



# **Retail Fixed Market Review and Assessment under Section 39(1) and (2) of the Communications Act, 2009**

## **Preliminary Determination**

**ECS 04/2024**

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## 1. Introduction

With this Preliminary Determination, the Utilities Regulation and Competition Authority ('URCA') informs Licensees, other stakeholders, and the public in general of its preliminary economic assessment of the competitive dynamics in the retail fixed service market in The Bahamas.

In this consultation paper, URCA sets out its preliminary views and proposals arising from its market reviews of the provisioning of key retail communications services in The Bahamas under section 39(1) of the Communications Act, 2009 (the 'Comms Act' or the 'Act') and any resulting ex-ante regulatory obligations for SMP operators. The services considered in this market review are as follows:

- Retail fixed voice telephony service;
- Retail fixed broadband services; and
- Retail pay TV services (including cable television services).

This Preliminary Determination does not cover the market for retail business connectivity services which was prospectively competitive in URCA's previous market review back in 2014.<sup>1</sup>

URCA is statutorily empowered to determine whether electronic communications markets are effectively competitive and delivering benefits for customers in The Bahamas. Promoting sustainable competition is one of URCA's core objectives. Amongst other things, URCA fulfils this mandate by periodically assessing competition at the retail and wholesale service levels.

URCA considers that it is good practice to review markets on a regular basis to ensure that ex-ante regulations remain fit for purpose and focused on Licensees with market power or SMP. Indeed, the regulatory framework applicable to electronic communications networks and services in The Bahamas requires URCA to regularly define relevant markets for the purposes of SMP regulation and to analyse these markets to ensure that regulatory measures remain appropriate considering changing market conditions. This is a process otherwise known as a market review.

URCA's analysis in this market review follows its own methodology for ex-ante competition reviews as per section 39(2) of the Act, as summarized in Section 3.3 of this document. As well, URCA has considered other relevant provisions of the Comms Act. URCA first identifies the relevant product and geographic scope over which to assess competition in the provision of retail fixed services in The Bahamas (market definition stage). URCA then assesses the level of competition observed and expected in the foreseeable future in the defined market(s), to identify any prevailing economic bottlenecks, as well as Licensees that hold a dominant position/SMP in the market considered in this analysis (competition assessment stage). The market analysis presented in this document is both current and forward-looking, taking into consideration all relevant competitive constraints operating in the defined retail fixed market now and within a foreseeable period.

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<sup>1</sup>ECS 14/2014, available here: <https://www.urbahamas.bs/wp-content/uploads/2017/02/ECS-14-2014-Assessment-of-Significant-Market-Power-in-the-Electronic-Communications-Sector-in-The-Bahamas.pdf>

The analysis is informed by the operators' specific data, specific conditions in the relevant market(s), the results of a URCA commissioned survey of end users across the entire Bahamas<sup>2</sup>, and international precedent.

URCA highlights the aim of the consultation as follows:

- To identify the scope of the relevant markets for retail fixed services;
- To identify Licensees that are singly or jointly dominant in each relevant market;
- To assess whether to impose, amend, or withdraw regulatory obligations relating to retail fixed services; and
- To invite written comments on URCA's review and provisional findings.

This Preliminary Determination is issued by URCA to initiate a public consultation process pursuant to URCA's responsibilities under section 11 of the Comms Act to seek input from interested parties on matters of public significance. URCA now invites written feedback from Licensees and other segments of Bahamian society on its preliminary findings and supporting arguments as set out in this proceeding. To this end, the document contains twelve (12) questions to assist respondents in preparing their written submissions to URCA. URCA shall publish all written comments received as part of this consultation by posting them on its website following the response deadline. The due dates for submitting responses to the consultation are set out in Section 1.3 below.

## **1.1. Procedures for Making a Determination**

URCA was established as an independent regulatory and competition body on 1 August 2009 following the promulgation of the URCA Act, 2009. The Comms Act, 2009, which came into force on 1 September 2009, gave URCA wide-ranging powers of regulation and competition oversight of the Electronic Communications Sector (ECS) in The Bahamas. Amongst others, the ECS includes radio and TV broadcasting, pay TV, voice and Internet services.

According to the Comms Act, if, on its own motion, URCA has reason to believe that a determination is necessary, it may make determinations relating to:<sup>3</sup>

- (i) any obligations on a Licensee regarding the terms or conditions of any licence, including obligations in licence conditions and regulations,
- (ii) any activity set out in the Comms Act, and
- (iii) where the Comms Act provides for URCA to "determine" or "to make determinations" as is the case under Part VI-SMP Licensees.

Under section 99(2) of the Comms Act, in making any determination, URCA must have consulted persons with sufficient interest under section 11 of the Comms Act and provide written reasons for its determination. Section 11(2) of the Comms Act prescribes the regulatory instruments referred to in section 13(2) of the Act such as regulations, shall be considered regulatory measures of public

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<sup>2</sup>The survey instrument was administered by Public Domain during February and March 2023 based on a representative sample of customers throughout the Commonwealth of The Bahamas.

<sup>3</sup>Section 99(1)(a) and (b)

significance and under section 11(1), URCA shall afford persons with sufficient interest a reasonable opportunity to comment on URCA's proposals.

## 1.2. Legislative Framework for Market Analysis

URCA conducts this market analysis of the Bahamian retail fixed service market pursuant to its powers under the Comms Act. Section 39(1) of the Comms Act empowers URCA to determine that Licensees have SMP or market power. URCA's functions and powers are specified in sections 7 and 8 of the Comms Act. In relation to section 8(1) of the Act, URCA has power *inter alia* to:

- “(a) make determinations in accordance with the terms of sections 99 to 102;*
- (e) issue directions, decisions, statements, instructions and notifications;*
- ...*
- (j) conduct inquiries, investigations and oral hearings;*
- (l) conduct market investigations and market reviews and publish regular information and reports; and*
- (m) exercise any other powers assigned to it by this Act or any other law.”*

Section 39(1) sets out that URCA may at any time determine:

*“a Licensee is an SMP Licensee if the Licensee, individually or with others, enjoys a position of economic strength which enables it to hinder the maintenance of effective competition on the relevant market by allowing it to behave to an appreciable extent independently of competitors, consumers and subscribers.”*

In accordance with section 39(2) of the Act, URCA established in document number ECS 20/2011 the criteria against which single and/or joint (collective) SMP will be assessed. URCA shall apply these criteria in conjunction with the provisions of the Comms Act, established precedent and taking utmost account of local circumstances.

Section 5 of the Comms Act sets out a number of principles that should underlie regulation and other measures:

*“All policy measures, decisions and laws to take effect in the electronic communications sector in The Bahamas shall be made with a view to implementing the electronic communications policy objectives and shall comply with the following guidelines –*

- (a) market forces shall be relied upon as much as possible as the means of achieving the electronic communications policy objectives*
- (b) regulatory and other measures shall be introduced –*

- (i) where in the view of URCA market forces are unlikely to achieve the electronic communications policy objective within a reasonable time frame, and*
- (ii) having due regard to the costs and implications of those regulatory and other measures on affected parties;*
- (c) regulatory and other measures shall be efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and non-discriminatory; and*
- (d) regulatory and other measures that introduce or amend a significant ... regulatory measure ... –*
- (i) shall specify the electronic communications policy objective that is advanced by the policy or measure; and*
- (ii) shall demonstrate compliance with the guidelines set out in paragraphs (a), (b), and (c).”*

Under section 40(1) of the Comms Act, URCA may impose specific, ex-ante conditions on Licensees determined to have SMP. Those conditions may include, but are not limited to, obligations relating to: (i) access and/or interconnection to any services and/or facilities in which the Licensee has SMP; (ii) retail price regulations; (iii) cost accounting systems (Accounting Separation); (iv) sharing of infrastructure, facilities and systems used for the provision of electronic communications services; and (v) such other obligations as URCA may consider necessary in pursuance of the electronic communications policy objectives and the sector policy. These obligations supplement the basic obligations on SMP operators set out in section 40(4) of the Comms Act and Part G of the standard Individual Operating Licence ('IOL').

### **1.3. How to respond to this consultation**

URCA invites responses on this Preliminary Determination from all interested parties. Initial responses on this Preliminary Determination should be submitted to URCA by 5:00 p.m. on 29 April 2024. Interested parties will then have the opportunity to further comment on responses made by other respondents by 29 May 2024.

Written responses or comments on this Preliminary Determination should be sent to URCA's Chief Executive Officer, either:

- by hand, to URCA's office at Frederick House., Frederick Street, Nassau; or
- by mail to P.O. Box N-4860, Nassau, Bahamas; or
- by email, to [info@urcabahamas.bs](mailto:info@urcabahamas.bs).

Persons may obtain copies of this document by downloading it from the URCA website at [www.urbahamas.bs](http://www.urbahamas.bs).

URCA reserves the right to make all responses available to the public by posting responses online on its website. If a response is marked confidential, reasons should be given to facilitate evaluation by

URCA of the request for confidentiality. URCA may publish or refrain from publishing any document or submission, at its sole discretion.

URCA will review responses and comments received on this Preliminary Determination on responses made by other respondents before publishing a Final Determination.

## **1.4. Structure of the Remainder of this Document**

URCA has structured the remainder of this Preliminary Determination in the following way:

- Section 2 sets out URCA's preliminary determination;
- Section 3 provides context for this SMP Assessment;
- Section 4 presents URCA's preliminary SMP assessment of the market(s) for the provisioning of retail fixed voice services in The Bahamas;
- Section 5 presents URCA's preliminary SMP assessment of the market(s) for the provisioning of retail fixed broadband services in The Bahamas;
- Section 6 presents URCA's preliminary SMP assessment of the market(s) for the provisioning of retail pay TV services in The Bahamas;
- Section 7 presents URCA's preliminary SMP assessment of the market(s) for the provisioning of multi-product bundles in The Bahamas;
- Section 8 sets out URCA's preliminary views on the SMP obligations for each of the markets covered within this market review; and
- Section 9 concludes and sets out next steps.



## 2. URCA's Preliminary Determination

This Section sets out the Determination which URCA proposes to make, subject to URCA's consideration and review of any representations and objections raised by interested parties. URCA's Determination will be addressed to, and will be binding upon, the Licensees referred to in the Determination:

"WHEREAS,

- (i) Section 39(1) of the Communications Act, 2009 empowers URCA to determine that a Licensee has Significant Market Power (SMP) in a market where the Licensee "... *individually or with others, enjoys a position of economic strength which enables it to hinder the maintenance of effective competition on the relevant market by allowing it to behave to an appreciable extent independently of its competitors, consumers and subscribers.*"
- (ii) Pursuant to section 39(2) of the Communications Act 2009, URCA issued ECS 20/2011, the "Methodology for Assessment of Significant Market Power (SMP) under Section 39(2) of the Communications Act, 2009" (the "SMP Methodology"), containing criteria relating to the definition of product and geographic markets in the electronic communications sector, and against which individual and joint/collective dominance may be assessed.
- (iii) URCA, having conducted this competition review of the retail fixed services in The Bahamas in accordance with the Communications Act, 2009 and the SMP Methodology considers that it is appropriate to make certain determinations regarding the definition of the retail markets in question, the existence of Licensees having SMP in the relevant markets, and the extent to which ex-ante regulation is appropriate and necessary in these markets.

### 2.1. Proposed Market Definition

Having reviewed all available evidence in its possession and in line with the analytical approach taken in Section 3.3 below, URCA proposes the following relevant product and geographic markets for the provision of retail fixed electronic communications services in The Bahamas:

#### **Retail Fixed Voice Services**

URCA has preliminarily determined that the relevant market for retail voice services provided at a fixed location includes the following products:

- Standalone fixed access, local, domestic, and international call services, across all relevant customers segments (i.e., both residential and business customers), irrespective of the underlying technology<sup>4</sup> used to deliver these services.

The market is defined to be national in scope.

