation.

The Commission is also charged with the responsibility of monitoring and periodically reviewing the standards of service in accordance with Section 3 (1) of the URA. The Commission continues to hold the view that these standards are important 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.

### **3.1      Guaranteed Standards of Service**

The Guaranteed Standards of Service measure the performance of the company in providing its services to individual customers. Failure by the company to meet 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.

The Commission noted that the company continues to struggle to achieve consistent performances under the Fault Repair Standard (GTS2). This has been the case since the inception of the Standards of Service, but especially so within the last year of the review period when the performance has shown a marked deterioration.

Cable & Wireless has had several challenges with this standard including cable theft, unseasonal rain, traffic accidents, cane fires and road works which damage underground telephone cables. The Commission is of the view that the decrease in staff as a result of restructuring may have adversely affected the company's ability to meet its obligations to customers with respect to fault repairs.

The lower averages of compliance in the Fault Repair Standard may also be due to misreporting. In correspondence to the Commission dated August 20, 2013, C&W stated that it had carried out an investigation into irregularities in the Standards of Service report data that was supplied to the Commission. The Company advised that in 2011 it had updated its fault management and reporting software. The new software, unlike its predecessor, which used an 8-hour day and an elapsed time measurement consistent with the Standards of Service requirement, now uses a 24-hour day. They advised that this results in an over reporting of elapsed time for faults logged in the system. This was further complicated by "non-business days" (Saturdays, Sundays and Holidays). Cable & Wireless noted that a review of reports received in 2012 indicated that 68% of faults received were logged between Thursday and Sunday with 23% being logged on Saturday and Sunday. This meant that faults reported in the wet season for example, which were



reported on Friday at 8:00 a.m. and fixed the following Thursday at 8:00 a.m. would be deemed to have taken 144-hours or 6 days and would be considered in breach of the Standards of Service when in fact it took four standard (work) days. The Commission recognises the impact of this overstated information on the standards of service performance reports, and has advised C&W that they should endeavor to rectify this situation as soon as possible. In the absence of an auditable alternative, the Commission will nevertheless use the figures submitted by C&W as a basis for this analysis.

The Commission is of the view that adjustments are required to C&W's fault management and reporting software to correct the over-reporting issues as stated above, particularly for the Fault Repair Standards GTS2. The reports would then be more reflective of the true average percentage of compliance for the guaranteed standards of service.

**Table 1: Performance of the Current Guaranteed Standards of Service for  
April 01, 2010 – March 31, 2013**

| STANDARD  | TARGET  | AVERAGE %<br>COMPLIANCE<br>APR 2010 –<br>MAR 2011 | AVERAGE %<br>COMPLIANCE<br>APR 2011 –<br>MAR 2012 | AVERAGE %<br>COMPLIANCE<br>APR 2012 –<br>MAR 2013 |
|---|---|---|---|---|
| <b>GTS1A<br/>Approval of<br/>Application</b><br>This refers to the time it should take for approval of an application form from submission to approval  | Residential Customers - no more than 7 working days<br><br>Business Customers - no more than 5 working days | Residential - 99.09<br><br>Business - 96.73       | Residential - 93.14<br><br>Business - 92.63       | Residential - 89.27<br><br>Business - 75.96       |
| <b>GTS1B<br/>Installation of<br/>Service</b><br>This refers to the time it takes between the advice that the application is approved and the actual provision of service where plant is available | Residential Customers - no more than 7 working days<br><br>Business Customers - no more than 5 working days | Residential 94.72<br><br>Business 87.63           | Residential 82.32<br><br>Business 90.77           | Residential - 81.88<br><br>Business - 76.91       |

