



# Regulatory Authority Activities & Audited Financials

**April 1, 2014 - March 31, 2015**



## **CHAIRMAN'S FOREWORD**

The Regulatory Authority's 2014-15 fiscal year was only its second full year of operation since it was established and came into effect on January 27, 2013, to assume responsibility for regulating the electronic communications sector in Bermuda.

During the 2014-15 fiscal period, the Authority concentrated on strengthening the organisational and regulatory foundations that were laid out in the prior period, as well as on implementing its approved 2014-15 Work Plan.

The Board of Commissioners, in collaboration with the senior management of the Authority, enhanced the corporate governance structure to ensure the regular monitoring of the Authority's operational and financial performance, the effectiveness of its internal controls and risk management systems, and the statutory audit of its annual financial statements.

The Board believes that the scrutiny of key areas of performance, responsibility and accountability of the Authority results in sound, high quality, and evidence-based decision-making. During this period, the opportunity was also taken to update the strategic goals and priorities that will drive the Authority's activities during the short and medium term. The updated goals and priorities were reflected in the coming year's work plan.

There were a number of changes at the Chief Executive level during the 2014-15 fiscal period.

The Authority's first Chief Executive, Philip Micallef, regrettably tendered his resignation, with effect from September 30, 2014, for unforeseen and unavoidable personal reasons. Notwithstanding his official separation and the fact that he has returned to his home in far-away Malta, he continues to inquire about and demonstrate his continued interest in the future success of the Authority. We will be forever grateful to Mr. Micallef for his leadership and support during the quite challenging first 20 months of the Authority's existence.

Kyle Masters, the Authority's Legal Advisor, took advantage of a career development opportunity and accepted the Board's offer to act as its Interim Chief Executive, with effect from October 1, 2014, pending identification and selection of a permanent Chief Executive to replace Mr. Micallef.

The Board initiated a global search for a Chief Executive with the requisite skills and experience to lead the Authority and to design and develop a succession plan that would lead to the

appointment of a Bermudian successor: As a result, Mr. Robert Watson was appointed as the new Chief Executive in early January 2015.

Whilst there were major changes in the leadership of the Authority during the 2014-15 fiscal period, which presented certain challenges, the Authority was able to accomplish key activities and achievements, which are set out in the remainder of this report. They are a testament to the hard work and commitment of the entire staff.

The focus of the Authority's work reflects the inevitable rebalancing of the priorities and proposed activities set out in the Approved 2014-15 Work Plan; indeed, this rebalancing was necessary due to unforeseen circumstances and events. For example, the Commissioners and staff were required to divert their attention to reviewing, and ultimately giving its approval to, proposed changes in ownership control of 4 Integrated Communications Operating License holders - they included Barrie OpCo. Limited's purchase of Bermuda Telephone Company Limited from KeyTech Limited, the change in control at Bermuda Cablevision Limited, Digicel's acquisition of Bermuda Telephone Company Limited from Barrie OpCo. Limited, and the change in control at Digital Mobile Television Limited.

I am pleased to report that the Authority's activities were carried out within its approved Budget.

As the Authority looks ahead, it will continue to adhere to and uphold strong regulatory principles and standards, while also discharging its regulatory duties in an independent, transparent and proportionate manner. This means that, amongst other things, it will:

- ensure that the Authority serves the interest of consumers and residents by promoting effective competition and, where markets do not serve the best interest of consumers, that it uses its powers to provide appropriate protection;
- use a light touch approach to regulation and only intervene when absolutely necessary and appropriate, in a prompt and effective manner; and
- endeavour to base its interventions on supporting evidence.

During the period, the Government announced, in its Throne Speech, that legislation would be introduced to transfer the responsibility for the electricity sector to the Authority. It expects, in due course, to start the preparations necessary for the assumption of its soon-to-be-expanded role and to review and provide feedback to the Government on proposed electricity policies and legislation, as well as on developing broad strategies for the regulation of electricity.

In closing, I would like to extend my sincere thanks to my fellow Board members and the management and staff of the Authority for their hard work and support during the 2014-15 period. On behalf of the Authority, I would also like to convey special thanks to both the electronic communication service providers and the general public for their cooperation and open and frank feedback in respect to the various public consultations issued by the Authority during the period.



Carl Musson  
Chairman.

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## REGULATORY AUTHORITY ACTIVITIES

The 2014-15 workplan was consulted upon and approved by the Minister on January 21, 2014. The Regulatory Authority (the "Authority") adopted a work plan that seeks to achieve the following five strategic priorities:

- Regulating an electronic communications environment that is capable of encouraging competition amongst Bermuda's existing providers, while also ensuring ease of entry for new businesses;
- Ensuring that electronic communications undertakings transparently provide value-for-money services to the public;
- Contributing to the ongoing discussion on regulatory matters at an international level at various forums such as the International Telecommunications Union ("ITU");
- Encouraging innovation in the provision of electronic communication services via the continued evolution of the policy and regulatory environment; and
- Organisation building.

Within the last fiscal year, the following activities were carried out by the Authority and were aimed at promoting the aforementioned strategic priorities:

### **1) Institutional Capacity Building**

The Authority has continued to employ and train qualified permanent staff; it has achieved this by using appropriate information technology, adopting transparent administrative procedures, preparing reasonable expense and revenue budgets, and imposing appropriate financial controls.

### **2) Staffing and Administrative Procedures**

Including the Chief Executive ("CE"), the Authority's full time staff remained at seven during 2014. In October 2014, the Authority's CE resigned his position and was replaced by an interim CE until January 2015 when the new CE commenced his position. An increase in the number of senior management and staff is expected in the coming year to support ongoing resourcing needs.

### **3) Promotion of Sustainable Competition**

The promotion of sustainable competition has a number of objectives, such as enhancing consumer welfare by implementing the Model Access and Interconnect Agreement ("MAIA"), eliminating artificial barriers to competition among Integrated Communications Operations Licence ("ICOL") holders, requiring those with significant market power to implement effective ex-ante remedies, enforcing prohibitions against anti-competitive conduct, resolving interconnection and access disputes between providers, and enhancing the ability of users to switch providers.

### **4) Authority Adjudication Rules**

In January 2013, after the Authority began operations, it published a set of administrative rules (the "Interim Administrative Rules"), which were adopted on an interim basis. The Interim Administrative Rules set forth rules relating to general administrative procedures undertaken by the Authority. At the time that the Interim Administrative Rules were published, the Authority expressly indicated that it would conduct a public consultation specifically related to the rules governing adjudications (the "Adjudication Rules").

The Authority issued the Adjudication Rules Consultation in June 2014. The Adjudication Rules set out in Chapter 9 of the Interim Administrative Rules Determination were reproduced for the purposes of the Consultation. Subsequent to the Consultation, the Authority issued the Regulatory Authority (Adjudication Rules) General Determination 2014 in September 2014, which adapted the Interim Adjudication Rules to serve as the established procedures to be followed during an adjudication.

### **5) Bermuda CableVision HBO Decision**

On May 27, 2014, Bermuda CableVision Limited ("BCV") applied for a tariff increase for its Home Box Office, Inc. ("HBO") service on the grounds that HBO, BCV's supplier of HBO service, had retroactively implemented a price increase beginning January 2014. The Authority decided to (i) approve a retroactive price increase of 5% for 2014; and (ii) conditionally approve an annual 5% price increase for the provision of the HBO service until 2017, under the condition that BCV supply the Authority with official documentation outlining a required increase of 5% from HBO no later than December 1 of the year prior to that in which the increase will take place, or one month before the implementation of the price increase, whichever is earlier. Once the Authority has received an official notice, the increase would automatically be approved.

### **6) Local Access Charge ("LAC")**

Prior to the commencement of the Authority, Link Bermuda Limited ("Link") submitted a complaint that the LAC should be reduced to reflect the current cost of long distance service to the Telecommunications Commission. Link argued that the LAC had not been reduced since 2006, while the price of long distance calls had fallen significantly. This would indicate that the LAC represented a larger portion of the cost of long distance in 2014 than in previous years. In addition, Link argued that the LAC should be reduced in order to facilitate alignment with common rates in jurisdictions of a similar size and economy. After the Authority's commencement, the application was transferred to the Authority for resolution in accordance with Section 80(3) of the ECA.

In a Final Decision and Order dated May 19, 2014, the Authority concluded that the cost analysis provided by Bermuda Telephone Company Limited ("BTC") depicted a fair account of the associated costs, and that a detailed cost study was not necessary at that time. The Order approved the reduction of the LAC rate by \$0.003, for an LAC rate of \$0.027 per minute beginning April 1, 2015, based on the Authority's analysis of the cost information provided by BTC.

Additionally, the LAC shall have an annual decrease of \$0.0025 per minute for three years, beginning April 1, 2016 and ending on April 1, 2018, in line with the ongoing reduction of international settlement rates worldwide.

At the end of the four-year period, the Authority will conduct a detailed cost analysis, which will take into consideration the potential future changes of Bermuda's telecommunications industry in the calculation of the LAC rate. In terms of the LAC prices for the next four years, they are scheduled to decline by \$0.003 in April 2015, and by \$0.0025 per year for three years thereafter.

## **7) BTC MAIA Discount Order (the "Discount Order")**

The Authority issued the Discount Order on April 3, 2014 to clarify the manner in which the 15% discount will apply to Leased Lines and Business Broad Band Services subject to the MAIA between BTC and any ICOL holder, particularly Link.

One particularly significant obligation placed on BTC by the General Determination regarding Obligations for Operators with Significant Market Power (the "Remedies GD") was the requirement that it enter into a MAIA with any ICOL holder which requests it, under terms that include a 15% discount on the retail price (the "Retail Minus Discount") for certain services.

The MAIA is a contract setting out the terms upon which an operator with Significant Market Power offers wholesale access and interconnection services to other operators.