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<sup>4</sup>This currently includes Public Switched Telephone Network (PSTN) technology and Voice over Internet Protocol (VoIP) via fibre (FTTx) or cable (HFC) networks.

## Retail Broadband Services

URCA has preliminarily determined that the relevant market for retail broadband services provided at a fixed location includes the following products:

- Retail standalone fixed broadband services, across all relevant customers segments (i.e., both residential and business customers), irrespective of the network technology<sup>5</sup> used and the advertised download speed at which the service is offered.
- Multiproduct bundles excluding pay TV (i.e., double-play bundles including fixed broadband and fixed voice), across all relevant customers segments (i.e., both residential and business customers), irrespective of the network technology<sup>6</sup> used, and the advertised download speed at which the service is offered.

There are two geographic markets to be considered.

- **Geographic market 1** - The islands where BTC and CBL are both offering broadband services (currently New Providence, Grand Bahama, Abaco, and Eleuthera).
- **Geographic market 2** - All remaining islands where only BTC has deployed network infrastructure to offer fixed broadband services.<sup>7</sup>

## Pay TV Services

URCA has preliminarily determined that the relevant market for pay TV services includes the following products:

- Retail standalone pay TV services, across all the relevant customers segments (i.e., both residential and business customers), and irrespective of the network technology<sup>8,9</sup> used.

The market is defined to be national in scope.

## Multi-product Bundles

URCA has preliminarily determined that the relevant market for multi-product bundled services includes the following products:

- All multi-product bundles including retail pay TV services (i.e., currently double-play including fixed voice and pay TV, double-play including fixed broadband and pay TV services, and triple-

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<sup>5</sup>In The Bahamas these services are predominantly offered based on wired technologies, via copper (DSL), HFC and FTTx, and recently LEO satellite technology.

<sup>6</sup>Ibid.

<sup>7</sup>Exuma, Andros, Bimini, and all remaining islands.

<sup>8</sup>This currently includes HFC technology, satellite (DTH) technology, and Internet Protocol Television (IPTV) via fibre (FTTx) networks.

<sup>9</sup>Whilst standalone IPTV services are currently not actively marketed by Licensees, this is based on commercial, rather than technical considerations. Given this, URCA considers it prudent to include these services within this defined market.

play including fixed voice, fixed broadband and pay TV services), across all the relevant customers segments (i.e., both residential and business customers) and irrespective of the technology used to deliver these services.<sup>10</sup>

The market is defined to be national in scope.

## **2.2. Preliminary SMP Findings in each defined Market**

Based on its review of the available evidence and in line with the approach set out in Section 3.3 below, URCA has assessed the competitive dynamics in each of the relevant markets (as identified in Section 2.1 above).

Given this, URCA has preliminarily determined that:

- BTC has SMP in the market for retail fixed voice services.
- CBL has SMP in the market for retail broadband services in Geographic Market 1.
- BTC has SMP in the market for retail broadband services in Geographic Market 2.
- CBL has SMP in the market for pay TV services.
- CBL has SMP in the market for multi-product bundles.

Any reference above to a Licensee shall, in accordance with section 21(1) of the Comms Act, be taken to include both the Licensee and any subsidiary undertaking of the Licensee listed in the application for a licence or notified to URCA from time to time in accordance with section 21(2) of the Comms Act.

## **2.3. Proposed Regulatory Obligations to be imposed on SMP Operators**

Based on its review of the main potential competitive concerns and resulting consumer harm in each defined market, URCA has reviewed a range of regulatory options to remedy these concerns.

As a result, URCA proposes to impose the following targeted SMP obligations on the Licensees found to have SMP in the markets defined:

### **Retail Fixed Voice Services**

- BTC is required to continue offering its current standalone fixed voice tariff plans to residential and business customers; and

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<sup>10</sup> In Bahamas these services are currently delivered via HFC, FTTx (IPTV), and satellite (DTH) technology.

- BTC's entry-level retail fixed voice services tariff plans will be subject to a pre-approval requirement.<sup>11,12</sup>

### **Retail Broadband Services**

- CBL and BTC are required to continue offering their current standalone fixed broadband tariff plans and bundles combining fixed voice and fixed broadband to residential and business customers;
- CBL's and BTC's entry-level retail broadband tariff plans will be subject to a pre-approval requirement<sup>13</sup>; and
- BTC is required to offer geographic uniform prices for standalone retail fixed broadband services.

### **Retail pay TV Services**

- CBL is required to continue offering its current standalone pay TV tariff plans to residential and business customers; and
- CBL's entry-level standalone pay TV tariff plans will be subject to a pre-approval requirement.<sup>14</sup>

### **Multi-product Bundles**

- URCA has preliminarily concluded that there is no need to impose ex-ante remedies specific to this market, as the combined effect of the ex-ante remedies imposed in the other defined markets will address the anti-competitive concerns identified in this market.

### **Overarching ex-ante remedies**

Additionally, URCA has preliminarily determined to impose ex-ante remedies on the two SMP operators across all markets considered in this review:

- Both SMP operators are required to develop separated accounts in accordance with URCA's Accounting Separation Guidelines and submit these to URCA on an annual basis.

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<sup>11</sup> A price increase will only be approved by URCA if it is in line with last year's inflation or 5% a year in case inflation exceeds 5% that year.

<sup>12</sup> The names of entry-level standalone tariff plans stated in this document reflect the current tariff offerings by Licensees. However, the obligations imposed on SMP Licensees apply to all relevant services in the market where the Licensees is found to be dominant, irrespective of possible changes in the tariff plans or names thereof. This principle applies to any obligation set out in this document.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

- Both SMP operators are required to notify URCA of any amendments, introductions or withdrawals<sup>15</sup> of their retail tariff plans. This obligation requires the notification to URCA of any changes in an existing or new retail tariff plan, set out, at the minimum, the price and non-price terms of the tariff plan and the current/expected take-up of the plan.
- Publication requirement to ensure that end users have access to all tariff plans currently available to them and the price and non-price terms of each tariff plan offered by BTC and CBL, thus facilitating their ability to compare retail tariff plans and select the most appropriate tariff for them. SMP operators are required to publish all tariff plans on their websites, offered to residential and business customers.

For the avoidance of doubt, BTC and CBL shall also comply with the non-market specific SMP obligations specified in section 40(4) of the Comms Act, Conditions 34 and 35 of the IOLs and specific SMP obligations on wholesale services, accounting separation and cost accounting as set out in the current and any future determinations, decisions, and regulations issued by URCA, and which will remain in place until such time as determined by URCA.

## 2.4. Summary Table

The following table sets out the list of markets for retail fixed electronic communications services as defined by URCA in this Preliminary Determination. It also sets out URCA’s dominance findings in each of these markets and ex-ante remedies.

**Table 1: Summary of URCA’s preliminary position**

Service	Market definition	SMP findings	Proposed ex-ante remedies
<b>Retail fixed voice services</b>	<p><u>Product market</u></p> <p>Standalone fixed access, local, domestic, and international call services, across all relevant customers segments (i.e., both residential and business customers), irrespective of the underlying technology used to deliver these services. This currently includes PSTN technology and VoIP via FTTx or HFC networks.</p> <p><u>Geographic market</u></p> <p>National market</p>	BTC has SMP	<ul style="list-style-type: none"> <li>• BTC to continue offering current standalone fixed voice tariff plans.</li> <li>• BTC shall not increase prices of entry-level standalone fixed voice plans over last year’s inflation, or 5% a year in case inflation exceeds 5% during that year.</li> </ul>

<sup>15</sup> Considering the new ex-ante remedies imposed by URCA in the markets for retail fixed voice services, retail broadband services and retail pay TV services set out above, withdrawal of existing retail tariff plans are only permitted for multi-product bundles.

<b>Retail fixed broadband services</b>	<p><b><u>Product market</u></b></p> <p>Retail standalone fixed broadband services and multi-product bundles that do not feature pay TV (double-play bundles with fixed voice and fixed broadband). Includes products offered across all bandwidths irrespective of underlying technology and fixed broadband offered to both residential and business customers.</p> <p><b><u>Geographic market</u></b></p> <ul style="list-style-type: none"> <li>• Geographic Market 1 - The islands where both CBL and BTC are offering broadband services (i.e., New Providence, Abaco, Grand Bahama and Eleuthera).</li> <li>• Geographic Market 2 - All remaining islands where CBL has not deployed network infrastructure to offer fixed broadband services</li> </ul>	<ul style="list-style-type: none"> <li>• CBL has SMP in Geographic Market 1</li> <li>• BTC has SMP in Geographic Market 2</li> </ul>	<ul style="list-style-type: none"> <li>• CBL (in GM1) and BTC (in GM2) to continue offering current standalone fixed broadband plans and bundles including fixed voice and fixed broadband services.</li> <li>• Both SMP operators shall not increase prices of entry-level standalone fixed broadband plans over last year's inflation, or 5% a year in case inflation exceeds 5% during that year.</li> <li>• BTC is required to offer geographic uniform prices for retail broadband services.</li> </ul>
<b>Retail pay TV services</b>	<p><b><u>Product market</u></b></p> <p>Retail standalone pay TV services provided over a cable network (HFC) or satellite (DTH), offered to both residential and business customers.</p> <p><b><u>Geographic market</u></b></p> <p>National market</p>	CBL has SMP	<ul style="list-style-type: none"> <li>• CBL to continue offering current standalone pay TV tariff plans.</li> <li>• CBL shall not increase prices of entry-level standalone pay TV plans over last year's inflation, or 5% a year in case inflation exceeds 5% during that year.</li> </ul>
<b>Multi-product bundles including pay TV services</b>	<p><b><u>Product market</u></b></p> <p>Retail multi-product bundles including pay TV services provided via cable (HFC), satellite (DTH) or IPTV, offered to both residential and business customers.</p> <p><b><u>Geographic market</u></b></p> <p>National market</p>	CBL has SMP	No market-specific remedy required, given the remedies imposed in the other markets covered in this market review.

**Overarching (non-market specific) remedies on both SMP operators**

Further to the market-specific remedies set out above, both BTC and CBL are subject to the following, non-market specific remedies:

- Requirement to develop separated accounts in accordance with URCA's Accounting Separation Guidelines.
- Requirement to submit to URCA a notification of any changes in an existing or new retail tariff plan, set out, at the minimum, the price and non-price terms of the tariff plan and the current/expected take-up of the plan.
- Requirement to publish all tariffs on their websites and make them accessible.

### 3. Context for this Preliminary Determination

Below, URCA provides the context to this Preliminary Determination by firstly presenting an overview of its previous SMP assessments in 2010 and 2014 (Section 3.1), followed by a market overview and summary of recent development (Section 3.2), and an outline of URCA’s approach to conducting SMP assessments (Section 3.3).

#### 3.1. Background to this Market Review

URCA has, to date, conducted two ex-ante reviews of retail fixed service markets in The Bahamas: (i) an initial market review in 2010 covering retail and wholesale fixed and mobile services; and (ii) in 2014 a review of retail fixed communications markets to determine which, if any, Licensees had SMP in the relevant markets.

The **initial market review** was completed in April 2010 as part of a wider competition assessment of key communications markets in The Bahamas at retail and wholesale levels. That review stemmed from the interim presumptions of SMP under section 116(1) and Schedule 4 of the Comms Act, 2009.<sup>16</sup> URCA issued its Final Decision on 22 April 2010 setting out the scope of the relevant retail and wholesale markets for mobile and fixed services, with the respective dominance findings:<sup>17</sup>

**Table 2: BTC's and CBL's SMP Markets - Retail and Wholesale**

BTC - Retail Products	BTC - Wholesale Products
(1) Fixed telephony access and local calling	(1) Fixed intra-island call termination
(2) Domestic long-distance calling (DLD)	(2) Fixed inter-island call termination
(3) Domestic fixed calls to rated numbers	(3) Mobile call termination
(4) International long distance international calling	(4) SMS termination <sup>18</sup>
(5) Broadband internet access in specified areas	(5) Termination to directory inquiries
(6) Retail National leased lines	(6) Termination to ancillary services
(7) Mobile access	(7) Termination to local emergency numbers or services
(8) Local mobile calling	(8) Call transit
(9) Domestic long distance mobile calling	(9) Termination to freephone numbers
(10) International long distance mobile calling	(10) Termination to operator assistance facilities
(11) Mobile data (internet, SMS and MMS)	(11) Access to the broadband and transmission networks
	(12) Wholesale national leased lines

CBL - Retail Products	CBL - Wholesale Products
(1) SuperBasic TV package	(1) Access to the broadband and transmission networks
(2) Digital TV packages	(2) Wholesale national leased lines
(3) Retail national leased lines	(3) Broadband resale offer
(4) Broadband internet access	

<sup>16</sup>The review covered retail and wholesale markets for mobile and fixed voice, mobile data services, pay TV, Internet and high-speed data and business connectivity services.