| STANDARD   | TARGET  | AVERAGE % COMPLIANCE<br>APR 2010 -<br>MAR 2011   | AVERAGE % COMPLIANCE<br>APR 2011 -<br>MAR 2012   | AVERAGE % COMPLIANCE<br>APR 2012 -<br>MAR 2013   |
|--|---|--|--|--|
| <b>GTS2<br/>Fault Repair</b><br>The speed at which faults due to failure of C&W's equipment or systems are repaired<br><br>Faults due to inside wiring or customer owned equipment are not included              | <b>Dry Season (Dec. 1 - May 31)</b> <ul style="list-style-type: none"> <li>Residential - 12 working hours</li> <li>Business - 8 working hours</li> </ul> <b>Wet Season (June 1 - Nov. 30)</b> <ul style="list-style-type: none"> <li>Residential - 40 working hours</li> <li>Business - 16 working hours</li> </ul> | Residential (Dry) - 39.38<br><br>Business (Dry) - 68.16<br><br>Residential (Wet) - 76.12<br><br>Business (Wet) - 70.73                 | Residential (Dry) - 63.35<br><br>Business (Dry) - 92.66<br><br>Residential (Wet) - 59.32<br><br>Business (Wet) - 78.62                 | Residential - (Dry) - 44.07<br><br>Business- (Dry) - 65.30<br><br>Residential- (Wet) - 31.82<br><br>Business- (Wet) - 53.33      |
| <b>GTS3<br/>Repeated Loss of Service</b><br><br>The reoccurrence of a fault of the same nature, within 30 days of occurrence of the original fault, on C&W network<br>Loss of service is defined as no dial tone | Faults should not reoccur within 30 days of repair of first failure   | Residential - 97.85<br><br>Business - 95.27  | Residential - 95.84<br><br>Business - 97.36  | Residential- 96.01<br><br>Business - 75.21   |
| <b>GTS4<br/>Response to Customer Complaints</b><br><br>This refers to the timeframe in which C&W acknowledges a customer's complaint relating to billing or other standard of service issues                     | Acknowledgement within 7 working days after receipt of letters<br><br>Acknowledgement within 5 working days for telephone, fax or e-mail complaints   | Residential Letters - 88.53<br><br>Business Letters - None received<br><br>Residential Tel/Fax - 75.56<br><br>Business Tel/Fax - 83.55 | Residential Letters - 86.20<br><br>Business Letters - None received<br><br>Residential Tel/Fax - 78.54<br><br>Business Tel/Fax - 88.03 | Residential- Letters - 69.06<br><br>Business Letters - 72.28<br><br>Residential- Tel/Fax- 51.10<br><br>Business- Tel/Fax - 72.28 |
| <b>GTS5<br/>Customer Appointments</b><br><br>These scheduled appointments pertain to visits by C&W representatives to  | All customer appointments should be honoured<br><br>Morning (8:00 a.m. to 12:00 noon) or afternoon (1:00 p.m. to 4:00 p.m.)   | Residential - 81.46<br><br>Business - None Received  | Residential - 67.27<br><br>Business - None Received  | Residential - 70.14<br><br>Business - No Breaches  |

| STANDARD  | TARGET  | AVERAGE % COMPLIANCE<br>APR 2010 –<br>MAR 2011 | AVERAGE % COMPLIANCE<br>APR 2011 –<br>MAR 2012              | AVERAGE % COMPLIANCE<br>APR 2012 –<br>MAR 2013                            |
|---|---|--|---|---|
| correct faults on their network up to and including the network interface device, where access to the customer's premises is necessary but restricted   | appointments may be scheduled   |  |   |   |
| <b>GTS6 – Reconnection after disconnection for non-payment</b><br><br>Notification to C&W, where appropriate and acknowledgement of receipt of payment required   | Reconnection of the service should occur within 8 working hours of acknowledgement of payment | Residential – 99.78<br><br>Business – 99.88    | Residential – None received<br><br>Business – None received | Residential – No recorded breaches<br><br>Business – No recorded breaches |
| <b>GTS7 – Wrongful Disconnection</b><br><br>This refers to situations where customers are deprived of service due to system errors by C&W<br><br>This standard is not applicable where disconnection arises out of circumstances pertaining to an overdue amount, specifically C&W's non-acknowledgement of payment | Reconnection within 1 working hour of notification  | Residential – 82.77%<br><br>Business – 100%    | Residential – 99.99<br><br>Business – 100%                  | Residential – No recorded breaches<br><br>Business – No recorded breaches |