One of the main areas of contention has been whether the 15% discount is sufficient, whether it should be applicable to Leased Lines and Business Broadband Services and, if so, to what extent the discount should be applied to these services.

The Discount Order sets out how the Retail Minus Discount will apply to particular services under various scenarios. After a review, the Authority addressed the application of the Retail Minus Discount to the offer of Leased Lines and Business Broadband services by BTC to any ICOL holder under its MAIA. The Authority concluded that the Retail Minus Discount will be applied in the manner set out in Annex I of the Discount Order in as far as various scenarios therein are relevant.

## **8) Consumer Protection**

This objective involves protecting the interests of Bermuda consumers by ensuring that all end-users have access to electronic communications networks and services, implementing requirements that ensure transparency, protecting consumers from unfair or abusive practices, and resolving disputes between end users and service providers.

ICOL holders have specific obligations relating to consumer protection set forth in their license. The information required in service contracts as well as obligations concerning the addressing of complaints from customers, are both broadly covered by ICOL obligations. Additional consumer protection obligations were enacted in 2014, as set forth below.

## **9) Consumer Contracts**

In May 2014, the Authority issued a Consumer Rights: Contracts Consultation (the "Contracts Consultation"). The purpose of the Contracts Consultation was to solicit public feedback on a proposed set of standards for the provision of Electronic Communications services (specifically fixed telephone, mobile telephone, Internet, long distance and pay television) to the Bermuda public. This Contracts Consultation was the first in a series of consultations on the issue of consumer rights with the ultimate goal being a comprehensive Consumer Rights Code of Practice that provides a stable and clear basis for the manner in which service providers engage the consumer in marketing practices.

The Contracts Consultation consisted of two parts. Part I proposed decisions relating to contracts between consumers and service providers. The decisions proposed within Part I were designed to (i) build upon the minimum standards for a consumer contract set out in the ICOLs held by service providers; and (ii) place consumers in the best position to make informed decisions of their own free will concerning their service providers while still balancing the convenience offered by some service providers for consumers to enter into contracts for services in an efficient manner.

Part II sought to address the top concerns raised by consumers with the Authority during the Authority's first year in operation. The majority of complaints received were related to (i) the quality of broadband services; and (ii) unsolicited communications.

To address broadband service issues, the Authority proposed to enter into a constructive dialogue with consumers, internet service providers, the Office of Consumer Affairs and any other interested parties to develop a solution that benefits consumers in terms of responsiveness and speed and which addresses any other issues raised around the quality of broadband service.

The Authority additionally sought to offer a balance in the proposed solution to address the issue of unsolicited marketing via telephone, email and SMS messages. The Authority proposed that when consumers sign up for a new or upgraded service, service providers will be required to give them the opportunity to "opt in" to any marketing initiatives that use email,

mobile or fixed telephone numbers for the purposes of offering promotions, deals or any other information prior to entering into an agreement. This is in contrast to the common practice of "opting out" of receiving messages. Whenever consumers are contacted by any service provider for marketing purposes, they would have to give consumers the opportunity to unsubscribe from phone calls, text messages and emails and to have their telephone number placed on a "Do Not Call" register.

In October 2014, the Authority made the Regulatory Authority (Consumer Rights: Residential Contracts) General Determination (the "Consumer Contracts GD"). The Consumer Contracts GD set forth minimum terms and conditions for contracts for electronic communications services offered to the general public on a private residential basis for a fee. The Consumer Contracts GD required service providers to ensure that all new contracts were in compliance with the Consumer Contracts GD within 6 months of the effective date and all existing contracts were brought into compliance within 12 months of the effective date.

### **Broadband Quality of Service Working Group (the "Working Group")**

The Authority subsequently created the Working Group to address the broadband issues that were raised in the Contracts Consultation. The Working Group's mission was to provide the Authority's Board with input related to the development of an island-wide broadband framework. It achieved this by drafting a report containing recommendations for regulating, monitoring and enforcing broadband quality of service standards. The Working Group focused on the issues surrounding broadband services that were identified in the Contracts Consultation. In addition, it gathered data from other jurisdictions and regulatory bodies, with the goal of recommending solutions that would address Bermuda's needs.

### **Consumer Perception Broadband and Mobile Surveys**

To gauge consumer sentiment surrounding mobile and broadband service in Bermuda, the Authority commissioned public surveys and published the results in January and February 2015. Consumer responses gave the Authority a benchmark against which to measure the success of its work on behalf of consumers in the future. It is the Authority's goal to ensure that consumer satisfaction and education regarding the telecommunications industry increases. The results of these surveys have already begun to form the basis of the Authority's decisions for its 2015-16 work plan, which has an emphasis on consumer protection.

### **Pricing Portal**

In February 2015, the Authority made the Regulatory Authority (Electronic Communications Price Comparison Website) General Determination 2015 (the "Pricing Portal GD") to implement a first-of-its-kind measure on the island, a price comparison website. In August 2015, the Authority launched the web-based price comparison tool at PriceCheckbm to assist consumers in identifying and comparing residential telecommunications services offered by Bermuda's local service providers.

PriceCheckbm combined all residential telecommunication services in one place, thus allowing consumers to have an objective view when comparing all the services offered by Bermuda's telecommunication companies before choosing the right service they require.

Telecommunications providers that offer residential services upload accurate pricing and service information onto the website on an ongoing basis to ensure that certain prices are being made available in the market place. The tool has proven to be successful, generating many visits during that period.

## **10) Efficient Use of Scarce Resources**

This objective refers to ensuring that scarce resources, such as radio spectrum, are allocated and used efficiently. This is achieved by conducting investigations and, as necessary, requiring that inefficiently used resources be relinquished or shared.

### **Section 78 Transitional Spectrum Investigation**

The Authority was required by Section 78 of the ECA to conduct a transitional investigation of the spectrum assignments granted to ICOL holders for the purpose of determining whether the assigned frequencies are being utilised efficiently to decide whether the Authority should renew, modify or decline to renew the existing transitional spectrum licenses, which



were scheduled to expire on October 29, 2014. The ECA placed the burden of proof on the licensee to demonstrate a reasonable need for the spectrum assigned to it. If the ICOL holder fails to demonstrate a reasonable need for some or all of the assigned spectrum, the Authority may decline to renew the spectrum licence, or modify the spectrum licence to reduce the amount of assigned spectrum, if the Authority concludes that such measures are necessary to ensure the efficient use of spectrum.

As part of an ongoing consultative process, the Authority published a non-confidential Draft Final Decision and Order in October 2014. Given the confidential nature of the data addressed in the investigation, the Authority determined that it was prudent to provide spectrum licensees with company-specific, confidential versions of the Authority's Draft Spectrum Efficiency and Usage Self-Assessments ("SEUSA") Analysis and Draft Final Decisions.

The Authority determined that it was reasonable to limit the scope of the investigation to "high value" spectrum assignments, where there was the greatest potential for demand to exceed supply and the most urgent need to ensure efficient spectrum assignments. Consistent with this approach, the Authority limited the investigation to the spectrum associated with Wireless Cable Spectrum Licences, Commercial Mobile Radio Service Spectrum Licences, and Fixed Wireless Access Spectrum Licences. Excluded from the scope of the investigation were the spectrum assignments associated with Other Mobile Radio Service Spectrum Licences and Point-to-Point Microwave Spectrum Licences.

The Authority published separate Final Decisions for Bermuda Digital Broadband Ltd. ("BDB"), Bermuda Digital Communications Ltd. (trading as CellOne) ("CellOne"), Telecommunications (Bermuda & West Indies) Limited (trading as Digicel) ("Digicel") and Quantum Communications Limited ("Quantum") in December 2014. In their respective Final Decisions, the Authority determined that the spectrum licenses for BDB and Quantum that expired on October 29, 2014 shall not be renewed. The Authority also determined that the spectrum licenses for CellOne and Digicel will be modified to reduce their respective spectrum assignments, consistent with Section 78 of the ECA. As such, the Authority issued new, reduced assignment spectrum licenses to CellOne and Digicel on October 30, 2014, with a 10-year term ending on October 29, 2024. For the CellOne and Digicel spectrum blocks that were previously assigned but not renewed, each party was issued a temporary spectrum license with a 90-day term, which ended on January 27, 2015, to transition out of the spectrum.

### **Bermuda Digital Communications Limited v. Regulatory Authority**

CellOne subsequently lodged an appeal against the Authority seeking a stay of the Authority's decision to reduce CellOne's authorized spectrum. In a decision, dated March 9, 2015, the Chief Justice refused CellOne's application for a stay, finding that CellOne was not likely to prevail on the merits of its application.

### **World on Wireless Limited ("WOW") Migration**

Prior to the Authority's enactment, the Department of Telecommunications ("DOT") and WOW met to discuss migration out of certain bands of spectrum as part of the DOT's review of spectrum assignments. WOW subsequently submitted a memorandum to the DOT discussing its potential position on migration. In May 2013, WOW sent the Authority a memorandum detailing its migration proposal (the "Migration Proposal").

In a decision dated 31 March 2015, the Authority approved the Migration Proposal submitted by WOW. Pursuant to the Migration Proposal, WOW agreed to surrender its 700 Band Frequencies (698 – 806 MHz or Channels 52 – 69) so that they may be reallocated and reassigned for mobile communications. In exchange for surrendering these frequencies, WOW: (i) requested a new assignment in the 500 MHz band by the Authority, and (ii) compensation for reasonably incurred migration costs.

The Authority reconfirmed, in line with the DOT, that an important public interest will be served by clearing frequencies in the 700 MHz band for use by mobile communications services. Along with the 800 MHz spectrum band, the 700 MHz spectrum band was allocated to, and is now being commercialised worldwide for, mobile broadband use. The importance of both bands for mobile broadband stems both from the physical propagation characteristics of a spectrum below 1 GHz, and the commercialisation of these bands by equipment manufacturers for mobile use following the allocation of these bands for that purpose at the ITU level. This includes Region 2, which encompasses Bermuda.