<sup>17</sup>ECS 11/2010 available at <https://www.urbahamas.bs/wp-content/uploads/2017/02/ECS-11-2010-Final-Decision-Obligations-Imposed-on-Operators-with-Significant-Market-Power.pdf>

<sup>18</sup> BTC at the time did not provide SMS termination. However, when mobile competition was introduced, BTC was required to provide SMS termination within its Reference Access and Interconnection Offer.

(5) Broadband resale offer

Source: “Assessment of Significant Market Power in the Electronic Communications Sector” (ECS 14/2014)

In the **2014 market review**, URCA considered the following services:

- Fixed voice telephony services;
- High-speed data services and connectivity (i.e., broadband and connectivity services); and
- Pay TV services (including cable television services).

In this review and having reviewed all evidence and the submissions made by BTC and CBL, URCA made the following final determination on its SMP assessment for the provision of key retail communications services in The Bahamas, as set out in Table 3 below.

**Table 3: URCA's 2014 Final Determination of SMP in the Provision of Retail Electronic Communications Services in The Bahamas**

Service	Market Definition	SMP findings	SMP Obligations/ Ex-ante remedies <sup>19</sup>
Retail fixed voice services	<p><u>Product Market</u> Fixed access and call services irrespective of whether these services are offered on standalone basis or as part of a product bundle delivered via a fixed network or a cable network.</p> <p><u>Geographic Market</u> National market</p>	BTC has SMP	<ul style="list-style-type: none"> <li>▪ Price cap regulation for BTC’s retail fixed access and voice services.</li> <li>▪ BTC is prohibited from introducing any new retail product bundles that includes fixed access and voice services unless these bundles can be replicated by other providers.</li> </ul>
Retail broadband services	<p><u>Product market</u></p> <ul style="list-style-type: none"> <li>▪ Fixed (DSL) broadband services offered by BTC</li> <li>▪ Cable-based broadband services offered by CBL</li> </ul> <p><u>Geographic market</u></p> <ul style="list-style-type: none"> <li>▪ Geographic Market 1 - The islands where both CBL and BTC are offering broadband services (i.e., New Providence, Abaco, Grand Bahama and Eleuthera).</li> <li>▪ Geographic Market 2 - All remaining islands (i.e., where only BTC offers broadband services).</li> </ul>	<ul style="list-style-type: none"> <li>▪ CBL has SMP in Geographic Market 1.</li> <li>▪ BTC has SMP in Geographic Market 2.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Modified price cap regulation for CBL’s retail broadband services (both residential and business services).</li> <li>▪ CBL shall continue to offer stand-alone retail broadband products.</li> <li>▪ BTC is required to offer geographic uniform prices for retail broadband services.</li> <li>▪ BTC and CBL are prohibited from introducing any new retail product bundles in the geographic markets where they hold SMP that includes broadband services unless these bundles can be replicated by other providers.</li> </ul>

<sup>19</sup> Note that these ex-ante remedies are in addition to the standard SMP obligations as set out in Conditions 34, 35 and 36 of the IOL and section 40(4) of the Comms Act, and specific SMP obligations on accounting separation and cost accounting as set out in regulatory and other measures issued by URCA.



Business data connectivity services (national and international) <sup>20</sup>	<p><u>Product market</u></p> <ul style="list-style-type: none"> <li>▪ Traditional leased line products: These are business connectivity services provided over PSTN and Coaxial networks, thereby currently including BTC’s regular leased circuits and CBL’s REVON Dedicated Circuits; and</li> <li>▪ Fibre-based leased line products: These are business connectivity services provided over a fibre network, thereby currently including BTC’s MPLS (leased circuits over fibre) and CBL’s REVON Ethernet Circuits.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Geographic Market 1 is prospectively competitive.</li> <li>▪ BTC has SMP in Geographic Market 2.</li> </ul>
Pay TV services	<p><u>Product market</u></p> <p>Access to pay TV content provided over a cable TV and terrestrial network infrastructure (currently offered by CBL).</p>	CBL has SMP
	<p><u>Geographic market</u></p> <p>National market</p>	<ul style="list-style-type: none"> <li>▪ Price cap regulation for CBL’s access and content pay TV packages (e.g., those access and content pay TV packages currently marketed as PRIME, PRIME Select, PRIME Plus and PRIME Extra).</li> <li>▪ CBL is prohibited from introducing any new retail product bundles of pay TV services with any of its other retail services unless these bundles can be replicated by other providers.</li> </ul>

Source: “Assessment of Significant Market Power in the Electronic Communications Sector” (ECS 14/2014)

Table 3 also outlines the obligations that were imposed on SMP operators. However, the retail price cap regulations foreseen in the 2014 market review have not been implemented to date. As such, price regulated retail fixed communications services remain subject to the Retail Price Regulation (RPR) which requires SMP operators to obtain written approval from URCA prior to introducing,

<sup>20</sup> These services are not covered within the current market review.

amending, or withdrawing price regulated services (including both permanent and promotional offers).<sup>21</sup>

Given the time that has elapsed since the establishment of the current regime and having regard to market developments in the intervening period, URCA considers it appropriate at this time to carry out another review of retail electronic communications services (excluding business data connectivity services) to determine which, if any, Licensees have SMP in the relevant markets. Business data connectivity services are different to the other services considered in this market review, as they focus on larger business and corporate customers only. Unlike the other retail markets, this market was also found to be prospectively competitive in Geographic Market 1, where most of the corporate customers are located. Moreover, URCA will launch a stakeholder engagement process for these services, involving the main Licensees and key businesses in The Bahamas, as a result of its consultation process on the demand for enhanced internet connectivity and fifth-generation (5G) services.<sup>22</sup> As such, URCA sees merits in allowing for this process to be completed before considering any formal review of retail business connectivity services.

As introduced in Section 1, the outcome of this market review will form the basis for any ex-ante regulation of those retail services offered by SMP operators going forward. In particular, the assessment will help identify whether the SMP determinations for BTC and CBL set out in ECS 14/2014 remain valid in the current market environment.

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<sup>21</sup> “Regulation of Retail Prices for SMP Operators – Rules” (ECS 06/2014), previously ECS 15/2010

<sup>22</sup> ECS 09/2023, available on URCA’s website.

## 3.2. Market Overview

As is customary in the global market, the Bahamian fixed service market is concerned with electronic communications services which are provided via fixed network and infrastructure.

The described retail fixed services are currently supplied by two network operators, namely BTC and CBL.<sup>23,24</sup> Both operate under Individual Operating Licences with a 15-year duration and commenced their licences in 2009.<sup>25</sup>

In this sub-section, URCA highlights key observations and market trends in the provisioning of retail fixed services in The Bahamas since 2014 and which URCA deems relevant to this market review.

### Technology/network deployment

In line with ongoing technological evolutions observed worldwide over recent years, the electronic communications sector in The Bahamas has witnessed notable developments since 2014, in terms of new, emerging technologies. This, in turn, has enabled existing operators to enhance their retail fixed service offerings to end users in The Bahamas.

At the time of the fixed market review 2014, retail fixed services were mostly delivered via BTC's copper network, CBL's hybrid fibre-coaxial ('HFC') and CBL's/SRG's fixed-wireless network. Whilst both operators also operated fibre-optic networks, these were predominantly transmission networks, rather than fibre-optic access (FTTx) networks.<sup>26</sup> As a result of this, BTC was offering PSTN<sup>27</sup>-based fixed voice services and xDSL<sup>28</sup>-based broadband services to end users in The Bahamas. In parallel, CBL was offering managed Voice over Internet Protocol (VoIP)-based fixed voice services, and HFC-based broadband and pay TV services.<sup>29</sup>

Since then, both operators have deployed new fixed network infrastructure to upgrade their technologies and improve service delivery in existing coverage areas. Key developments include:

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<sup>23</sup>URCA notes that further to BTC and CBL, there are other licensed operators (OLOs) active in The Bahamas. However, these OLOs are niche players focusing on certain geographies and/or customer segments only.

<sup>24</sup>New generation Low-Earth Orbit (LEO)-based broadband services have been commercially launched in several countries recently. In The Bahamas, an LEO-based operator, Starlink, has been licensed earlier this year and it recently launched its retail broadband services.

<sup>25</sup>A licensee may apply to URCA for its licence to be renewed by submitting a renewal notice to URCA no later than one year before the licence is due to expire.

<sup>26</sup>URCA (2014) Preliminary Determination on the Assessment of Significant Market Power in the Electronic Communications Sector in The Bahamas under Section 39(1) of the Communications Act 2009, page 23.

<sup>27</sup>Public switched telephone network (PSTN) is the traditional technology to deliver fixed voice services via copper networks.

<sup>28</sup>Digital subscriber line (DSL) is the main broadband technology for copper networks.

<sup>29</sup>In line with its universal service obligation, CBL also offered a limited (six channel) "free-to-air"/terrestrial TV service in geographic locations outside of its HFC network coverage.

- In 2013-14, CBL upgraded its entire HFC network with DOCSIS3.0 technology<sup>30</sup>, allowing it to offer fixed broadband and VoIP services on New Providence, Grand Bahama, Abaco and Eleuthera.<sup>31</sup>
- However, in 2015, CBL started the gradual deployment of its fibre-to-the home (FTTH)<sup>32</sup> network, decommissioning its existing HFC network and enabling the provision of higher-speed fixed broadband services<sup>33,34</sup> and IPTV in selected areas of the country. As of April 2023, CBL's FTTH is only available in New Providence (Nassau area) – [REDACTED] [● Confidential] – and Abaco.<sup>35</sup> CBL's high-speed plans (200 Mbps – 1 Gbps) are marketed under the 'ALIVFibr' brand, whereas low-medium speed plans (30 – 105 Mbps) are marketed as 'REVNET' fibre. [REDACTED] [● Confidential].
- BTC started to replace its copper network with FTTH technology on New Providence, Grand Bahama, and selected Family Islands<sup>37</sup> enabling it to provide higher-speed fixed broadband services (100 Mbps-1Gbps) and launch internet-based (IPTV) pay TV services in those geographic areas. [REDACTED] [● Confidential] Its IPTV service is available in Abaco, Eleuthera, Exuma, Bimini, Andros, Grand Bahama, and New Providence.<sup>40</sup>
- Both BTC and CBL/SRG have ceased to offer two-stage dialling services and pre-paid calling cards in The Bahamas.

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<sup>30</sup> Data Over Cable Service Interface Specification (DOCSIS) is the main broadband technology for HFC networks.

<sup>31</sup> CBL Qualitative submission, page 8.

<sup>32</sup> FTTH deployment has for now focussed on New Providence, Abaco and Eleuthera, but URCA understands that going forward CBL is planning to deploy FTTH in Harbour Island also.

<sup>33</sup> FTTH networks enable downlink speeds of 1Gbps, whereas CBL's HFC network supports maximum downlink speeds of up to 105 Mbps.

<sup>34</sup> BTC also holds the right to use frequencies in the 2.5 GHz and 3.5 GHz spectrum bands for WiMax services, although they are not currently provided.