### *Proposed Changes to the Guaranteed Standards*

The Commission is proposing changes to the Fault Repair Standard (GTS2). This is the only standard which the Commission believes should be amended for the 2013 to 2016 period. As stated earlier, since inception of the Standards of Service in 2006, performance of this standard has consistently been below expectation. This is particularly the case during the wet season. Significant numbers of C&W customers have been without service

for considerable lengths of time, and are still required to pay their monthly landline charges. This situation does not appear to be fair or equitable as the company is still receiving revenue for the regulated landline service rental and unregulated services such as ADSL, Net Speak and television content. Customers do not appear to be aware that if the landline service is down and it affects these other services then the customer should inform C&W so that the other services should not be charged.

The Commission is of the view that there is a need to provide some degree of fairness to the C&W customer. The Commission is also of the view that C&W needs to provide much improved performance as far as this standard is concerned over the next Standards of Service period, to ensure customers receive value for money. Based on the historical performance it appears that not enough resources are being applied to satisfactorily resolve the consistently below par performance of this standard.

To improve the level of fairness the Commission is proposing to increase the compensation in respect of the Fault Repair Standard. The Commission is of the view that the compensation for breaches of this standard should be increased to \$20.00 for residential customers (currently \$15.00) and to \$40.00 for business customers (currently \$30.00) in both the wet season and dry season. Compensation will continue to be prorated each hour C&W is in breach of the target. Therefore, if C&W has failed to meet the target time the customer will be compensated for each additional hour that C&W is in breach of the target. This is an effort to address customers' concerns.

**Table 2: Proposed Changes to GTS 2**

| STANDARD  | TARGET   | PROPOSED CHANGE   |
|---|--|---|
| <b>GTS2</b><br><b>Fault Repair (Revised)</b><br>The speed at which faults due to failure of C&W's equipment or systems are repaired.<br><br>Faults due to inside wiring or customer owned equipment are not included. | <u><b>Dry Season</b></u><br>(Dec. 1 – May 31)<br><ul style="list-style-type: none"> <li>Residential – 12 working hours</li> <li>Business – 8 working hours</li> </ul><br><u><b>Wet Season</b></u><br>(June 1 – Nov. 30)<br><ul style="list-style-type: none"> <li>Residential – 40 working hours</li> <li>Business – 16 working hours</li> </ul> | <u><b>Residential</b></u><br>Compensation for breaches of this standard will increase to \$ 20.00 for the first 8 hours and be prorated every hour after<br><br><br><u><b>Business</b></u><br>Compensation for breaches of this standard will increase to \$ 40.00 for the first 8 hours and be prorated every hour after |

The Commission however notes that customers are also concerned that the C&W terms and conditions allow the company to receive payment even when the service is not functioning, and they believe that they are at a considerable disadvantage as a result.

**Q 1: What are your views on the proposed increase in compensation with regard to the Fault Repair standard? What alternatives would you suggest to the one outlined?**

**Q 2: Do you believe that the compensation given under the Fault Repair standard should be more in line with a customer's basic landline telephone bill and that a customer's telephone bill should be reduced if the phone is faulty?**

### **Claims Summary**

Under the current Standards of Service regime automated compensation only applies to standards of service for Installation (GTS1B), and the Reconnection after Disconnection for Non-payment (GTS6). Customers have to make a manual claim for compensation under the other Standard of Service.

Examination of information submitted by C&W indicated that over the 2010-2013 period 75% to approximately 85% of those eligible for compensation did not receive any.