The development of mobile Internet services and applications is a policy priority for the Government of Bermuda and the availability of a spectrum below 1 GHz, particularly in the 800 MHz and 700 MHz bands, is critical to that objective.

Following the Authority's review of WOW's Migration Proposal and responses to its Preliminary Consultation, the Authority approved WOW's Migration Proposal for WOW's migration out of the 700 Band Frequencies into the 500 Band Frequencies. The Authority also granted WOW a ten-year spectrum licence to reassign its use of the 600 Band Frequencies that it currently holds.

The Government of Bermuda separately agreed to compensate WOW for the reasonable costs incurred while migrating from the 700 Band Frequencies to the 500 Band Frequencies.

## **11) Barrie KeyTech Concentration Decision**

In August 2014, the Authority issued a decision (the "Concentration Decision") approving of two proposed concentrations (the "Proposed Concentrations") between KeyTech Limited ("KeyTech"), BCV, Barrie OpCo Limited ("Barrie") and BTC. In July 2014, the Authority received notification of the Proposed Concentrations that (i) KeyTech proposed to acquire a controlling interest in BCV (the "BCV Investment"); and (ii) Barrie proposed to merge with BTC, with BTC surviving the merger as a wholly owned subsidiary of Barrie Holdings Limited (the "BTC Purchase"). The parties submitted that the BCV Investment and BTC Purchase were contingent on one another.

Under Section 87 of the RAA, the Authority is required to review certain transactions that result in the change of ownership and/or control of companies licensed by the Authority to offer electronic communications services. The Proposed Concentrations related to the change of control of BTC and BCV, both licensed by the Authority to offer electronic communications services.

After careful consideration, the Authority approved the Proposed Concentrations subject to (i) ministerial approval of the conditions set forth in Annex A and B of the Concentration Decision (the "Conditions"); (ii) ministerial consent to change of control of BCV and BTC's ICOL; and (iii) BTC and KeyTech complying with the applicable Conditions. The Conditions were designed to reduce the potential for the Proposed Concentrations to have adverse effects on competition.

## **SPECTRUM**

Following the Spectrum Efficiency and Usage Self-Assessments consultation, the Authority found that both CellOne and Digicel were using their Commercial Mobile Radio Service ("CMRS") spectrum assignments inefficiently. In accordance with Section 78(b) of the ECA, both licences were modified to use a reduced amount of spectrum and given three months to cease using the noted spectrum.

In January 2015, both licensees completed the release of those frequencies that were deemed to be used in an inefficient manner, which gave the Authority the ability to reassign them to more efficient uses.

### **Spectrum Licences**

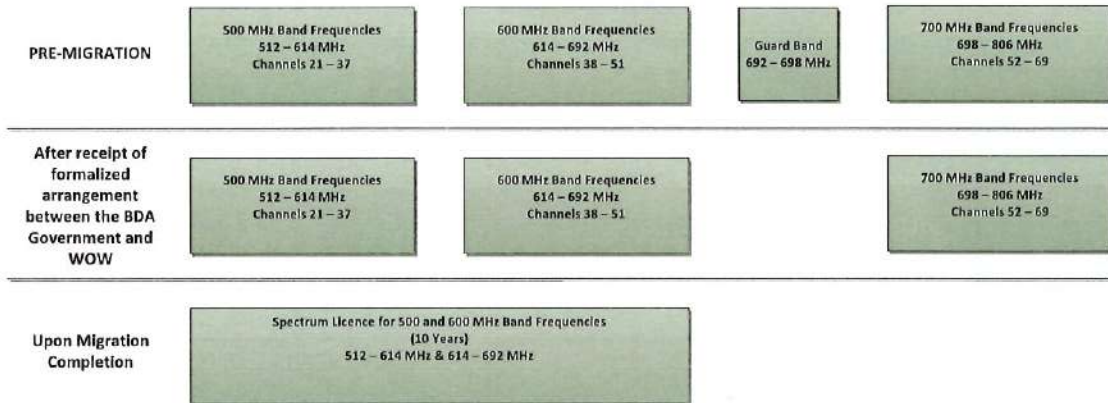
On October 29, 2014, all temporary spectrum licences were renewed for a further 10 years, with the exception of the licences that were modified in accordance with Section 78 of the ECA.

These Spectrum Licences that were issued to multiple ICOL holders comprised:

- CMRS
- Fixed Wireless Access
- Microwave Point-to-Point
- Other Mobile Radio Service.

### **700 MHz Migration**

On March 2, 2015, the Authority released the WOW 700 MHz Spectrum Migration Proposal – Draft Final Decision and Order. This Final Decision and Order put in place the guidelines which WOW will follow when executing the Order. The basic steps of the WOW licence migration are set out below:



This process is due to be concluded by Q1 2016. WOW is on course to complete the migration by the date proposed in the Migration Order and Decision Milestone Plan, or shortly thereafter.

### **Ministry of Economic Development Spectrum Policy**

With the support of the Authority, on September 22, 2014, the Minister responsible for telecommunications, Dr. the Hon. E. Grant Gibbons, JP, MP published his Spectrum Policy Statement (“the policy”) following the conclusion of a public consultation which commenced on January 31, 2014.

The purpose of the policy was to provide the spectrum management guidance for the Authority to implement going forward with respect to spectrum allocations, spectrum assignments, and spectrum-related fees. The concept of High Demand Spectrum (“HDS”) was also introduced.

### **High Demand Spectrum**

It was concluded that the HDS approach put forth by the Authority should be implemented as a spectrum management policy going forward. As such, the Minister proposed that the Authority be required to define, through a General Determination, a set of frequencies where the potential for demand to exceed supply and the need to ensure efficient spectrum assignments are the greatest. The defined HDS may then be subjected to more stringent spectrum management procedures with respect to assignments and fees.

### **Spectrum Allocation**

The ITU, inter alia, establishes the global framework for the use of radio frequencies (or spectrum) in the ITU Radio Regulations – a treaty ratified by the Member States of the ITU.

The Authority is guided by the policy regarding spectrum allocation; indeed, the Minister decided that it was in the best interest of Bermuda to continue to follow the Federal Communications Commission’s (“FCC”) frequency allocations and band plans as much as practicable so that Bermuda may benefit from the interoperability of, and all available economies of scale for, radio communications equipment. This approach is consistent with the ITU allocations for region 2, of which Bermuda is an affiliate.

### **Spectrum Assignment**

In accordance with the policy, the Authority is to maintain the First Come First Served (“FCFS”) approach to spectrum assignment for non-HDS frequencies going forward. The Minister further decided that this methodology provides sufficient regulatory oversight for non-HDS frequencies.

Under the policy, the Minister also proposed the use of a comparative selection process where demand for the right to use a specific portion of the radio spectrum is expected to exceed supply. Under this comparative selection process (also referred to as a “beauty contest” or “administrative assignment”) the Authority would issue a Request for Applications. It would then evaluate applications for spectrum against a list of criteria. Clear advanced notice of the criteria to be used and

the weightings to be applied to each criterion would be provided to improve the transparency and objectiveness of this comparative process.

### Spectrum Fees

On December 18, 2014, the Bermuda Government made regulations to address the introduction of spectrum fees following the finalisation of the Ministry of Economic Development's Spectrum Policy Statement in September 2014. These regulations are referred to as the Government Fees Amendment (NO. 4) Regulations 2014. The regulations set a positive reference rate for HDS spectrum at \$12,500/MHz.

The above-mentioned regulations are based on the Administered Incentive Pricing model ("AIP"), which sets goals to incentivise efficient use of spectrum for all HDS bands. This model utilised a base price set by the Minister for the reference band. From this, all other bands listed as HDS were weighted accordingly from more demand to less demand. See below:

HDS BAND NAME	FREQUENCY RANGE	HDS BAND SIZE	% OF REFERENCE RATE
700 MHz Band	698 to 806 MHz	108 MHz	100%
850 MHz Band	824 to 849 MHz 869 to 894 MHz	50 MHz	100%
1900 MHz Band	1850 to 1910 MHz 1930 to 1990 MHz	120 MHz	78%
2100 MHz Band (AWS-1)	1710 to 1755 MHz	90 MHz	39%
2110 to 2155 MHz 2100 MHz Band (AWS-3)	1690 to 1700 MHz 1700 to 1710 MHz 2155 to 2180 MHz 1755 to 1780 MHz	65 MHz	39%
2500 MHz Band	2496 to 2690 MHz	194 MHz	33%
3.500 GHz Band	3,300 to 3,700 GHz	400 MHz	3%

## CONSUMER PROTECTION

### 1) Overview

The Authority continued its consumer protection, education and awareness strategy as part of its 2014-15 work plan. The Authority conducted two major consumer-related consultations during the year. These consultations were specifically designed around consumer complaints and legislation set out in the ECA. The consultations also became the first submissions in establishing a Consumer Code of Practice.

The Contracts Consultation focused on all service providers' terms and conditions, and various consumer-related issues. The Authority feels it is of paramount importance to ensure that, when considering whether or not to enter into a Contract, consumers are put in the position of having sufficient information about the products and service(s) they are seeking. These consumers must also be aware of the terms and conditions under which the products are being offered, so that they can make an informed decision before they enter into a contract.

The Authority proposed to develop a set of minimum standards that should be included in all contracts. These included presentation and format, details of contract, quality of service and automatic renewals. Other consumer-related topics consulted on were broadband quality of service and unsolicited communications.

The results of the broadband quality of service consultation determined that it was necessary to address broadband speeds and that it is in the public interest to find a solution that ensures that consumers get the service they are paying for; encourages transparency, and increases competition. A final decision was made to create a working group to develop recommendations to resolve some of these broadband concerns.