<sup>35</sup> CBL's Quantitative submission

<sup>36</sup> CBL Qualitative submission, page 1.

<sup>37</sup> <https://www.btcbahamas.com/coverage-map/island/new-providence>

<sup>38</sup> <https://www.btcbahamas.com/btc-fiber-rollout-continues>

<sup>39</sup> BTC Qualitative submission, page 14.

<sup>40</sup> BTC's Quantitative submission

- CBL also launched (DTH<sup>41</sup>) satellite-based pay TV services in geographic areas outside of its HFC/FTTH network footprint – New Providence, Grand Bahama, Abaco and Eleuthera – replacing its terrestrial TV service.<sup>42</sup>

New generation Low-Earth Orbit (LEO)<sup>43</sup>-based broadband services have been commercially launched in several countries recently (e.g., UK's satellite broadband network operator OneWeb currently offers this service to most countries in Europe and the majority of the US<sup>44</sup>, and Starlink is available in the US, Europe, Canada, Latin America, Australia and New Zealand, among others).<sup>45</sup> Starlink was licensed in February 2023 to deliver satellite broadband services in The Bahamas (via LEO satellite technology) and has recently launched its services.<sup>46</sup> The implications for this market review are discussed further below.

In addition to the advancements in fixed network technologies, there have been significant changes in the **mobile sector**, as stated in URCA's 2022 Mobile Market Review.<sup>47</sup> In particular, the deployment of 4G mobile technology in The Bahamas has brought about a transformative shift in mobile service offerings, facilitating faster and more reliable mobile data services throughout The Bahamas. Whilst not yet available in The Bahamas, URCA notes that 5G mobile technology is being deployed in many countries which allows delivering existing mobile services more efficiently and at higher speeds, as well as new services such as machine type communications (M2M) and Internet of Things (IOT). URCA has recently commenced a process of engaging with key stakeholders to determine the demand for these services and will assess the key regulatory measures to enable the deployment of 5G in The Bahamas as part of its Work Plan 2024. Given this, URCA does not anticipate that 5G services will have a significant impact on fixed electronic communications services within the timeframe considered in this market review (i.e., 12-24 months).

### **New entry and market structure**

There have been limited changes to the overall structure of the market since 2014, with BTC and CBL (via its 'REV' and 'ALIV Fibr' brands) being the main licensed operators offering retail fixed services in

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<sup>41</sup>Direct to Home (DTH) TV services are common form of satellite TV services where end users receive the TV content directly from the satellite via a set-up box, rather than the content being channelled via satellite earth stations.

<sup>42</sup> CBL Qualitative submission, page 8. CBL's DTH satellite TV is available in Eleuthera, Exuma, Andros and Bimini.

<sup>43</sup>Low Earth Orbit (LEO) satellites are the latest generation of satellites providing low-latency, high-bandwidth internet access. As they operate at lower altitudes, LEO satellites can only cover relatively small areas.

<sup>44</sup><https://oneweb.net/resources/oneweb-expands-services-launches-commercial-service-across-large-parts-europe-and-us>

<sup>45</sup><https://www.starlink.com/map>

<sup>46</sup>Starlink's high-speed internet is offered starting at \$73/month and has an installation cost of \$545 plus shipping costs (\$23): <https://www.starlink.com/residential>

<sup>47</sup>ECS 15/2022 – Statement of Results and Final Determination – Retail Cellular Mobile Market Review and Assessment, available here: <https://www.urcabahamas.bs/decisions/ecs-15-2022-statement-of-results-and-final-determination-retail-cellular-mobile-market-review-and-assessment/>

The Bahamas.<sup>48</sup> However, due to the technology advancements discussed above, the portfolio of retail fixed services offered by both operators has converged over time. In particular, pay TV services are no longer offered exclusively by CBL through its HFC network, with BTC leveraging the increasing broadband capacities available on its FTTH network to offer an IPTV service also.

As mentioned above, Starlink has recently entered the Bahamian electronic communications sector by offering retail broadband services via LEO satellite technology throughout The Bahamas.

Finally, an emerging trend among Bahamian end users is a growing awareness of over-the-top (OTT) applications as a possible alternative to pay TV services offered by Licensees. Recent findings from URCA's Retail Customer Survey indicate that consumers are becoming increasingly aware of online streaming services available through the internet and devices like Amazon Firestick. This awareness is on par with their knowledge of pay TV services offered by CBL and surpasses their familiarity with similar services provided by BTC.<sup>49</sup>

### Penetration levels and usage trends

Overall, penetration rates indicate that a sizeable proportion of households in The Bahamas have access to fixed voice (landline), fixed broadband, and pay TV services. However, between 2017 and 2022, there has been a downward trend in the take-up of fixed voice services and pay TV services.

- **Residential fixed voice (landline) connections** have steadily declined between 2017 and 2023, indicating a diminishing demand for traditional fixed voice services. From 80,218 connections in 2017, the number fell to 67,929 by the Q2 of 2023. This resembles a reduction in the service penetration from 79% of total households to 57% over the period between 2017 and Q2 2023.
- **Residential fixed broadband connections** experienced a slight decline between 2017 and 2022, with a significant drop from 80,851 to 76,011 connections in 2020, followed by a gradual recovery in later years, reaching 84,907 connections by Q2 2023. However, overall take-up remains below those before the pandemic. As of Q2 2023, the penetration rate stood at 72% of total households compared to 80% in 2017.
- **Pay TV** has consistently had lower penetration than fixed broadband and fixed voice and has undergone the most substantial decline in recent years. In line with fixed voice services, the decline happened mostly between 2017 and 2020. By 2020, the number of residential connections had declined to 51,830, down from 65,347 connections in 2017. In Q2 2023, there were 51,576 pay TV connections in total. This means that the penetration rate for this service fell considerably from 65% of total households in 2017 to 44% in Q2 2023.

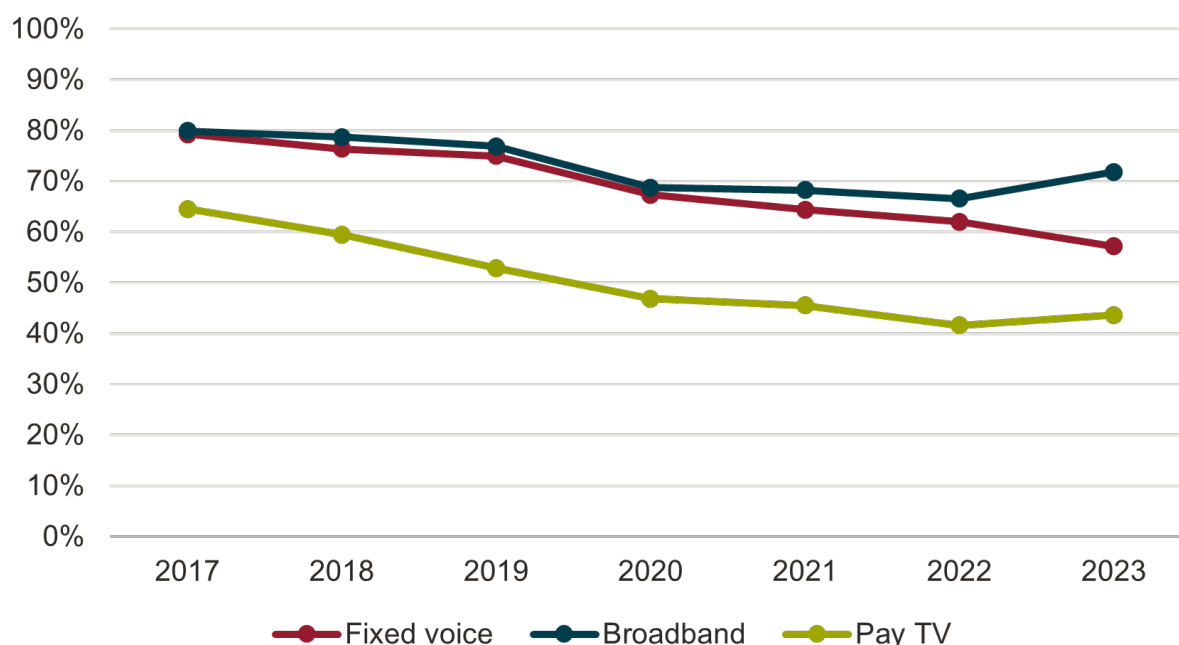
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<sup>48</sup>Active OLOs include Bahamas WiMax (<http://www.bahamaswimax.com>), Paradise Connections (<http://paradiseconnectionsLtd.com>), Coakster Wireless (<https://www.coakster.com>) and Global Nexus (<http://www.globalnexus.com>). Most notably, they jointly serve less than [● Confidential] of the relevant total retail customer's base. As such, in line with its 2014 market review, URCA will not consider these OLOs further in this market review.

<sup>49</sup> URCA Retail Survey, March 2023. 7.2

URCA understands that the impact of Hurricane Dorian (August 2019) together with the increase in unemployment rates which peaked in 2020, have contributed to the negative trends observed in penetration rates of all fixed services in particular during the years 2019 and 2020.

**Figure 1: Retail service penetration (% households), residential customers, 2017-2023**



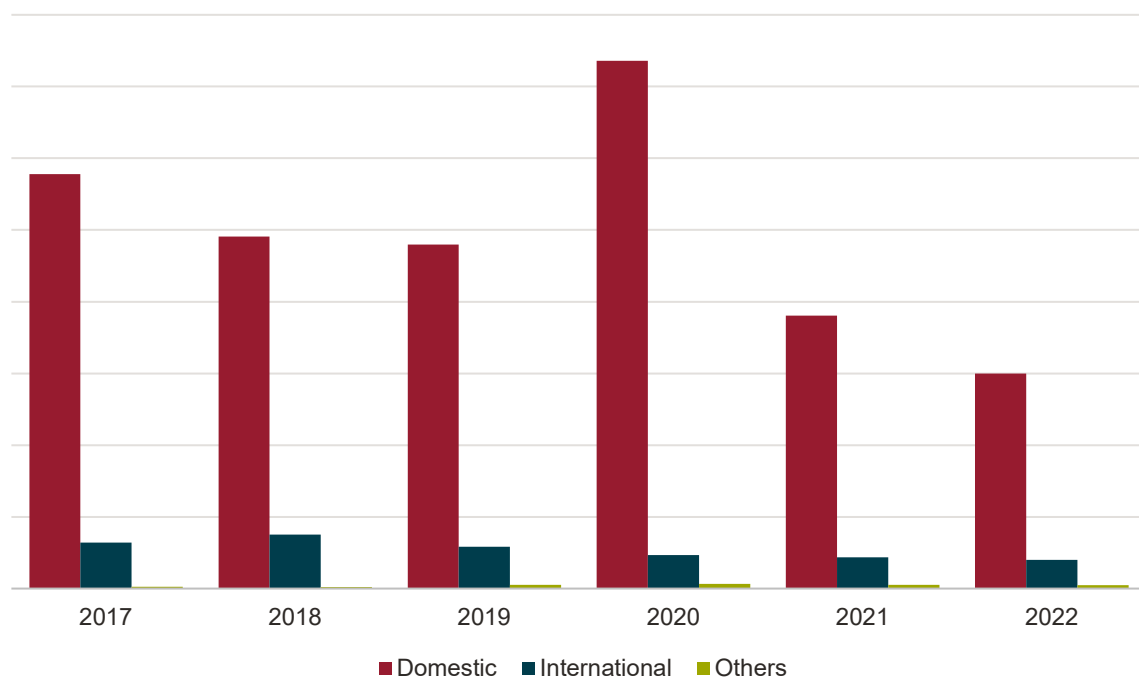
Source: Operators’ quantitative submissions and Department of Statistics in The Bahamas

Note: 2023 penetration rates are obtained using the latest available data for total households (2022) and operators’ quantitative submissions (Q2 2023).