### **Customer Claims Summary**

**Table 3: Customer Claims Summary April 01 to Mar 31, 2013**

| <b>CATEGORY</b>   | <b>2010/2011</b> | <b>2011/2012</b> | <b>2012/2013</b> |
|---|------------------|------------------|------------------|
| Persons eligible for compensation                       | 18,674           | 16,805           | 46,848           |
| Persons actually receiving compensation                 | 4,673            | 2,427            | 7,363            |
| Percentage of eligible customers receiving compensation | 25.02%           | 14.44%           | 15.72%           |

### *Proposed Changes to Compensation*

In view of the above, the Commission proposes that all Guaranteed Standards should fall under the automated compensation arrangement.

Implementation for such a proposal for all the Guaranteed Standards was raised in the 2008 consultation but was not pursued, in view of the considerable investment required by the company in respect of the software and hardware upgrades to make an automated payment system functional. However, the Commission believes that the implementation of automated processes would enable those customers who would have qualified for compensation but have not claimed for such, to receive compensation without having to submit a written claim.

**Q 3: What are your views on the proposal to have all Guaranteed Standards fall under the automated compensation arrangement?**

### **3.2 Overall Standards of Service**

The performance of C&W with respect to the Overall Standards for the period has been reasonable, except for the Fault Repair Standard. However, C&W encountered difficulties in supplying information for Overall Standard 7, the Interactive Voice Response Standard. C&W advised that the third party provider could not modify their information systems to meet the data requirements for this standard.

**Table 4: Overall Standards of Service April 01, 2010 to March 31, 2013**

| <b>OVERALL STANDARDS</b>                              | <b>TARGET</b>   | <b>AVERAGE % COMPLIANCE<br/>APR 2010 -<br/>MAR 2011</b> | <b>AVERAGE % COMPLIANCE<br/>APR 2011 -<br/>MAR 2012</b> | <b>AVERAGE % COMPLIANCE<br/>APR 2012 -<br/>MAR 2013</b> |
|---|---|---|---|---|
| <b>OTS1<br/>Fault Repair</b>                          | 80% of faults should be repaired within a 24 hour period  | 58.84   | 71.17   | 47.94   |
| <b>OTS2<br/>Repeated Loss of Service</b>              | No more than 5% of faults should reoccur within 30 days of repair of first failure  | 97.36   | 98.96   | 98.60   |
| <b>OTS3<br/>Working Payphones</b>                     | At least 95% of the public payphones should be in working order daily   | 98.89   | 98.96   | 93.68   |
| <b>OTS4<br/>Trunk Blocking</b>                        | At least 95% of the calls should be completed during peak traffic   | 99.85   | 99.74   | 99.92   |
| <b>OTS5<br/>Billing Accuracy</b>                      | Billing errors must be no more than 0.5% of the total bills issued  | 0.07  | 0.09  | 0.08  |
| <b>OTS6<br/>Customer Service Response Time</b>        | At least 80% of calls must be answered within 60 secs of being handed off by the IVR system to the service representative queue | 79.61   | 75.37   | 60.98   |
| <b>OTS7<br/>Interactive Voice Response (IVR) Time</b> | At least 80% of calls to the customer service number must be answered by the IVR within 30 secs of making the call              | Unavailable   | Unavailable   | Unavailable   |

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

#### **OTS3      *Working Payphones***

Statistics from the Barbados Telecommunications Unit indicate that use of mobile telephone has become pervasive in our society.

**Table 5: Landline and Mobile Telephone ownership in Barbados**

| YEAR                                   | 2011    | 2010    | 2009    |
|--|---------|---------|---------|
| Post-paid mobile subscribers           | 69,608  | 68,875  | 67,687  |
| Mobile and Internet subscribers        | 213,345 | 211,123 | 196,533 |
| Landlines including ISDN and Payphones | 140,668 | 137,486 | 135,353 |

**Source: Barbados Telecommunications Unit**

This raises the question of the usefulness of the Overall Standard of Service 3, the standard for Working Payphones. The current Telecommunications Act requires that C&W provide payphones as part of the universal service requirement. However, it has been noted that in many other countries there has been a steady decline in the provision of such terminals for the general public as mobile phones have become more popular, and easily accessible. Notably, the price for the use of payphones at 25¢ per three minute call is relatively inexpensive. The number of cellphones in the hands of Barbadian customers ultimately leads to a further decline in the use or usefulness of the payphone kiosk.