### 2) Consumer Perceptions of Residential Telecommunication Services

During December 2014 and January 2015, the Authority commissioned two surveys to capture customer perceptions amongst the Bermuda community when it came to satisfaction with service levels and areas of concern related to mobile and broadband services. This public survey defines

consumer opinions on telecommunication service providers in Bermuda. Full detail on the two surveys are published on the Authority's website.

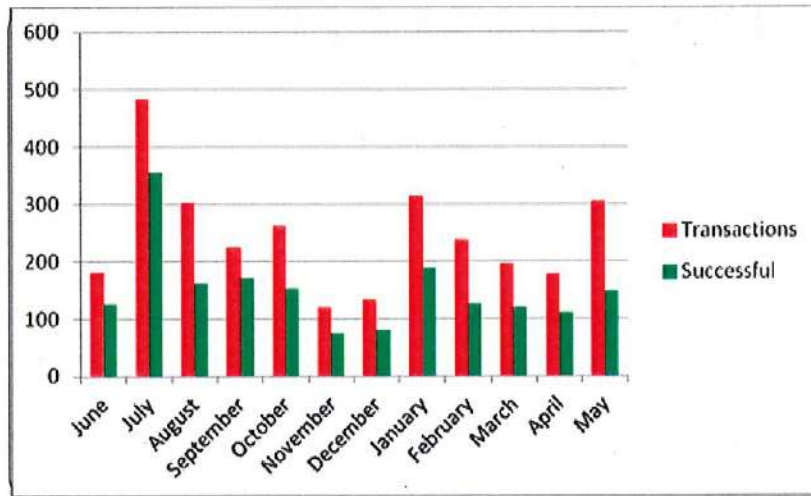
### 3) Local Number Portability

In April 2015, Fixed Number Portability came into effect to allow carriers to port residential numbers from each other. BTC initially opted to only port numbers out and subsequently changed its position to receive ports in. Fixed Number Portability resulted in new entrants and more movement amongst carriers relating to price.

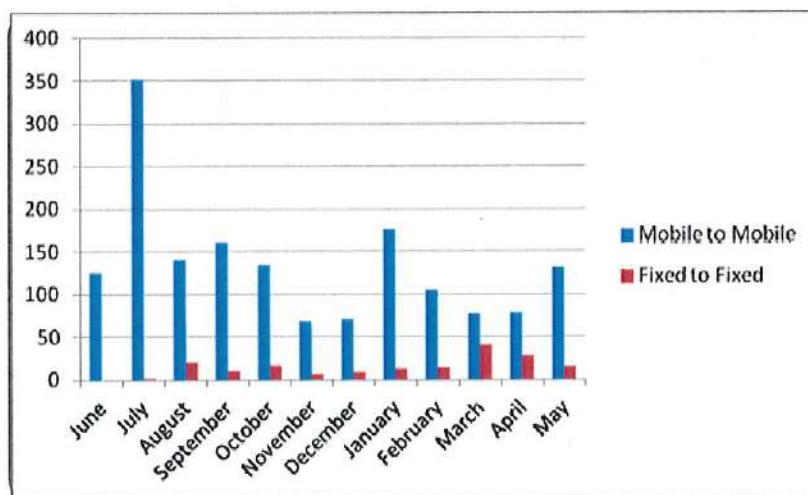
#### LNP Bermuda Statistics: June 2014 to May 2015

Local Number Portability (Fixed and Mobile) worked well during the period June 2014 to May 2015. Throughout this period there was a total of 1,811 successful portings with 2,932 attempted porting transactions.

The following graph shows the distribution of portings over the period.

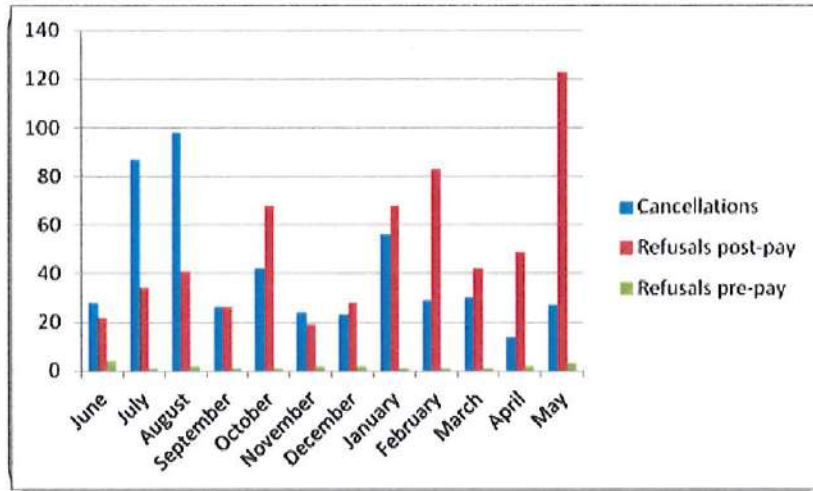


The graph below shows the number of mobile and fixed portings. There were also 2 mobile to fixed and 11 fixed to mobile portings, which are not shown.

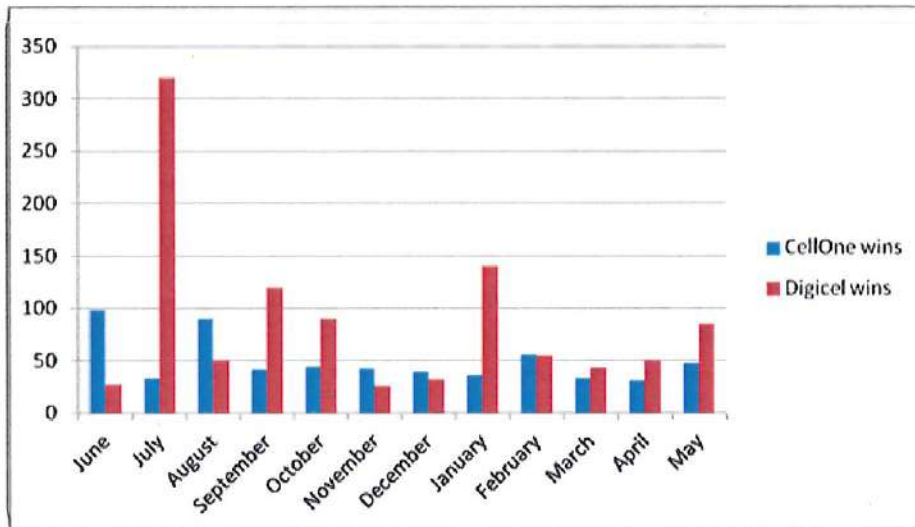


The proportion of porting requests not completed successfully was significant, at 38%.

The following graph shows the breakdown of the unsuccessful transactions between refusals and cancellations. The rate of refusals for pre-pay is much lower than for post-pay.

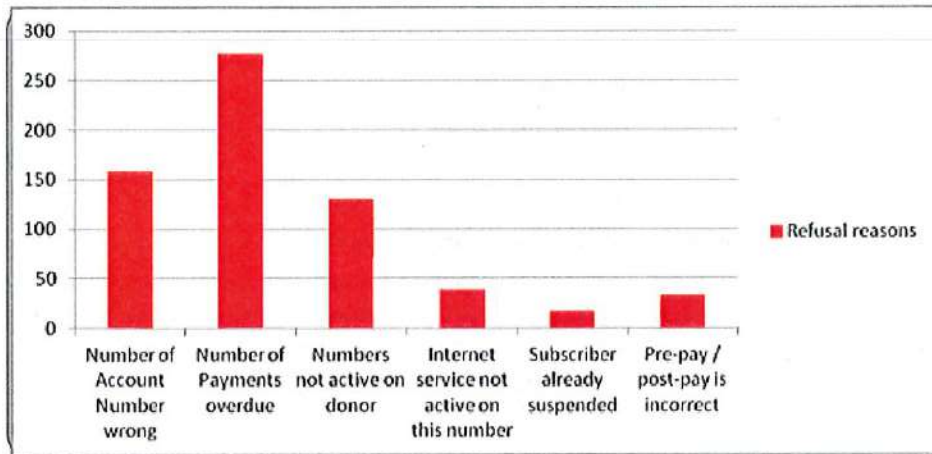


For the mobile portings, there were more portings to Digicel (1031) than there were to CellOne (591), as shown in the following graph.

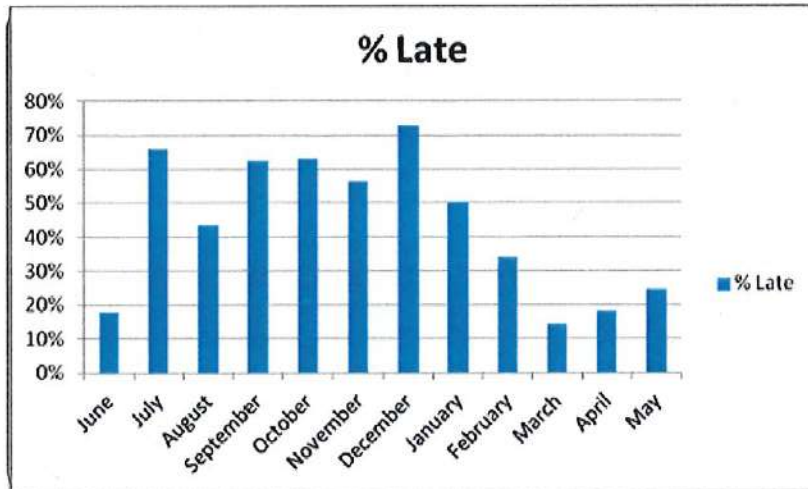




The graph below shows the breakdown of refusal reasons, with overdue payments being the most common reason. For a small number of ports, more than one reason was given, and so the number of reasons exceeds the number of ports refused.