Regarding consumption patterns, Figure 2 shows that there is a decreasing trend in average monthly usage of fixed voice services. With the exception of a spike in average monthly usage in 2020 (related to the initial lock-downs under the Covid-19 pandemic), there is a clear downward trend with average monthly metered call minutes falling from 322 minutes per user in 2017 to 172 minutes per user in 2022.<sup>50</sup> This overall decline is driven mainly by lower usage of domestic fixed calls (which continue to represent the vast majority of total usage). Monthly outgoing international fixed call traffic per user has also fallen, from 32 minutes in 2017 to 20 minutes in 2022.

<sup>50</sup>These results do not include unmetered call minutes (i.e., “free” local calls and call traffic associated with “unlimited” tariff plans) which are likely to be quite high and might change overall trends observed in the market.

**Figure 2: Trends in average usage of retail fixed voice services, 2017-2022 (monthly fixed metered call minutes per user)**



Source: Operators’ quantitative submissions

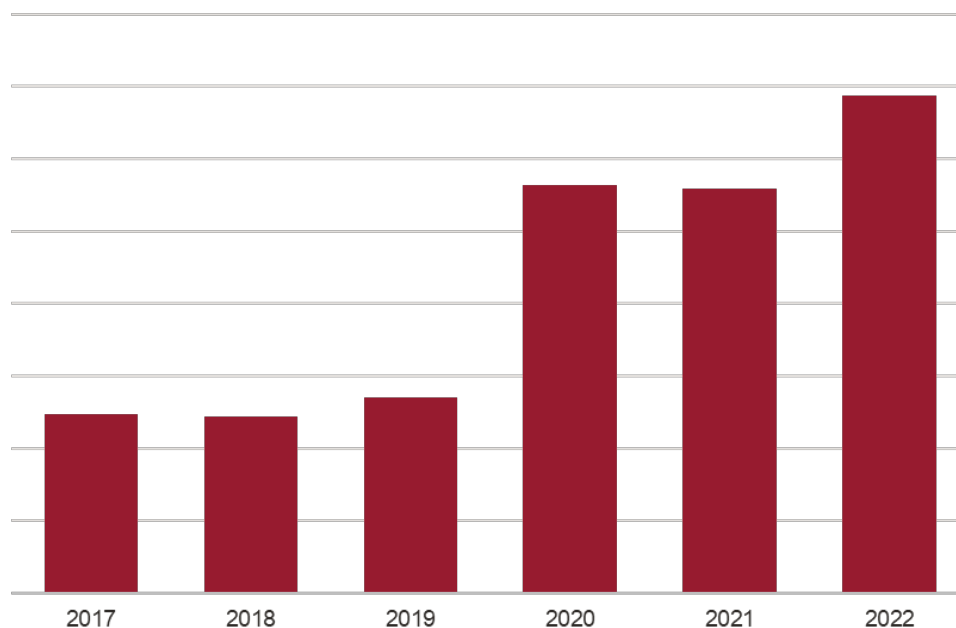
Note: The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

In line with international trends, average monthly usage of retail fixed broadband services (measured in total GB of downloads), increased significantly at the onset of the pandemic and has continued to increase since, although at a slower rate.<sup>51</sup> The year 2020 witnessed a remarkable surge, with average usage reaching 282 GB per user, representing a 108% growth compared to the previous year.

<sup>51</sup><https://wifinowglobal.com/news-and-blog/report-home-data-consumption-in-europe-to-quadruple-by-2030-dwarfing-mobile>



**Figure 3: Average usage of fixed broadband services (monthly GB per user), 2017-2022**



Source: Operators' quantitative submissions

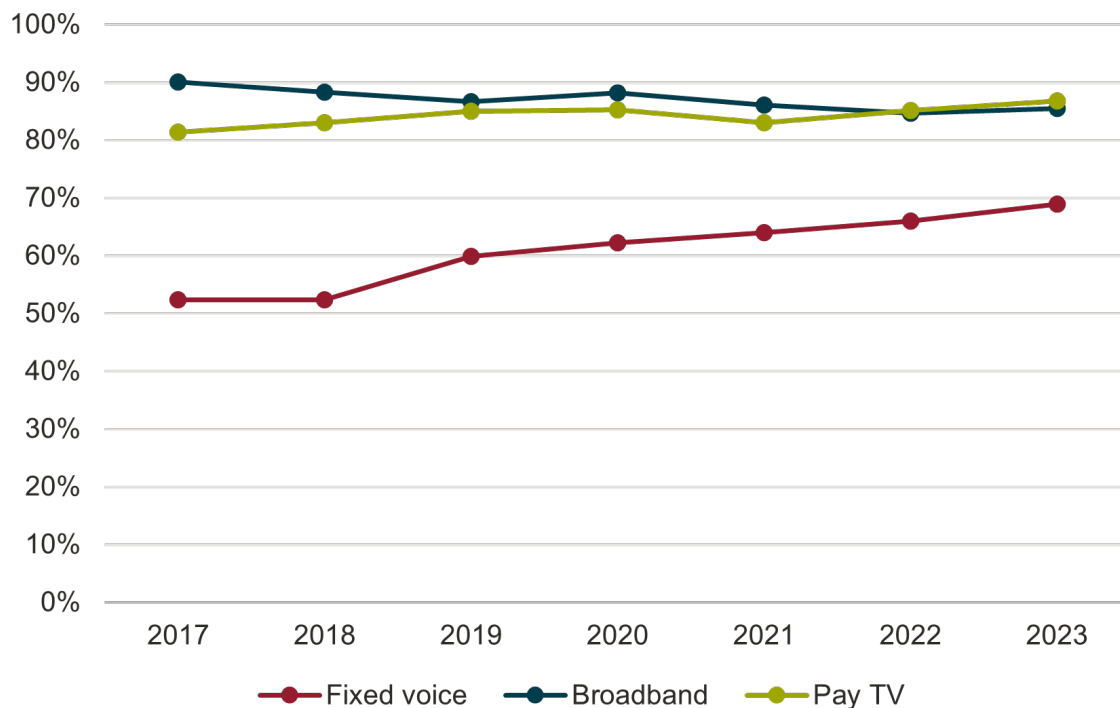
Note: [REDACTED] The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

### Bundling Services

The emergence of new services, such as IPTV, allowed both operators to offer different combinations of bundled services. Consumers now have access to a variety of bundled options, including dual-play services that combine fixed broadband and pay TV, triple-play services that integrate fixed voice, broadband, and pay TV services, and even quad-play services that include mobile services alongside these offerings. Bundling services can bring several benefits to consumers, including cost savings compared to buying the underlying services on a standalone basis and the convenience of a single, consolidated invoice for payment. However, experience in other jurisdictions shows also that consumer switching can decline as bundle take-up increases.

As illustrated in Figure 4 , multi-product bundles represent a high proportion of all retail fixed services. This is particularly the case for pay TV and broadband where 87% and 85% of all customers respectively are subscribed to such bundles. But this is also increasingly the case for fixed voice (landline) services, where the share of multi-product bundle customers has increased from 52% in 2017 to 69% in the Q2 2023.

**Figure 4: Share of multi-play bundled subscriptions within total subscriptions, 2017-2023**



Source: Operators’ quantitative submissions

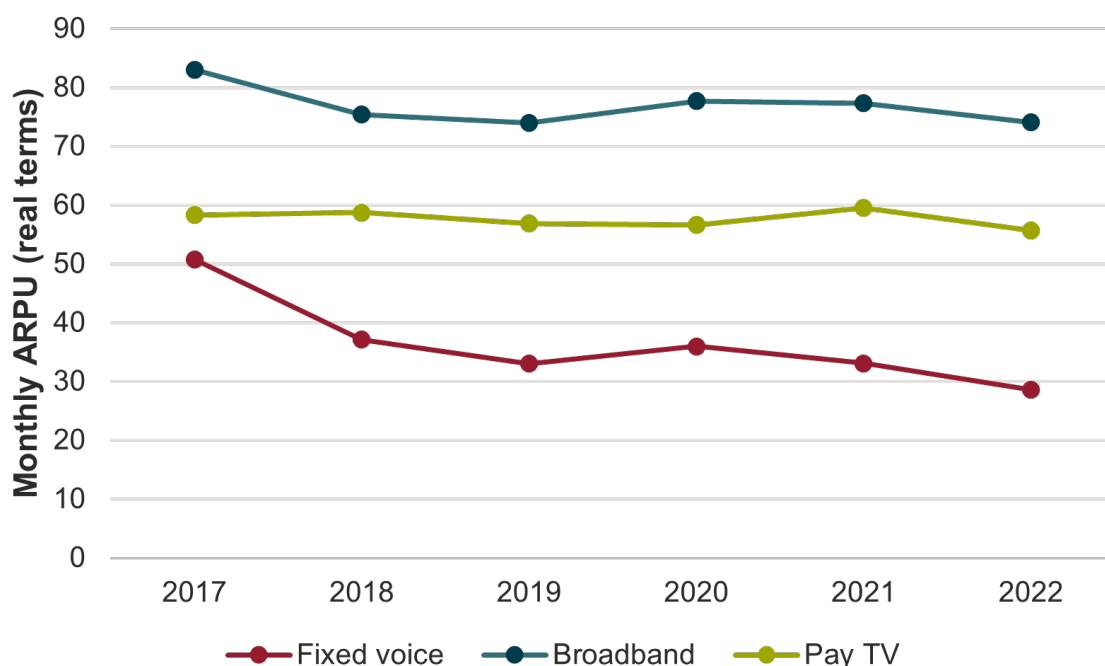
Note: 2023 figures are based on Q2 2023 data, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination

**Price trends**

Given the challenges in deriving average prices for retail electronic communications services (such as the number of tariff plans, many of which contain multiple prices), URCA has examined the overall trends in monthly average revenue per user (ARPU) for each of the retail fixed services considered in this market review. ARPU is not a pure measure of prices as it is also taking account of usage (unless consumers are on unmetered tariffs). Nevertheless, it provides an indication of the average expenditure of end users.

This analysis of ARPUs unveils different trends for each retail fixed service. Regarding fixed voice services, the monthly expenditure per user shows a big contraction of 43.5% (in real terms) between 2017 and 2018, from \$50.70 to \$37.40 per user. This downward trend continued up to 2022 but the decline is less steep. Conversely, ARPU levels have been relatively stable for fixed broadband and pay TV, especially between 2018 and 2022.

**Figure 5. Average revenue per user (ARPU). Monthly BSD\$, in real terms, 2017-2022**



Source: Operator’s quantitative submissions and Department of Statistics of the Government of The Bahamas  
 Note: ARPU figures calculated as ratio between revenues and total users for each service, regardless of type of service (standalone or bundle) or segment (corporate or residential). The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

### Consumer switching behaviour

In a competitive market, end users should be able to switch between service providers with as little cost as possible. As part of its qualitative submissions, █████ provided churn rates<sup>52</sup> for retail fixed voice, fixed broadband, and pay TV services. These churn rates indicate that monthly average customer churn has been on average █████ throughout 2022 (August 2022 – January 2023) for fixed voice, █████ for fixed broadband and █████ for pay TV services.

This is in line with findings from URCA’s Retail Customer Survey. According to the survey, only 13% of respondents have switched their fixed voice or broadband services providers in the last two years. Equally, only 12% of respondents stated that they would be certain or very likely to switch fixed service provider in the next two years.