The Commission is however, of the opinion that until the current universal service requirement in the Telecommunications Act is changed, the Overall Standard of Service for Working Payphones should remain.

**Q 4: Should the Overall Standard 3 for Working Payphones be continued and if so, why?**

**Q 5: Do you believe that any of the other Overall Standards of Service should be changed?**

### **3.3 Comparison with other Jurisdictions**

The Commission examined quality of service standards in the United States of America, Canada, India, Jamaica, Trinidad & Tobago and the Eastern Caribbean Telecommunications Authority (ECTEL) and found that regulators appear to have taken the view that competitive environments are best able to maintain high standards as consumers themselves have greater choices in the selection of telecommunications service



providers. Consequently the requirements for the extended use or enforcement of standards similar to the Guaranteed Standards of Service applied by the Commission appear to be no longer in use and generally appears to have declined worldwide. Overall standards of service however, appear to be still in use as they measure the overall efficiency of the provider in delivering service to the public.

This does not mean however, that the Commission should at this time abandon the present Standards regime. Our domestic fixed line services market is still, to a significant extent, controlled by a single provider. While other telecommunications providers have entered the market, evidence suggests that competition in the domestic fixed market may not have reached the level where less reliance can be placed on the Standards of Service regime. Therefore it is the Commission's view that the Standards of Service established should remain in place for the foreseeable future or at least until other providers can become more competitive in the landline segment of the market.

**Q 6: Should the Commission continue to set Guaranteed Standards for C&W's domestic landline service?**

## SECTION 4 EXEMPTIONS

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### General Exemptions

The Commission is of the view that there are currently situations where failure to meet Guaranteed Standards of Service should not require compensatory payments from the service provider. Consequently, the standards are placed in abeyance in circumstances where conditions outside the control of the service provider make it impossible to meet the targets. This is referred to as *Force Majeure* which the Commission proposes to formally define as:

*"Risks beyond the reasonable control of a party, incurred not as a product or result of the negligence of the afflicted party, which have a materially adverse effect on the ability of such party to perform its obligations."*

The existing Standard of Service regime states that the force majeure conditions under which exemptions from standards may be granted are as follows:

- (a) Acts of God;
- (b) Riot;
- (c) Civil commotion;
- (d) Strikes, lockouts, and other industrial disturbances;
- (e) Acts of terrorism;
- (f) Wars;
- (g) Blockades;
- (h) Insurrections;
- (i) Epidemics;
- (j) Landslides;
- (k) Hurricanes;
- (l) Lightning;
- (m) Earthquake;
- (n) Storms;
- (o) Floods;
- (p) Trade restrictions;

- (q) Inability to obtain any requisite Government permits; and
- (r) 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.

The Commission is also of the view that *Force Majeure* conditions as well as the exemptions currently applied require refinement. This is in order to ensure that the instances in which these provisions can be applied are clear to both service providers and consumers.

It is therefore proposed that the following changes to the list be made:-

- (a) An act of war (whether declared or not), hostilities 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, lightening, hurricanes, floods, tempest, earthquake or any other natural disaster of overwhelming proportions;
- (d) Riots;
- (e) Civil commotion;
- (f) Acts or threats of terrorism;
- (g) Insurrections;
- (h) Epidemics;
- (i) Trade restrictions;
- (j) Inability to obtain any requisite Government permits;
- (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; and
- (l) 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.

#### **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 it to honour the claim.

The existing 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 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 customer owned 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.