The porting specification places time limits on the donor operators when it comes to responding to porting requests from recipients. The following graph shows the approximate number of late responses (the figures are approximate because they do not take into account the public holidays). The figures show improvement in the last four months of the period.



#### 4) Consumer Complaints

##### Authority Telecommunications Consumer Complaints: 2014-15

Consumer complaints have been on the rise since 2013 and are steadily increasing. Consumers are now buying more devices that require broadband services and are thus demanding a higher quality of service as technology changes. Over The Top services, Wi-Fi, gaming, telephone and other services are being used more increasingly, which puts further strain on the telecommunications infrastructure. The expectations from the consumer include good quality of service, friendly and helpful customer service, and value for money. These expectations are consistent with the varied complaints received by the Authority during this year and are also consistent with last year's statistics. From April 1, 2014 to March 31, 2015 the Authority received 40 investigated complaints compared to 28 in 2013-14.

Type of Complaints	
Broadband Speeds	17
Customer Service	6
Billing	7
Carrier Contracts	2
Other Telecom Related	8
Total	40

### Consumer Affairs Telecommunications Complaints: 2014-15

The Consumer Affairs Bureau ("Consumer Affairs") has begun to pass telecommunication complaints on to the Authority, although several complaints were fielded by that department. For the year 2014-15, a total of 35 telecommunications complaints were received by Consumer Affairs. This was a slight decrease compared to 40 complaints in 2013-14.

Type of Complaints	
Billing	22
Service	9
Carrier Contracts	2
Customer Service	2
Total	35

These complaints from consumers will form the basis of consultations that will be conducted by the Authority. The purpose of the consultations is to solicit public feedback related to the provision of electronic communications services (specifically fixed telephone, mobile cellular phone, Internet, long distance, broadband services and pay television) to the Bermuda public. This series of consultations will ultimately form a comprehensive Consumer Rights Code of Practice that provides a stable and clear basis for service providers to engage in consumer and marketing practices.

## 5) Consumer Awareness

Per the Residential Broadband Survey, in 2014 there was an overall lack of awareness of the Authority. Just over a quarter of residents (27%) were aware of its existence. Of these residents, some feel that the purpose of the Authority should be to regulate and ensure the legality of telecom providers (29%) and protect consumers by ensuring the best services and rates (28%). From 2013 to present, the Authority has produced various education initiatives in the form of newspaper ads, fact sheets, pamphlets and radio interviews.

To increase its awareness, the Authority has engaged a marketing firm to help increase its visibility and to further highlight its purpose. As new consultations are initiated, a combination of marketing initiatives will be used to encourage increased involvement by the public, such as print media, radio interviews, social media, online survey, news articles, lunch and learns and town hall meetings, which will form the basis of the outreach plan.

## 6) Consumer Education

The promotion of consumer education and information is an important part of the Authority's priorities. As competition increases, the Authority has started to focus on effectively educating consumers on prevention and protection from misleading or intrusive practices by telecommunications providers in contracts, fees and marketing.

The proliferation of new markets, products, and services through the Internet and other technology creates the potential for gaps in consumer knowledge and understanding, and thus for the potential marketplace abuse of consumers. Moreover, the ever-increasing amount of marketing directed at young people and children means that starting consumer education at an early age is critical. Knowledgeable consumers can participate more fully and effectively in the marketplace.

The Authority believes that consumers need to be able to obtain good information about the services in order to make informed choices and get the best value for money. Consumers should also understand both their rights and responsibilities when entering into an agreement to purchase telecommunications services. The use of plain, understandable language is a key factor for consumers when it comes to making the most of a competitive marketplace. The more consumers know about their rights and responsibilities, as well as about the goods and services they buy, the better they are able to protect themselves and make sound purchasing decisions.

The Authority collaborates with Consumer Affairs, the Chamber of Commerce and various carriers, to help educate the consumer. Collaborations focus on quality of service from carriers, how to measure compensation for no provisions of service, including information about lowering international roaming charges, and knowing the difference between an Internet service provider and access provider. These collaboration efforts help foster relationships between regulators, the Government and carriers, in order to better serve the public.

## **CORPORATE DEVELOPMENTS AND INITIATIVES**

The following are the main corporate and ongoing activities undertaken by the Authority.

### **Human Resource Management**

The Authority maintains its strong desire to provide opportunities for Bermudians to develop their skills and abilities in the telecommunications regulatory sector. It is proud to report that all employees, with the exception of the Chief Executive were Bermudian during 2014-15. The Authority will continue to review its needs in the area of human resources.

### **Performance Management/Training and Development**

The Authority remains committed to training its employees and has provided both internal and overseas training opportunities to ensure that performance and organisational goals are in alignment. It will continue to work with local and overseas human resource specialists to develop training programs that are targeted at meeting the objectives set out in its work plans.

### **Information Management**

The Authority will upgrade its information management system and processes during the next six months to improve the effective management of information within the Authority.

### **Website**

The Authority's official website has been kept up to date with all the Decisions, Directions, Consultations, Orders and General Determinations made by the Authority. There are plans to upgrade the website within the next six months to improve the overall design and layout to assist users in finding information easier.

## WORKPLAN CHECKLIST: 2014-15

**Priority 1:** *Regulating an electronic communications environment that is capable of encouraging competition amongst Bermuda's existing providers, while also ensuring ease of entry for new businesses.*

Activity	Target Outcome	Complete	Deferred	Comments
Review of wholesale network infrastructure access market (Market 21) - Identification and Analysis of Markets, Determination of Market Power and Setting of Remedies (special attention to NGA)	Consultation Report on Consultation Determination	X		
Review of wholesale broadband access markets (Markets 12 and 13) - Identification and Analysis of Markets, Determination of Market Power and Setting of Remedies (special attention to NGA)	Consultation Report on Consultation Determination		X	
Review of numbering charging structure and methodology	Consultation		X	The Authority concluded that the cost recovery option of administering numbers should not be exercised, at this time. The Authority will follow this matter closely and revisit at a later date.
Re-assignment of the rights of use of mobile spectrum, if necessary	Assignment process Assignment of licenses		X	WOW migration Decision and Order issued March 2, 2015, and the physical migration was completed on December 31, 2015.

Activity	Target Outcome	Complete	Deferred	Comments
Development of a Broadband Policy in Bermuda	Policy Paper Consultation Report on Consultation Report to Government		X	
Monitoring LAC Developments	Monitoring of LAC and carrying out any necessary studies and actions		X	
Development of a framework to test and regulate the pricing of bundles	Consultation Report on Consultation Determination Implementation of Framework	X		
Legislative Changes to RAA and ECA	Monitor the effectiveness of the legislation and propose changes or new legislation if necessary		X	

**Priority 2:** Ensuring that electronic communications undertakings transparently provide value-for-money services to the public.

Activity	Target Outcome	Complete	Deferred	Comments
Develop Universal Service Policy in Bermuda	Policy Paper Consultation Report on Consultation Report to Government		X	
Monitoring Quality of Broadband Service	Consultation Report on Consultation Determination Measurement/Publication of QoS report	X		
Establishment of a national plan for telecommunications infrastructures (towers)	Recommendations to Government			The Authority concluded that transfer of statutory oversight will be required and it is unclear that this will bring substantial benefit versus time and costs to implement.
Review of Consumer rights (Contracts)	Consultation Report on Consultation Determination	X		
Development of Price Comparison Website	Development of Price Comparison Website		X	General Determination was completed and signed on February 18, 2015 - Implementation June 2015
Conduct Consumer Perception Surveys	Commissioning of survey and publication of results	X		
Compilation of Electronic Communication Statistics	Consultation Report on Consultation Determination			Ongoing Work

Activity	Target Outcome	Complete	Deferred	Comments
Monitoring number portability management	Ongoing monitoring			Ongoing Work
Monitoring and development of guidelines on good consumer practices and prices of services	Ongoing monitoring			Ongoing Work
Develop Policy for ICOL Entrants	Policy Paper Consultation Report on Consultation Recommendation to Government		X	

**Priority 3:** Contributing to the ongoing discussion on regulatory matters at an international level at various forums such as the ITU.

Activity	Target Outcome	Complete	Deferred	Comments
Monitoring ITU regulations and directives	Ongoing monitoring			Ongoing Work

**Priority 4:** Encouraging innovation in the provision of electronic communication services via the continued evolution of the policy and regulatory environment.

Activity	Target Outcome	Complete	Deferred	Comments
Forward-looking Technology Research with special emphasis on over the top players and their effects on regulation	Ongoing research			Ongoing Work
Promotion of test and trial Pilot Projects to encourage new and innovative technologies and services	Ongoing promotion			Ongoing Work

**Priority 5:** Organisation building.

Activity	Target Outcome	Complete	Deferred	Comments
Review of the Authority's website	Upgrade Authority's website to make it easier to use and find information easier		X	
Establishing an online payment portal for Radio Communications Equipment	Implementation of Online Payment portal		X	
Develop Internal Authority's Infrastructure	Enhancement of internal infrastructure with data management facilities			Ongoing Work
Human Resources Development	Training Need Analysis			Ongoing Work

## FINANCIAL HIGHLIGHTS 2014-15

For the year ending March 31, 2015, the Authority recorded a net surplus of \$525,700 compared to a budget of \$41,600. The approved operating and capital budgets for the period were \$3.4 million and \$200,000 respectively.

During the period, the Authority noted a decrease in the annual relevant turnover i.e. turnover assessable for Regulatory Authority fees and Government authorisation fees, resulting in a decrease in revenues of approximately \$160,000 (4.25%) when compared to the prior financial year 2013-14. The Authority received approximately \$3.6 million in Regulatory Authority fees in accordance with budgeted revenues.