For fixed voice, number portability enhances consumer choice in markets where there is more than one provider as it enables end users to retain their phone number when switching to another provider. In The Bahamas, fixed number portability (FNP) was launched in 2013 as a pro-competitive measure to reduce switching costs for fixed voice users.<sup>53</sup>

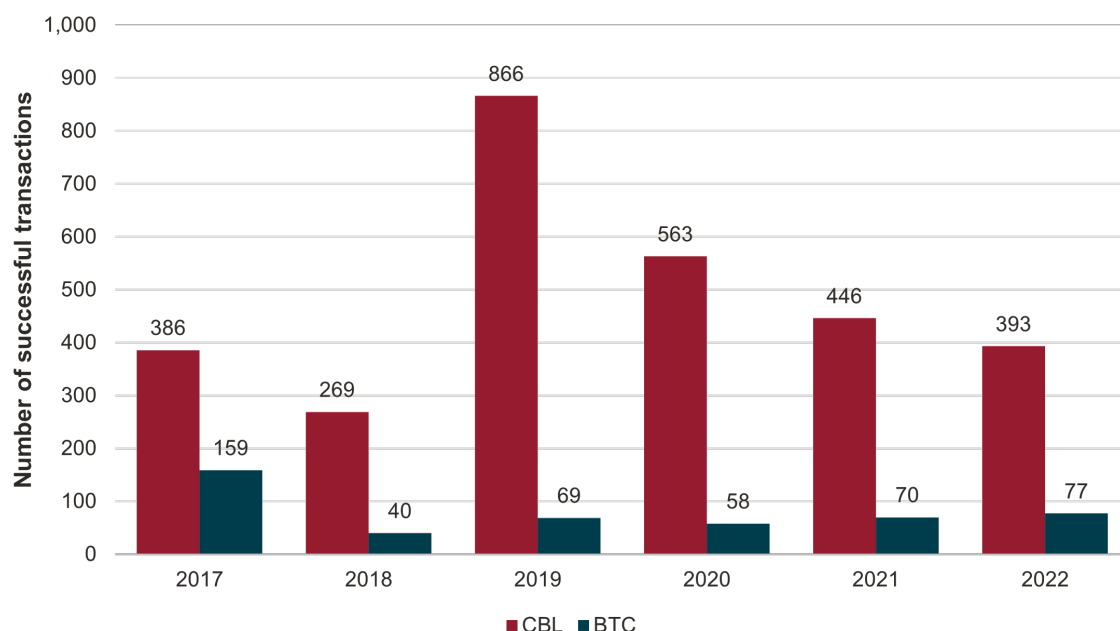
Figure 6 presents the breakdown of successful porting transactions by recipient fixed voice operator. The overall number of end users porting their fixed number has remained broadly unchanged in 2022,

<sup>52</sup>Churn rate: Share of customers switching over the total client base between retail electronic communications services (e.g., fixed telephony to fixed broadband) and between service providers.

<sup>53</sup> <https://www.urcabahamas.bs/number-portability-schedule-december-2nd-start>

compared to 2017 (i.e., 470 vs. 545); however, there has been some non-trivial fluctuation in the successful transactions during that period. In particular, after reaching a peak (935) in 2019<sup>54</sup>, successful transactions have been consistently declining back to the levels seen pre-2019.

**Figure 6: Breakdown of successful fixed porting transactions by landline operator, 2017-2022**



Source: URCA’s analysis based on FNP data

Note: The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

As shown in Table 4 below, take-up of FNP represents less than 1% of total fixed voice connections over the period under review. However, not all switching among end users occurs via a formal process of FNP, so these figures are likely to underestimate switching behaviour in the market. In particular, monthly churn rate for fixed voice services has been on average during the period August 2022 to January 2023. Whilst marginally higher than the FNP rate, this still represents only a small share of total fixed voice customers.

**Table 4: Ported fixed numbers as % of total landline connections**

Year	2017	2018	2019	2020	2021	2022
Total successful ports	545	309	935	621	516	470
Total landline connections	113,852	112,337	94,324	88,399	85,705	86,484
Porting as % of landline connections	0.48%	0.28%	0.99%	0.70%	0.60%	0.54%

Source: URCA’s analysis based on FNP data

Note: The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

<sup>54</sup>Part of this increase could be related to CBL’s launch of its triple-play bundles in 2019.

### 3.3. URCA’s Analytical Approach to Market Reviews

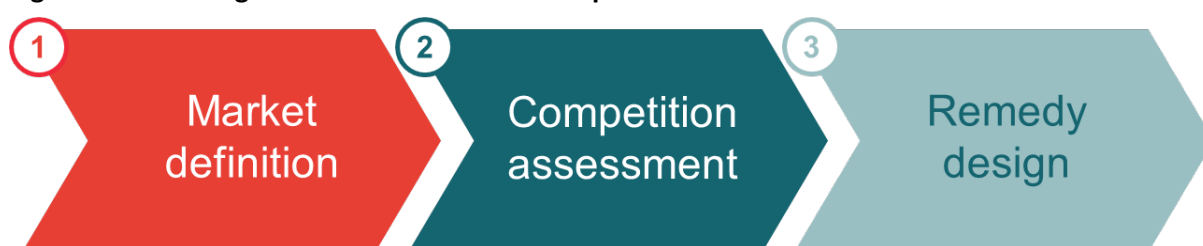
The main purpose of a market review is to identify the competitive conditions prevailing in a market by systematically assessing the competitive constraints faced by Licensees in the relevant market. A market review commences by defining a market, which is then analysed to assess the degree of effective competition in that market. Defining markets and assessing competition within those markets involves a degree of judgment, with the overarching objective being to ensure that all relevant competitive constraints operating in a market are identified and analysed. This principle is also enshrined within the electronic communications’ regulatory framework applicable to The Bahamas.

In conducting market reviews, URCA must take account of specified procedures in section 39(1) and (2) of the Comms Act, and the analytical framework (i.e., procedures and criteria) set forth in URCA document reference ECS 20/2011 (“Methodology for Assessment of Significant Market Power [SMP] under Section 39(2) of the Communications Act, 2009”).<sup>55</sup> This document sets forth the procedures and criteria URCA will employ when undertaking market reviews for ex-ante regulatory purposes.

As illustrated in Figure 7 below and referred to in URCA’s SMP Methodology, there are three main stages to market reviews:

- Market definition - defining relevant product and geographic markets over which the competition assessment will take place (Stage 1);
- Competition and dominance assessment - identifying operator(s) with SMP in each defined market(s), if any (Stage 2); and
- Remedy design - where a Licensee is found to have SMP in a market, considering the appropriate SMP obligations in relation to that market. This includes establishing the need for ex-ante regulation in the market under consideration and identifying the underlying market failures/anti-competitive concerns any ex-ante regulation seeks to address (Stage 3).

**Figure 7: Three stages of URCA's market review process**



#### 3.3.1 Defining Relevant Markets

Market definition focuses on the substitutability of differentiated products or services. There are two main dimensions to market definition: (i) relevant product market; and (ii) relevant geographic market. Under standard market analysis, a relevant product market comprises all those differentiated

<sup>55</sup> Issued 13 October 2011 and available at <https://www.urbahamas.bs/wp-content/uploads/2017/01/Final-Division-on-SMP-methodology-ECS-20-2011.pdf> .

products or services that are regarded as sufficiently interchangeable or substitutable by customers or suppliers by reason of product characteristics, intended use and pricing, such that a hypothetical monopolist in the provision of one product could not profitably increase the price of that product from the competitive level.

### 3.3.1.1 Product Market Definition

In defining the relevant economic markets, URCA followed the principles of the *Small but Significant Non-transitory Increase in Price* ('SSNIP') test, otherwise known as the *Hypothetical Monopolist Test* (HMT). The SSNIP test assesses customer (demand-side substitution) and supplier (supply-side substitution) behaviour in response to a hypothetical increase in the price of a product above the competitive level (taken to be in the range of 5-10%). This is to determine whether customers (producers) have the ability and incentive to switch to (from) an alternate product in response to a SSNIP (of 5-10% above the competitive level). If they can, these alternative products are included in the same economic market as the product under consideration (the focal product).

- When assessing *demand-side substitutability*, the question is whether the price increases provoke a sufficient number of customers to switch to alternative products offered by any existing supplier such that it would make the hypothetical price increase of the focal product unprofitable. If sufficient subscribers would switch to the alternate product thereby making the price increase unprofitable, then the alternative product is included in the relevant product market (i.e., it is deemed to be a demand-side substitute of the focal product).
- For *supply-side substitutability*, the SSNIP test assesses whether the price increase could provoke an existing supplier that is currently not producing the focal product to switch production capacity and start supplying the focal product. Such supply-side substitution would only constitute an effective constraint were it to make the price increase of the focal product unprofitable for the hypothetical monopolist. In this case, the alternative product is included in the relevant product market (i.e., it is deemed to be a supply-side substitute of the focal product).

The SSNIP test is carried out for any given number of alternative products, which by their characteristics, prices and intended use, may constitute an effective substitute to the product in question. If switching to these alternative products is sufficient to also render the SSNIP unprofitable, then these are also included in the definition of the relevant product market.

While such economic tests can usefully be employed to examine demand- and supply-side substitution possibilities, it is also important to ensure that the approach to market definition is pragmatic and exhibits commercial common-sense. Given that conducting a SSNIP test formally is often not possible (including in this instance, given the lack of quantitative information on potential switching), URCA has examined, in this case, the likely response of consumers and producers to a price increase by examining the four factors listed in Section 3.1 of ECS 20/2011 for product market definition analysis, namely:

- evidence of previous substitution;
- consumer preferences;
- barriers and switching costs; and
- quantitative studies (including surveys, studies of other markets).

When determining the relevant product market, it is also important to assess the relevant customer market dimension. In the context of retail electronic communications services, this commonly requires assessing the need to define separate markets for residential and business offerings and/or different contract types (i.e., prepaid vs. post-paid product offerings<sup>56</sup>). This, again, is undertaken based on a review of the product characteristics and the demand- and supply-side substitutability of services. For example, if a sufficient number of business customers could purchase either the residential or business product and, given their specifications, would consider them as substitutes, these two customer segments could be considered as part of the same product market. Similarly, the two products are likely to be supply-side substitutes, if a provider of residential services could quickly switch, following a SSNIP in business services, to also provide business services and vice versa (e.g., since both products are delivered based on similar infrastructures and distribution channels).

### **3.3.1.2 Geographic Market Definition**

The geographic market is defined with respect to the scope of service within a defined region or territory within which competitive conditions are sufficiently homogenous or similar. The relevant geographic market considers the degree to which demand/supply-side substitutes for products vary by geography. The geographic boundaries are considered within the SSNIP test and the reach of any demand and/or supply-side substitutes identified. The test is applied on a product-by-product basis, meaning if particular products are offered in different geographic areas, the product market definition may vary by geography.

There are also instances where the geographic market coincides with the territory in which the Licensees are licensed to operate their networks or provide their service.

URCA has supplemented the SSNIP tests (demand/supply-side substitution) with other relevant information including the listed criteria below to further inform and refine its geographic market definition analysis:

- past evidence of consumers diverting orders to suppliers in other areas;
- basic demand characteristics;
- barriers to switching; and
- views of third parties.

### **3.3.1.3 Customer segments**

In The Bahamas, the main two operators (namely, BTC and CBL) provide retail fixed services to both residential and business customers. All of them differentiate business end users in two groups: small and medium enterprises (SMEs), and corporate/enterprise customers. These business customers have different demands for fixed telecommunication services. Fixed voice, broadband services, and pay TV provided to SMEs are typically like those targeted at residential customers.

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<sup>56</sup>Although URCA notes that the contract type considerations are less relevant to the retail fixed services considered in this market review, which are predominantly offered on a postpaid basis.

Operators offer more advanced telecommunications business solutions, typically targeted at larger corporate customers that require multiple fixed lines (e.g., PRI and SIP Trunk, Dedicated Internet Access, WAN/LAN, ISDN, etc.) and dedicated connectivity services (leased lines) connecting multiple locations. These solutions are often tailored to the customer's overall communications/connectivity needs, and not based on published tariff plans/list prices.

For this market definition exercise, URCA only considers SME customers who buy standard products, not large corporate customers who are likely to buy bespoke solutions.

### 3.3.2 Competition and Dominance Assessment

The second stage of the framework seeks to identify Licensees that have SMP in the defined market(s), if any. Under section 39(1) of the Comms Act, a Licensee is an SMP Licensee if the Licensee,

"... individually or with others, enjoys a position of economic strength which enables it to hinder the maintenance of effective competition on the relevant market by allowing it to behave to an appreciable extent independently of its competitors, consumers and subscribers."