**Q 7: Do you believe that the type of general and other exemptions should be revised? Give reasons for your views. Also, what are your recommendations?**

## SECTION 5      MONITORING AND ENFORCEMENT OF STANDARDS

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Cable & Wireless is required to submit quarterly regulatory reports. These reports shall include information on:-

- The number of breaches under each guaranteed service category;
- The actual average times taken to respond to and/or rectify issues referred to under each guaranteed service category;
- The level of compliance, as a percentage, of each overall service category; and
- Details of any extenuating circumstances that would have prohibited the Company from achieving the targets of the overall standards.

Cable & Wireless is required to submit annual reports. These reports shall 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 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. Section 43 of the Fair Trading Commission Act, CAP 326B and Section 31 of the URA both state the following:

*“Every Service provider or business enterprise that fails or refuses to obey an order of the Commission made under this Act is liable on summary conviction to a fine of \$100,000.00 and, in case of an continuing offense, to a fine \$10,000.00 for each day or part thereof during which the offense continues.”*

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 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 herein prescribed Guaranteed and Overall standards of service will be made available to the public on an annual basis.

### **Public Education**

The service provider shall 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 shall also 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 proposed increase in compensation with regard to the Fault Repair standard? What alternatives would you suggest to the one outlined?**
- Q 2:    Do you believe that the compensation given under the Fault Repair Standard should be more in line with a customers' basic landline telephone bill and that customers' telephone bill should be reduced if the phone is faulty?**
- Q 3:    What are your views on the proposal to have all Guaranteed Standards fall under the automated compensation arrangement?**
- Q 4:    Should the Overall Standard 3 for working Payphones be continued and if so, why?**
- Q 5:    Do you believe that any of the other Overall Standards of Service should be changed?**
- Q 6:    Should the Commission continue to set Guaranteed Standards for C&W domestic landline service?**
- Q 7:    Do you believe that the type of general and other exemptions should be revised? Give reasons for your views. Also, what are your recommendations?**

## SECTION 7      CONSULTATION PROCESS

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The consultative document generally includes a series of specific questions on which the Commission is seeking comments. To ease the task of analysing comments, 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 October 25, 2013 and end on December 06, 2013 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 December 06, 2013.

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

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

The Consultation Paper can also be downloaded from the Commission's website at [www.ftc.gov.bb](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 Word documents and attached to an email cover letter.

Responses can be faxed to the Commission using fax number (246) 424-0300. Mailed or hand delivered responses should be addressed to the Chief Executive Officer.

### **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. Sometimes 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, explain why.

# APPENDIX 1

## LEGISLATIVE FRAMEWORK

The functions of the Commission encompass the important aspect of the setting of standards. Section 3(1) of the URA, states that the Commission shall, in relation to the service provider:-

- (a) determine the standards of service applicable;*
- (b) monitor the standards of service supplied to ensure compliance; and*
- (c) Carry out periodic reviews of the rates and principles for setting rates and standards of service.*

The Commission therefore has responsibility for determining and monitoring the Standards of Service offered and carrying out periodic reviews of the Standards of Service for utilities under its jurisdiction, which includes the regulated services of C&W.

Section 4 of the URA states that in determining standards of service the Commission shall have regard to:-

- (a) The rates being charged by the service provider for supplying a utility service;*
- (b) ensuring that consumers are provided with universal access to the service supplied by the service provider;*
- (c) the national environmental policy; and*
- (d) such other matters as the Commission may consider appropriate.*

Rule 63 of the Utilities Regulation Procedural Rules 2003, S.I. 2003 No. 104 indicates that service standards may include issues such as:-

- (a) Universality of service;*
- (b) The provision of new services;*
- (c) The extension of services to new customers;*
- (d) The maximum response time permitted for responding to customer complaints; and*
- (e) Standards related to service qualities which are specific to each sector.*

Under Statutory Instrument (S.I.) No. 108 Telecommunications (Regulated Services) Order 2003, 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.*