The actual operating and capital expenditure for the period were less than the budgeted allocation by \$312,436 (9%) and \$175,839 (88%) respectively. The majority of the variances were a result of salaries and employee benefits being significantly below budget to the amount of \$250,851 (15%). This was largely due to planned staff positions not being filled and the resignation of the Chief Executive in September 2014, replaced in January 2015. The Commissioners' Honoraria was also less than budgeted as there was not a full complement of Commissioners during February and March 2015.

As of March 31, 2015, the Authority's headcount remained flat year after year. An increase in the headcount of management and staff is expected in the coming year to support resourcing needs. The Chief Executive received a gross salary of \$165,715 during the year. In addition, the Chief Executive was granted a housing allowance of \$11,771. Throughout the same year, each Commissioner committed the equivalent of at least 3 full working days per week of their time to discharge their responsibilities. The total amount of honoraria paid to the Commissioners was \$306,000.

Non-technical consultancy services were over budget by \$182,627 (190%) which was largely due to the recruitment of a new Chief Executive, the need for ongoing accounting support, and a capacity review being performed. These were partially offset by a decrease in technical consultancy services which were under budget by \$222,393 (22%). These types of services are normally engaged during heavy consultations and/or regulatory decisions which were anticipated during the year. However, a combination of the use of internal resources and the deferment of major projects resulted in a lower spend.

The capital budget was underutilised by \$175,839 (88%) due to the deferment of IT network infrastructure expenditure and Price Portal consulting fees being expensed.



## PERFORMANCE AGAINST BUDGET

(Expressed in Bermuda dollars)

DESCRIPTION	ACTUAL 2014-2015	BUDGET 2014-2015	VARIANCE \$	VARIANCE %
<b>OPERATING BUDGET</b>				
TOTAL REVENUES	3,595,825	3,600,000	(4,175)	0%
EXPENSES				
General administration:				
Salaries, employee benefits and commissioners' honoraria	1,393,149	1,644,000	(250,851)	-15%
Rent and utilities	167,256	208,800	(41,544)	-20%
Office services	61,899	71,400	(9,501)	-13%
Communication and meetings	43,617	62,500	(18,883)	-30%
Advertising and public relations	44,756	60,000	(15,244)	-25%
IT expenditure	25,548	12,000	13,548	113%
Casual labour	51,037	19,200	31,837	166%
Bank charges	15,195	-	15,195	100%
Miscellaneous	106,245	105,000	1,245	1%
	<b>1,908,702</b>	<b>2,182,900</b>	<b>(274,198)</b>	<b>-13%</b>
Professional services:				
Technical consultancy	777,607	1,000,000	(222,393)	-22%
Non-technical consultancy	278,627	96,000	182,627	190%
Accounting fees	36,000	18,000	18,000	100%
Audit fees	26,333	20,000	6,333	32%
	<b>1,118,567</b>	<b>1,134,000</b>	<b>(15,433)</b>	<b>-1%</b>
Amortisation of tangible capital assets	18,695	41,500	(22,805)	55%
TOTAL EXPENSES	<b>3,045,964</b>	<b>3,358,400</b>	<b>(312,436)</b>	<b>-9%</b>
SURPLUS	<b>549,861</b>	<b>241,600</b>	<b>308,261</b>	<b>128%</b>
<b>CAPITAL BUDGET</b>				
Furniture and Fittings	6,733	10,000	(3,267)	-33%
Office Equipment and Supplies	2,565	10,000	(7,435)	-74%
IT Equipment	14,863	120,000	(105,137)	-88%
Price Portal	-	60,000	(60,000)	-100%
TOTAL	<b>24,161</b>	<b>200,000</b>	<b>(175,839)</b>	<b>-88%</b>
NET SURPLUS	<b>525,700</b>	<b>41,600</b>	<b>484,100</b>	<b>1164%</b>

## Management's Responsibility for the Financial Statements

These financial statements have been prepared by management, which is responsible for the reliability, integrity and objectivity of the information provided. The preparation of financial statements necessarily involves using management's best estimates and judgements, where appropriate.

Management is responsible for maintaining a comprehensive system of accounting records, internal controls, policies and management practices, designed to provide reasonable assurance that transactions are properly authorized and in compliance with legislation, assets are safeguarded, and reliable financial information is available on a timely basis.

The Regulatory Authority's Board of Commissioners, is responsible for ensuring that management fulfills its responsibility for financial reporting and internal controls. The Board of Commissioners meets periodically with management to discuss matters relating to financial reporting, internal control and audits. The Board of Commissioners also reviews the financial statements before their approval. The financial statements have been approved by the Board of Commissioners and have been examined by the Office of the Auditor General.

The accompanying Independent Auditor's Report is presented herein.



Matthew Copeland  
Chief Executive



Angela Berry  
Chairman

June 9, 2016



## *Office of the Auditor General*

Reid Hall, Penthouse  
3 Reid Street  
Hamilton HM 11, Bermuda

Tel: (441) 296-3148

Fax: (441) 295-3849

Email: [oag@oagbermuda.bm](mailto:oag@oagbermuda.bm)

Website: [www.oagbermuda.bm](http://www.oagbermuda.bm)

### INDEPENDENT AUDITOR'S REPORT

To the Minister of Economic Development

#### **Report on the Financial Statements**

I have audited the accompanying financial statements of the Regulatory Authority, which comprise the statement of financial position as at March 31, 2015, and the statements of operations and accumulated surplus, change in net financial assets and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

#### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with public sector accounting standards generally accepted in Bermuda and Canada, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

#### **Auditor's Responsibility**

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with auditing standards generally accepted in Bermuda and Canada. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### **Opinion**

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Regulatory Authority as at March 31, 2015, and the results of its operations, changes in its net financial assets and its cash flows for the year then ended in accordance with public sector accounting standards generally accepted in Bermuda and Canada.

## Report on Other Legal and Regulatory Requirements

As required by Section 46 of the Regulatory Authority Act 2011, I also report that, in my opinion, the financial statements show fairly the financial transactions and the state of affairs of the Authority, proper accounting and other records have been kept, including records of all assets of the Authority, and the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Authority during the financial year, were in accordance with the provisions of the Act.

A handwritten signature in blue ink that reads "Heather T".

Hamilton, Bermuda  
June 9, 2016

Heather Thomas, CPA, CFE, CGMA  
Auditor General

REGULATORY AUTHORITY

STATEMENT OF FINANCIAL POSITION

As at March 31, 2015  
(Expressed in Bermuda dollars)

	2015 \$	2014 \$
<b>FINANCIAL ASSETS</b>		
Cash	1,607,689	902,709
Accounts receivable	3,733,626	3,206,716
Due from the Government of Bermuda	13,140	13,140
	<u>5,354,455</u>	<u>4,122,565</u>
<b>LIABILITIES</b>		
Accounts payable and accrued liabilities	436,916	231,558
Due to the Government of Bermuda (Note 8)	2,879,417	2,384,481
Distribution payable to the Consolidated Fund of the Government of Bermuda (Note 8)	578,919	303,988
	<u>3,895,252</u>	<u>2,920,027</u>
<b>NET FINANCIAL ASSETS</b>	<u>1,459,203</u>	<u>1,202,538</u>
<b>NON-FINANCIAL ASSETS</b>		
Tangible capital assets (Note 3)	87,603	82,137
Prepaid expenses	32,112	19,313
	<u>119,715</u>	<u>101,450</u>
<b>ACCUMULATED SURPLUS (Note 4)</b>	<u>1,578,918</u>	<u>1,303,988</u>
Accumulated surplus is comprised of:		
Initial paid-up capital	1,000,000	1,000,000
Paid-up capital	289,459	151,994
Reserve Fund	289,459	151,994
	<u>1,578,918</u>	<u>1,303,988</u>
<b>CONTRACTUAL OBLIGATIONS (Note 7)</b>		

REGULATORY AUTHORITY

STATEMENT OF OPERATIONS AND ACCUMULATED SURPLUS

For the year ended March 31, 2015

(Expressed in Bermuda dollars)

	2015	2015	2014
	Budget	Actual	Actual
	(Note 11)		
	\$	\$	\$
<b>REVENUES</b>			
Fees from Integrated Communications			
Operating Licences (Note 10)	3,600,000	3,595,394	3,755,381
Interest	-	431	177
	<u>3,600,000</u>	<u>3,595,825</u>	<u>3,755,558</u>
<b>EXPENSES (Note 5)</b>			
General administration	2,182,900	1,908,702	1,576,952
Professional services	1,134,000	1,118,567	1,563,886
Amortization of tangible capital assets	41,500	18,695	6,744
	<u>3,358,400</u>	<u>3,045,964</u>	<u>3,147,582</u>
<b>SURPLUS</b>	<u>241,600</u>	549,861	607,976
<b>ACCUMULATED SURPLUS, BEGINNING OF YEAR</b>		1,303,988	-
Add: Initial paid-up capital		-	1,000,000
Less: Distribution to the Consolidated Fund of the Government of Bermuda (Note 4)		<u>(274,931)</u>	<u>(303,988)</u>
<b>ACCUMULATED SURPLUS, END OF YEAR</b>		<u>1,578,918</u>	<u>1,303,988</u>

REGULATORY AUTHORITY

STATEMENT OF CHANGE IN NET FINANCIAL ASSETS

For the year ended March 31, 2015

(Expressed in Bermuda dollars)

	2015	2014
	\$	\$
NET FINANCIAL ASSETS, BEGINNING OF YEAR	1,202,538	-
Surplus	549,861	607,976
Acquisition of tangible capital assets (Note 3)	(24,161)	(88,881)
Amortization of tangible capital assets (Note 3)	18,695	6,744
Change in prepaid expenses	(12,799)	(19,313)
Initial paid-up capital	-	1,000,000
Distribution to the Consolidated Fund of the Government of Bermuda (Note 4)	(274,931)	(303,988)
Increase in net financial assets	256,665	1,202,538
NET FINANCIAL ASSETS, END OF YEAR	1,459,203	1,202,538