The initial starting point for SMP assessment in a defined market would be "*the Licensee's market share*."<sup>57</sup> Although the Comms Act does not specify a market share threshold for SMP, URCA in ECS 20/2011 (Section 3.2, p.6) has established presumptions of dominance, wherein:

"a Licensee with less than 40% market share will not generally be presumed to have SMP; and a Licensee with a market share of 40% and above may be presumed to be an SMP Licensee."

In addition to market share, URCA must also consider the criteria listed in section 39(3)(b), (c), (d) and (e) of the Comms Act, namely:

- “(b) the Licensee's ability to influence market conditions;
- (c) the Licensee's access to financial resources;
- (d) the Licensee's experience in providing products to the market; and
- (e) any other criteria considered relevant by URCA".

ECS 20/2011 further sets out the approach URCA will take to assess any joint (collective) SMP by more than one Licensee. Guided by local conditions and international best practice, URCA, if necessary, will investigate whether the characteristics of the relevant market are conducive to collusion, tacit or otherwise. This will be based, amongst others, on a review of market concentration thresholds (measured by the Hirschman-Herfindahl Index ('HHI')) and other criteria which will allow URCA to assess whether the conditions in the relevant market are conducive to collusion by two or more Licensees.

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<sup>57</sup> Section 39(3)(a) of the Comms Act.



A list of the other indicators URCA may consider for assessing SMP are set out in Section 3.2 (p.6 to 7) of ECS 20/2011. These are summarized in Table 5 below.

**Table 5: Overview of criteria assessed to determine single/joint dominance**

SMP / Dominance	Criteria assessed
<i>Single SMP/dominance</i>	<ul style="list-style-type: none"> <li>▪ Market structure</li> <li>▪ The Licensee’s market share</li> <li>▪ The Licensee's ability to influence market conditions</li> <li>▪ The Licensee's access to financial resources</li> <li>▪ Whether there are high and non-transitory barriers to entry and expansion</li> <li>▪ Whether countervailing buyer power (CBP) may constrain a SMP operator’s ability to price excessively</li> <li>▪ Whether the level of prices and profitability observed in the market are reflective of those in competitive markets</li> <li>▪ Whether a party benefits from vertical integration</li> <li>▪ Whether a party benefits economies of scale and/or scope</li> <li>▪ Whether a party benefits from its overall size</li> <li>▪ Whether a party controls infrastructure that cannot be easily duplicated</li> <li>▪ Whether a party benefits from technology advantages or superiority</li> <li>▪ Whether a party benefits from a highly developed distribution and sales network</li> <li>▪ Whether a party benefits from network effects</li> <li>▪ Barriers to switching</li> </ul>
<i>Joint SMP/ dominance</i>	<ul style="list-style-type: none"> <li>▪ Market concentration as measured by the HHI</li> <li>▪ Homogeneous services/products</li> <li>▪ Whether the market is mature/stagnant (i.e., stagnant or moderate growth on the demand side)</li> <li>▪ Whether market players have similar cost structures</li> <li>▪ Whether market players have similar market shares</li> <li>▪ Whether there is a lack of technical innovation/mature technology</li> <li>▪ Whether excess capacity is available in the market</li> <li>▪ Whether there are high and non-transitory barriers to entry</li> <li>▪ Whether countervailing buyer power (CBP) may constrain the SMP operators’ ability to price excessively</li> <li>▪ Whether there is a lack of potential competition</li> <li>▪ Whether there are informal or other links between the Licensees concerned</li> <li>▪ Whether there is scope for retaliatory mechanisms in the markets to punish market players deviating from a collusive outcome</li> <li>▪ Whether there is a lack or reduced scope for price competition</li> <li>▪ Low elasticity of demand</li> </ul>

### 3.3.3 SMP Obligations and Remedy design

The third and final stage of the market review involves determining the regulatory obligations, if any, that should be imposed on SMP operators to remedy any potential effects of SMP where there is a strong likelihood of an abuse by the SMP operator of its dominant position, absent ex-ante regulation.<sup>58</sup>

URCA notes that best practice, including in the EU regulatory framework<sup>59</sup>, suggests that the need for ex-ante intervention should be based on three criteria (commonly referred to as *Three Criteria Test*). Where at least one of these criteria is not met, regulatory authorities should not impose ex-ante regulation. The three criteria are that:

- the market is characterized by significant and non-transitory barrier to entry;
- the market does not tend towards effective competition; and
- ex-post competition law would be unsuitable for dealing with any problems that emerge (for example, because it may require frequent intervention).

Whilst the three criteria test provides a helpful framework to ensure that any ex-ante remedies are targeted, URCA notes that, in practice, the first two criteria are similar in nature to factors covered in the competition assessment. For example, the existence of barriers to entry constitutes one of the market characteristics assessed as part of competition. Further, a best practice market review will assess not only the competitive dynamics at the time of the review, but also take into account any expected changes to the level of competition within the market in the foreseeable future (i.e., commonly interpreted as within the next 12-24 months).<sup>21</sup> Given this, in URCA's view, once a Licensee has been found to have SMP, the three criteria test primarily requires an assessment on whether ex-post competition law would be sufficient.

Once the need for ex-ante regulation is confirmed, any regulatory obligations must be:

- targeted and efficient (i.e., they should represent the least intrusive way of addressing a competitive concern identified);
- proportionate (i.e., the resulting regulatory burden on the SMP operator should not outweigh the benefits from remedying the competition concern); and
- transparent, fair and non-discriminatory.

This means that where URCA believes that market forces alone are unlikely to achieve its policy objectives within the referenced timeframe, URCA may introduce regulatory requirements, having due regard to the costs and implications for affected parties.

Prior to imposing remedies under section 40(1) of the Comms Act, URCA must follow the procedures specified in section 5 and section 40(2) of the Comms Act.

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<sup>58</sup>Absent a determination that one or more licensees have SMP in any of the defined markets, URCA would not employ the procedures and criteria set out in the third stage.

<sup>59</sup>Dated 17 December 2007 (2007/879/EC)

## 4. Retail Fixed Voice Services

This Section sets out URCA's review of retail voice services provided at a fixed location ("fixed voice services" hereafter) in The Bahamas, covering the first two stages of a market review discussed in Section 3.3 (i.e., market definition and competition assessment). The third stage (i.e., SMP remedies) is discussed in Section 8. As part of this, URCA sets out its preliminary views and consultation questions.

### 4.1. Market Review Stage 1- Market Definition

The first step in any market review process is to identify the scope of the economic markets over which any competition assessment shall be conducted. Based on the market definition adopted in 2014 and by applying the hypothetical monopolist or SSNIP test described in Section 3.3, URCA has identified below the relevant product, customer, and geographic scope of the market(s) for retail voice services provided at a fixed location in The Bahamas.

URCA has structured the remainder of this Section in the following way:

- Product Market Definition (Section 4.1.1);
- Geographic Market Definition (Section 4.1.2); and
- Preliminary Conclusion on Product and Geographic Markets (Section 4.1.3)

#### 4.1.1 Product Market Definition

There are several considerations to be made when defining the relevant product scope of retail fixed voice service market(s). In The Bahamas, retail fixed voice services include both access and call services. Access is the fixed line installed in a premise that allows the customer to make and receive calls. Call services are the outgoing calls from a fixed line. Call services can further be differentiated by call destination (i.e., local calls, domestic long-distance calls to other fixed and mobile lines, and international calls).

Retail fixed voice services may further be differentiated by:

- customer segments, i.e., retail fixed voice services offered to residential and business customers.
- tariff plans, such as standalone retail fixed voice tariff plans and multi-product bundled offerings including fixed voice services.

As noted above, the starting point for this market definition exercise is the product scope of the market definition determined in the previous market review, to then assess whether the product scope needs to change given the recent market developments.

In 2014, URCA determined that there was a single product market for retail fixed voice services, irrespectively of the way users access it. That is, the analysis of the retail fixed voice market did not differentiate whether they were sold on a standalone basis or as a multi-product bundle (i.e., fixed broadband or pay TV services).

However, the market developments set out in Section 3.2, including the take-up of multi-product bundles and the fact that the operators no longer actively market standalone voice services, calls into questions whether such a wide market definition for fixed voice services is still valid.

Therefore, URCA conducts this analysis by starting with, as the focal product, standalone retail fixed access services (sold to residential users) delivered through all means.<sup>60</sup> Then URCA applies the SSNIP test to determine whether this forms a product market on its own or should be widened to include any effective substitutes.

In doing so, URCA addresses the following considerations:

- The extent to which retail fixed access and fixed call services are still part of the same product market;
- Whether standalone fixed voice services and fixed broadband services are in the same product market;
- Whether mobile access and call services are effective substitutes for fixed voice services and hence should be included in the same market;
- Whether Over-the-Top (OTT) based call and messaging services belong to the same product market for fixed voice services; and
- Whether service offerings for residential and business customers form part of the same relevant product markets.

Following the approach set out in Section 3.3, each of these issues is considered in turn below.

#### **4.1.1.1 Are retail fixed access and local, domestic, and international fixed call services in the same product market?**

Within its 2014 market review, URCA defined a single product market covering both retail fixed access and fixed call services. In the context of this market review, URCA has assessed whether that conclusion remains valid.

##### **Demand-side substitution**

To determine whether retail fixed access and fixed call services are demand-side substitutes, it is necessary, in theory, to consider whether a sufficient number of end users of fixed access services would feasibly switch to using fixed call services in the event of a SSNIP by a hypothetical monopolist in the provision of fixed access services.

However, the functionalities and characteristics of retail fixed access services and call services indicate that these services are more likely to be complements rather than substitutes. End users must buy retail fixed access services (i.e., the fixed landline rental service and a handset), to make and receive fixed calls. Therefore, the demand for fixed call services is positively correlated to the number of fixed access lines. This suggests that when end users choose a fixed voice service, they are likely to consider

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<sup>60</sup>In the 2014 Market Review, URCA concluded that fixed voice services delivered through a fixed network or through a cable network (i.e., VOIP) are in the same relevant market. Given the market developments outlined in Section 3.2, URCA concluded that the fixed voice services product market is in the same market irrespective of the technology through which they are delivered to the end customer.

the overall price (i.e., any fixed cost of access, plus the total cost of expected fixed calls) and product characteristics (e.g., accessibility, reliability, and convenience) of both fixed access and fixed voice services together. Indeed, this is particularly the case given that calling card services and two stage dialling services are no longer available.

### **Product characteristics**

In The Bahamas, these two services cannot be purchased individually, end users buy access and calls jointly, including all types of calls. As shown in Table 6, local, domestic, and international call services are offered by both BTC and CBL as part of the same product bundle offering. In particular, BTC’s and CBL’s fixed voice tariff plans include unlimited unmetered calls to local landlines. Most of these tariff plans also include monthly allowances for domestic and international calls.

**Table 6: Standalone retail fixed voice plans for residential customers<sup>61</sup>**

<b>Operator</b>	<b>Tariff plan</b>	<b>Mins included</b>	<b>Monthly Price (BSD\$, excl. VAT)</b>
<b>BTC</b>	Basic Landline	Unlimited calls to local landlines 100 minutes per month for calls to Bahamian mobile numbers	\$15.00
	Talk 300	Unlimited calls to local landlines 300 minutes per month for calls to Bahamian mobile numbers, non-local calls to other fixed lines in The Bahamas, or calls to the US, UK, and/or Canada	\$22.00
	Talk 600	Unlimited calls to local landlines 600 minutes per month for calls to Bahamian mobile numbers, non-local calls to other fixed lines in The Bahamas, or calls to the US, UK, and/or Canada	\$28.00
	Talk 24/7	Unlimited calls to local landlines Unlimited minutes for calls to Bahamian mobile numbers, non-local calls to other fixed lines in The Bahamas, or calls to the US, UK, and/or Canada	\$35.00
<b>CBL</b>	REVTALKPrime	Unlimited local calls Unlimited calls	\$16.99
	REVTALKPro	Unlimited local calls 900 mins per month for domestic and international calls	\$25.00
	REVTALKPremium <sup>62</sup>	Unlimited local calls Unlimited domestic and international calls	\$30.00

Source: BTC and CBL’s website, accessed February 2024. Note: tables are not necessarily exhaustive of all tariffs available.