REGULATORY AUTHORITY

STATEMENT OF CASH FLOWS

For the year ended March 31, 2015

(Expressed in Bermuda dollars)

	2015	2014
	\$	\$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Surplus	549,861	607,976
Adjustment for items not affecting cash:		
Amortization of tangible capital assets	18,695	6,744
	<u>568,556</u>	<u>614,720</u>
Changes in non-cash working capital:		
Increase in accounts receivable	(526,910)	(3,206,716)
Increase in due from the Government of Bermuda	-	(13,140)
Increase in prepaid expenses	(12,799)	(19,313)
Increase in accounts payable and accrued liabilities	205,358	231,558
Increase in due to the Government of Bermuda	494,936	2,384,481
	<u>729,141</u>	<u>(8,410)</u>
Cash flows generated through (used in) operating activities		
<b>CASH FLOWS FROM CAPITAL ACTIVITY</b>		
Acquisition of tangible capital assets	(24,161)	(88,881)
<b>CASH FLOWS FROM FINANCING ACTIVITY</b>		
Initial paid-up capital	-	1,000,000
NET INCREASE IN CASH	704,980	902,709
CASH, BEGINNING OF YEAR	902,709	-
CASH, END OF YEAR	<u>1,607,689</u>	<u>902,709</u>



## REGULATORY AUTHORITY

### NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2015

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#### 1. AUTHORITY AND PURPOSE

The Regulatory Authority (the "Authority") was established under the Regulatory Authority Act 2011 (the "Act"), as amended.

The Authority commenced operations on January 28, 2013 and currently operates as a telecommunications regulator under the Electronic Communications Act 2011.

The principal functions of the Authority, in relation to any industry sector that it regulates, are:

- to promote and preserve competition;
- to promote the interests of the residents and consumers of Bermuda;
- to promote the development of the Bermudian economy, Bermudian employment and Bermudian ownership;
- to promote innovation; and
- to fulfil any additional functions specified by sectoral legislation.

#### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

These financial statements are prepared in accordance with public sector accounting standards generally accepted in Bermuda and Canada as recommended by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada. For financial reporting purposes, the Authority is classified as an "other government organization" and has adopted accounting policies appropriate for this classification. The policies considered particularly significant are set out below:

##### (a) Revenue recognition

Revenues are recognized in the period in which the transactions or events occurred that gave rise to the revenues. All revenues are recorded on an accrual basis, except when the accruals cannot be determined with a reasonable degree of certainty or when their estimation is impracticable.

The Authority derives its revenue from Integrated Communication Operating Licenses ("ICOLs") which are based on actual returns received and an accrued estimate relating to carriers which are required by the Act to file returns and remit the related ICOL fees. This estimate has been made by management using information available to the Authority.

Fees collected on behalf of the Government of Bermuda (the "Government") for Class licenses are not recognized as revenue, but rather recorded as amounts due to Government.

REGULATORY AUTHORITY  
NOTES TO THE FINANCIAL STATEMENTS  
MARCH 31, 2015

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2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

(b) Expenses

Expenses are recognized when, and to the extent that, the goods or services have been received. They are measured at the fair value of the consideration paid or payable.

(c) Cash

Cash includes all cash on deposit with financial institutions that can be withdrawn without prior notice or penalty.

(d) Tangible capital assets and amortization

Tangible capital assets are recorded at cost less accumulated amortization. The cost of a tangible capital asset consists of its purchase price and costs directly attributable to making the asset ready for its intended use.

Amortization is computed using the straight-line method over the estimated useful lives of the tangible capital assets as follows:

Furniture and fittings	10 years
Office equipment	5 years
Computers and software	3 years

The estimated useful life of an asset is the period over which the Authority expects to obtain economic benefits or service potential from the asset. This is specific to the Authority and may be shorter than the physical life of the asset itself. Estimated useful lives and residual values are reviewed each year end, with the effect of any changes recognized on a prospective basis.

Tangible capital assets are written down when conditions indicate that they no longer contribute to the Authority's ability to provide services, or when the value of the future economic benefits associated with the tangible capital assets is less than their net book value. The net write-down is accounted for as an expense in the statement of operations and accumulated surplus.

REGULATORY AUTHORITY

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2015

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2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

(e) Leases

Leases are classified as finance leases when substantially all the risks and rewards of ownership are transferred to the lessee. All other leases are classified as operating leases.

Operating lease payments are recognized as an expense on a straight-line basis over the lease term. Lease incentives are recognized as a reduction of rentals on a straight-line basis over the lease term.

(f) Funds and reserves

Certain amounts, as stipulated in the Act, are set aside from the accumulated surplus for future operating and capital purposes. Transfers to/from funds and reserves are an adjustment to the respective fund when approved.

(g) Foreign currencies

The Authority's functional and presentation currency is the Bermuda dollar.

Transactions denominated in foreign currencies are translated into Bermuda dollars at the prevailing exchange rates on the dates of the transactions. At the end of each reporting period, monetary items denominated in foreign currencies are retranslated at the rates prevailing on the year-end date.

Exchange differences arising on the settlement of monetary items, and on the retranslation of monetary items, are included in the statement of operations and accumulated surplus.

(h) Financial instruments

The Authority's financial instruments consist of cash, accounts receivable, accounts payable and accrued liabilities, amounts due from/to the Government and distribution payable to the Consolidated Fund of the Government of Bermuda (the "Consolidated Fund"). These financial instruments are measured at cost or amortized cost.

(i) Non-financial assets

Non-financial assets are not available to discharge existing liabilities and are held for use in the provision of services. They have useful lives extending beyond the current period and are not intended for sale in the normal course of operations.

REGULATORY AUTHORITY  
 NOTES TO THE FINANCIAL STATEMENTS  
 MARCH 31, 2015

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2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

(j) Measurement uncertainty

These financial statements are prepared in accordance with public sector accounting standards generally accepted in Bermuda and Canada. These standards require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the year. Actual results could differ from these estimates.

(k) Remeasurement gains and losses

The Authority has no transactions that would result in remeasurement gains and losses therefore no statement of remeasurement gains and losses has been prepared.

3. TANGIBLE CAPITAL ASSETS

	Furniture and fittings	Office equipment	Computers and software	Total
	\$	\$	\$	\$
Opening cost - April 1, 2014	59,814	10,789	18,278	88,881
Additions	6,733	2,565	14,863	24,161
Closing cost - March 31, 2015	66,547	13,354	33,141	113,042
Opening accumulated amortization - April 1, 2014	612	2,000	4,132	6,744
Amortization	6,617	2,579	9,499	18,695
Closing accumulated amortization - March 31, 2015	7,229	4,579	13,631	25,439
Net book value - March 31, 2015	59,318	8,775	19,510	87,603

REGULATORY AUTHORITY  
 NOTES TO THE FINANCIAL STATEMENTS  
 MARCH 31, 2015

3. TANGIBLE CAPITAL ASSETS (continued)

	Furniture and \$	Office equipment \$	Computers and software \$	Total \$
Opening cost - January 28, 2013	-	-	-	-
Additions	59,814	10,789	18,278	88,881
Closing cost - March 31, 2014	59,814	10,789	18,278	88,881
Opening accumulated amortization - January 28, 2013	-	-	-	-
Amortization	612	2,000	4,132	6,744
Closing accumulated amortization - March 31, 2014	612	2,000	4,132	6,744
Net book value - March 31, 2014	59,202	8,789	14,146	82,137

4. ACCUMULATED SURPLUS

Funds and reserves: Pursuant to Section 41 of the Act, in any year in which the Authority realizes a net surplus, the Authority, after recouping any net losses brought forward from prior years (subject to the approval of all Ministers responsible for regulated industry sectors), shall transfer any remaining surplus in the following manner:

- a) 50% shall be transferred to the Consolidated Fund;
- b) 25% shall be transferred to paid-up capital of the Authority; and
- c) 25% shall be transferred to the Reserve Fund.

The paid-up capital together with the Reserve Fund is not to exceed the Authority's authorized capital of \$3.5 million. Any excess surplus must be paid to the Consolidated Fund.

In 2013, the Government paid the Authority \$1 million as initial paid-up capital. The \$1 million was paid with the intent that the Authority would have funding until collecting sufficient revenues to cover operating expense as per section 111 (b)(ii) of the Act.

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## 4. ACCUMULATED SURPLUS (continued)

The movements in Operating Fund, Initial paid-up capital, Paid-up capital and Reserve Fund balances during the year were as follows:

	Operating Fund	Initial paid- up capital	Paid-up capital	Reserve Fund	Total
	\$		\$	\$	\$
ACCUMULATED SURPLUS, BEGINNING OF YEAR	-	1,000,000	151,994	151,994	1,303,988
Surplus for the year	549,861	-	-	-	549,861
Intra-fund transfers	(274,930)	-	137,465	137,465	-
Distribution to the Consolidated Fund	(274,931)	-	-	-	(274,931)
ACCUMULATED SURPLUS, END OF YEAR	-	1,000,000	289,459	289,459	1,578,918

## 5. EXPENSES BY OBJECT

The following is a summary of expenses by object:

	2015	2014
	\$	\$
General administration		
Salaries, employee benefits and commissioners' honoraria (Note 6)	1,393,149	1,081,773
Rent and utilities	167,256	206,701
Office services	61,899	89,672
IT expenditure	51,037	26,021
Training and travel	46,135	5,375
Advertising and public relations	44,756	47,849
Communication and meetings	43,617	61,763
Staff recruitment	42,696	2,208
Casual labor	25,548	25,100
Bank charges	15,195	21,073
Professional fees	10,763	220
Miscellaneous	6,651	9,197
	1,908,702	1,576,952

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5. EXPENSES BY OBJECT (continued)

The following is a summary of expenses by object:

	<u>2015</u>	<u>2014</u>
	\$	\$
Professional services		
Technical consultancy	777,607	1,274,850
Non-technical consultancy	278,627	195,264
Accounting fees	36,000	29,875
Audit fees	26,333	21,667
Start-up costs	-	42,230
	<u>1,118,567</u>	<u>1,563,886</u>
Amortization of tangible capital assets (Note 3)	18,695	6,744
	<u>3,045,964</u>	<u>3,147,582</u>

6. SALARIES, EMPLOYEE BENEFITS AND COMMISSIONERS' HONORARIA

This account consists of:

	<u>2015</u>	<u>2014</u>
	\$	\$
Salaries, bonuses and commissioners' honoraria	1,160,689	931,710
Payroll tax	116,598	77,334
Pension	50,152	27,001
Health insurance	42,431	29,914
Housing allowance	11,771	8,048
Social insurance	11,508	7,766
	<u>1,393,149</u>	<u>1,081,773</u>

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NOTES TO THE FINANCIAL STATEMENTS

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6. SALARIES, EMPLOYEE BENEFITS AND COMMISSIONERS' HONORARIA (continued)

Employee benefits include the following:

(a) Salaries, bonuses and commissioners' honoraria

i) Chief Executive compensation

The Chief Executive received a gross salary of \$165,715 (2014 - \$220,825) during the year. In addition, the Chief Executive was granted a housing allowance of \$11,771 (2014 - \$8,048). The Chief Executive is eligible for a performance based bonus of up to 10% of his salary.

ii) Commissioners' Honoraria

The Authority has three Commissioners. In accordance with the provisions of the Act, each Commissioner is selected by a Selection Committee that consists of the Minister responsible for justice, as Chairman; the Minister responsible for labor; the Opposition Leader or his or her designate; and the Minister responsible for the electronic communications sector. The responsibilities of the Commissioners are quite broad and diverse. Amongst other things, they are responsible for the strategic direction and governance of the Authority and for providing general direction to its Chief Executive. They are also responsible for making legally binding determinations, adjudication decisions and orders that may be required to effect the Authority's regulatory functions.

The total amount of honoraria paid to the Commissioners was \$306,000 (2014 - \$348,231).

(b) Compensated absences

Compensated absences include maternity and paternity leave, sick leave and vacation days. All of these benefits are unfunded as there is no separate fund set up to pay for these benefits.

Maternity and paternity leave does not accumulate or vest and therefore an expense and liability is only recognized when extended leave is applied for and approved. There were no maternity and paternity leave benefits applied for or approved during the current period and therefore, no liability has been accrued in the accounts.

Sick leave does not accumulate or vest, and like maternity and paternity leave, a liability is recorded only when extended leave is applied for and approved. There was no extended sick leave applied for or approved during the current period and therefore, no liability has been accrued in the accounts.



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NOTES TO THE FINANCIAL STATEMENTS

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6. SALARIES, EMPLOYEE BENEFITS AND COMMISSIONERS' HONORARIA (continued)

(b) Compensated absences (continued)

Vacation days accumulate and vest and therefore a liability is accrued each year. The accrued vacation liability as at March 31, 2015 is \$14,287 (2014 - \$6,188) and is included in accounts payable and accrued liabilities.

(c) Health insurance

The Authority offers a standard group medical plan for a majority of employees and their qualified dependents. The remainder of employees, all of whom were previous employees of the Government, are covered by the Government Employment Health Insurance scheme ("GEHI"). The cost of health insurance is matched equally with employees.

(d) Pension Plans

Employees of the Authority are enrolled in two different pension schemes:

i) Defined contribution plan

The Authority has a defined contribution plan administered by Colonial Pension Services Ltd. (the "Plan") for the majority of its eligible employees. A defined contribution plan is a post-employment benefit plan under which the Authority pays fixed contributions. The Authority has no legal or constructive obligations to pay further contributions. Employee contributions to the Plan are 5% of gross salary matched by the Authority. The Authority's contributions are recognized as employee benefit expenses when they are due and totaled \$18,974 (2014 - \$15,620) during the period.

ii) Defined benefit plan

The Authority contributes to the Public Service Superannuation Fund (the "Fund"), which is a defined benefit plan, administered by the Government and covers the remainder of the Authority's eligible employees, all of whom were previous employees of the Government. Contributions of 8% of gross salary are required from both the employee and the Authority, and have been included in salaries and employee benefits. As part of the agreement to transfer this employee group to the Authority, the Authority is not required to make contributions to the Fund with respect to the quantified actuarial deficiencies.

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6. SALARIES, EMPLOYEE BENEFITS AND COMMISSIONERS' HONORARIA (continued)

ii) Defined benefit plan (continued)

As a result, the current period contributions to the Fund represent the total liability of the Authority. The Authority's contributions to the Fund during the period were \$31,178 (2014 - \$11,381).

7. CONTRACTUAL OBLIGATIONS

Effective December 24, 2012, the Authority entered into a five-year lease for office space and service charge at a cost of \$481,163 and \$160,387 respectively. Rent-free periods negotiated as part of the lease term have been amortized over the life of the lease on a pro-rated basis. The rent and service charge expense recognized during the period to March 31, 2015 is \$96,233 (2014 - \$120,291) and \$33,636 (2014 - \$40,097) respectively.

As at March 31, 2015, the total remaining obligation under the lease is \$375,740. The future minimum lease payments in the ensuing fiscal years are as follows:

2015/16	\$ 136,762
2016/17	\$ 136,559
2017/18	\$ 102,419

8. RELATED PARTY TRANSACTIONS

The Authority is related to all Government ministries, departments, agencies and quasi-autonomous non-governmental organizations under the common control of the Government. Also, the Authority is related to organizations that the Government jointly controls or significantly influences.

The Authority enters into transactions with these entities in the normal course of business and such transactions are measured at the exchange amount which is the amount of consideration established and agreed by the related parties.

Fees are collected by the Authority on behalf of the Government. These fees include the Government authorization, spectrum reference, class license and cellular telephone fees and are established by the Minister of Finance pursuant to the Government Fees Act 1965, as amended.

## REGULATORY AUTHORITY

## NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2015

## 8. RELATED PARTY TRANSACTIONS (continued)

Transactions with related parties during the year included:

	Expense during the year	Collection of fees on behalf of the Government	Payments / Remittance made during the year	Due to Government at year-end
	\$	\$	\$	\$
GEHI and Superannuation	48,452	-	(39,605)	8,847
Land tax	3,588	-	(1,806)	1,782
Payroll tax	116,598	-	(75,853)	40,745
Social insurance	11,508	-	(9,199)	2,309
ICOLs, handset and spectrum fees	-	10,613,199	(7,832,339)	2,780,860
Class licenses	-	332,269	(287,395)	44,874
	<u>180,146</u>	<u>10,945,468</u>	<u>(8,246,197)</u>	<u>2,879,417</u>
	Balance beginning of year	Distribution to the Consolidated Fund	Payments/ Remittance made during the year	Balance end of year
	\$	\$	\$	\$
Distribution payable to the Consolidated Fund	<u>(303,988)</u>	<u>(274,931)</u>	<u>-</u>	<u>(578,919)</u>
	<u>(303,988)</u>	<u>(274,931)</u>	<u>-</u>	<u>(578,919)</u>

## 9. FINANCIAL RISK MANAGEMENT

In the normal course of operations, the Authority is exposed to a number of risks that can affect its operating performance. These include: credit risk, liquidity risk and market risk associated with its financial instruments. The Board of Commissioners has overall responsibility for the establishment and oversight of the Authority's risk management framework. The Authority's risk management program seeks to minimize potential adverse effects on the Authority's financial performance through a combination of sound business practices.

### a) Credit risk

Credit risk is the risk of financial loss if a counterparty to a financial instrument fails to meet its contractual obligations to the Authority. Such risks arise primarily from certain assets held consisting of cash and accounts receivable. It is management's opinion that the Authority is not exposed to significant credit risk associated with cash as they are placed with highly rated financial institutions.

The Authority is exposed to credit risk in the event of non-performance by licensed carriers. This risk is mitigated because 99% of accounts receivable are current; therefore, management does not consider it to be impaired.

### b) Liquidity risk

Liquidity risk is the risk that the Authority will not be able to meet its financial obligations as they become due. The Authority manages liquidity risk by continually monitoring actual and forecasted cash flows from operations to ensure, as far as possible, that it will have sufficient liquidity to meet its liabilities when they become due.

### c) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk is comprised of currency risk and interest rate risk.

#### i) Currency risk

Currency risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in the foreign exchange rates. It is management's opinion that the Authority is not exposed to significant currency risk, as amounts held and transactions settled in foreign currency are insignificant.

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9. FINANCIAL RISK MANAGEMENT (continued)

c) Market risk (continued)

ii) Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in the market interest rates. The Authority's exposure to interest rate risk is limited to interest earned on its cash. It is management's opinion that the Authority is not exposed to significant interest rate risk.

10. FEES FROM INTEGRATED COMMUNICATIONS OPERATING LICENCES

The Regulatory Authority fees were maintained at 1.75% of the ICOL holders' relevant turnover for the year from April 1, 2014 to March 31, 2015 as approved by the Minister of Economic Development on June 23, 2014.

11. BUDGET

The operating and capital budget for the year from April 1, 2014 to March 31, 2015 was approved by the Minister of Economic Development on January 21, 2014.

12. COMPARATIVE FIGURES

The comparative figures are for a fourteen-month period, from January 28, 2013 (commencement of operations) to March 31, 2014.

Certain comparative figures have been reclassified to conform to the current year's presentation.



441-405-6000 T  
441-474-6048 F  
1st Floor, Craig Appin House  
8 Wesley Street  
Hamilton HM 11

[WWW.RAB.BM](http://WWW.RAB.BM)

  @RABermuda