Based on the demand-side considerations described above, URCA considers that retail fixed access and fixed calls remain part of a single product market.

<sup>61</sup>“Unlimited” call allowances from both operators are subject to a fair usage policy restriction of 3,000 mins/month.

<sup>62</sup> RevTalkPremium is also advertised under the name RevTalkUnlimited on CBL’s website, but both are the same plan (<https://www.rev.bs/phone/revtalkunlimited/>)

## **Supply-side substitution**

URCA considers that fixed access and fixed calls are supply-side substitutes as all fixed voice services are delivered via the same network infrastructure.

To determine whether fixed access and fixed call services are supply-side substitutes, it is necessary to consider whether a service provider offering only fixed call services could feasibly begin to offer fixed access services in the event of a SSNIP by a hypothetical monopolist in fixed access services.

Fixed network operators generally deploy fixed network infrastructure to enable them to provide both fixed access and fixed call services. This is also the case in The Bahamas, with BTC and CBL offering both fixed access and fixed call services via their own fixed networks. As such, any service provider hypothetically offering only fixed access (or offering all services except fixed access service) would also be able to offer the full suite of retail fixed services easily or without network expansion (including fixed call services), in the event of a SSNIP by a hypothetical monopolist. Additionally, even though marketing strategies might differ between fixed access and fixed call services, there is no evidence that BTC or CBL use different sales channels to promote and provide these services.

## **Preliminary conclusion**

Based on its analysis and the market developments, URCA preliminarily concludes that fixed access and fixed call services should remain in the same product market.

Hence, in the rest of the document URCA will refer to retail fixed access and local, domestic, and international calling services as retail fixed voice services.

### **4.1.1.2 Are fixed broadband services (sold on a standalone basis or as part of a bundle) in the same product market?**

As part of the 2014 Final SMP Determination, URCA did not consider that fixed broadband services formed part of the same product market as fixed voice services. Moreover, in line with the service plans offered at the time, the fixed voice market included all retail fixed voice services offered over a fixed network, irrespective of whether these services were sold on a standalone basis or as part of a multi-product bundle (with retail fixed broadband and/or pay TV services).

Given the elapsed time since the 2014 Final SMP Determination, URCA sees the need to re-evaluate if standalone fixed voice offers, as defined in sub-section 4.1, should be considered part of the same product market as fixed broadband services, sold on a standalone basis or as part of multi-play bundles together with fixed voice services.

## **Demand-side substitution**

Retail broadband Internet access (fixed broadband services, hereafter) provides end users with a connection to the Internet from a fixed location. In The Bahamas, fixed broadband connections are HFC, xDSL and FTTx-based.

In this Section, URCA analyses to what extent fixed broadband services (on a standalone basis or as part of a bundle<sup>63</sup>) are a demand-side substitute for standalone fixed voice services, considering the functionalities and characteristics of both services.

### **Product characteristics**

Regardless of network technology, both fixed broadband and fixed voice services are sold in The Bahamas on a standalone basis and as part of multi-product bundled offers.<sup>64</sup> Multi-product bundled offers can also include other retail services, such as pay TV and/or mobile services. As Table 7 shows, all standalone fixed broadband plans provided by BTC and CBL offer unlimited data allowances, although they differ in terms of download speed.

**Table 7: Selected standalone retail fixed broadband offerings for residential customers**

Operator	Tariff Plan	Advertised Download Speed	Monthly Price (BSD\$, excl. VAT)
BTC	Broadband 8 Mbps	8 Mbps	\$30.99
	Broadband 20 Mbps	20 Mbps	\$33.99
	Fiber Internet 300 Mbps	300 Mbps	\$89.99
	Fiber Internet 1 Gbps	1 Gbps	\$145.00
CBL	RevNetPrime	30 Mbps	\$49.50
	RevNetPro	45 Mbps	\$71.50
	RevNetPremium	75 Mbps	\$90.50
	RevNetPrestige	105 Mbps	\$124.75
	REVNETPrime Fibre	50 Mbps	\$54.50
	RevNetPro Fibre	100 Mbps	\$74.50
	RevNetPremium Fibre	200 Mbps	\$90.50
	RevNetPrestige Fibre	300 Mbps	\$124.74

Source: Operators' websites, accessed February 2024.

Note: Monthly prices do not include VAT.

Based on their functionalities and characteristics, URCA considers that there is no demand-side substitution between fixed broadband and fixed voice services, as both services are used for different purposes. End users will typically purchase fixed broadband services to access the Internet (e.g., social media, streaming and downloading content and sending and receiving emails), but they will also buy fixed voice services to make and receive fixed calls.

URCA recognises that the Internet can be also used to enable end users to make fixed calls. For example, this can be done through managed VoIP or through OTT services. However, managed VoIP

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<sup>63</sup> The analysis in this subsection concentrates on double-play bundles including fixed voice and fixed broadband, due to the considerable price difference between double-play and triple-play bundles. URCA considers that all arguments that justify excluding double-play bundles from this market can be equally applied to triple-play bundles.

<sup>64</sup> Based on information found in operator's websites.

services are marketed as fixed voice (e.g., REVTalk)<sup>65</sup>, either on a standalone basis or as part of a multi-product bundle. Additionally, URCA does not consider OTT services and traditional fixed call services to be substitutes. This is discussed in Section 4.1.1.4.

### **Take-up and Usage**

In the Q2 2023, 69% of the fixed voice lines were purchased as part of a bundle service, 9% more than in 2019.<sup>66</sup>

As illustrated in Figure 8, the take-up of standalone fixed voice and standalone broadband services follows a different trend. Take-up of standalone fixed voice services has decreased by 21% since 2019 while the number of active subscriptions for standalone broadband services has increased by 14% in the same period. The trend in standalone fixed services also contrasts with the increasing take-up of bundled plans including fixed voice in The Bahamas. In 2022, 69% and 85% of fixed voice and broadband active subscriptions were bundled plans, respectively. However, there is still a non-trivial number of customers subscribed to standalone fixed voice services.

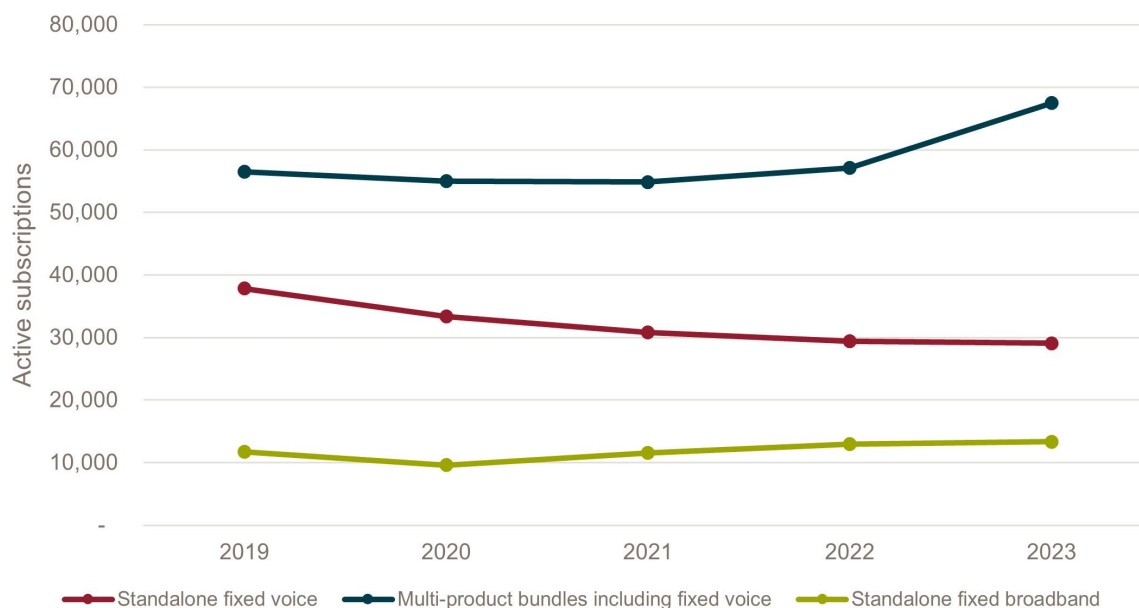
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<sup>65</sup><https://www.rev.bs/phone/>

<sup>66</sup>In 2017 and 2018, BTC did not have a breakdown of active subscribers by standalone or multi-product bundle.



**Figure 8: Fixed voice and fixed broadband standalone and fixed voice bundled subscriptions, 2019-2023**



Source: Operators’ quantitative data submissions.

Note: 2023 figures are based on Q2 2023 data, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

**Relative Prices**

Given the prevailing high take-up of multi-product bundles, customers subscribed to these services appear to be a distinct user group who value the bundles’ components together. Equally, those customers currently subscribed to a standalone service are likely to not value the other fixed services contained within available bundles and, given prevailing price differences between standalone services and bundles, they are unlikely to switch to multi-play bundles in case of a SSNIP on their standalone service.

URCA considers it unlikely that, in the event of a SSNIP, assuming prices are currently at competitive levels, customers on standalone fixed voice tariff plans would switch to multi-product bundled offerings, unless they also value the fixed broadband service provided as part of the bundled plan. For example, a consumer subscribed to BTC’s “Talk 300” with a monthly cost \$22.00 plus VAT, and who does not also value fixed broadband services, would be unlikely to switch, in the case of a SSNIP, to the comparable BTC bundled offer “Basic 8 and Talk 300” plan, which costs \$45.00 plus VAT.

**Table 8: Selected standalone fixed voice, broadband, and multi-product bundles with fixed voice**

Operator	Tariff Plan	Type of bundle	Minutes included	Monthly Price (BSD\$, excl. VAT)
BTC	Basic Landline	Standalone	Unlimited calls to local landlines	\$15.00

			100 minutes per month for calls to Bahamian mobile numbers	
	Talk 300	Standalone	Unlimited calls to local landlines 300 minutes per month for calls to Bahamian mobile numbers	\$22.00
	Talk 24/7	Standalone	Unlimited calls to local landlines Unlimited minutes for calls to Bahamian mobile numbers, non-local calls to other fixed lines in The Bahamas, or calls to the US, UK, and/or Canada	\$35.00
	Broadband 8 Mbps	Standalone	8Mbps download speed	\$30.99
	Basic 8 and Talk 300	2P- Fixed broadband and fixed voice	300 minutes 8Mbps download speed	\$44.99
	Basic 50 and Talk 24/7	2P- Fixed broadband and fixed voice	Unlimited minutes 50Mbps download speed	\$54.99
	Basic 50 bundle	3P- Fixed broadband, pay TV, and fixed voice	Unlimited minutes 50Mbps download speed TV max with 157 channels	\$94.99
CBL	REVTALKPrime	Standalone	Unlimited local calls Unlimited calls	\$16.99
	REVTALKPremium	Standalone	Unlimited local calls Unlimited domestic and international calls	\$30.00
	REVTalkPrime and Prime Local	2P- Pay TV and fixed voice	Unlimited local minutes TV with 6 channels	\$26.99
	REVTalkPrime and REVNETPrime	2P- Fixed broadband and fixed voice	Unlimited local minutes 30Mbps download speed	\$54.98
	REVTalkPrime, Prime Local, and REVNETPrime	3P- Fixed broadband, pay TV, and fixed voice	Unlimited local minutes 30Mbps download speed TV with 6 channels	\$64.98

Source: CBL’s website, accessed in February 2024. BTC’s legacy plans were provided by the operator.

Note: Tables are not necessarily exhaustive of all tariffs available. Monthly prices do not include VAT.

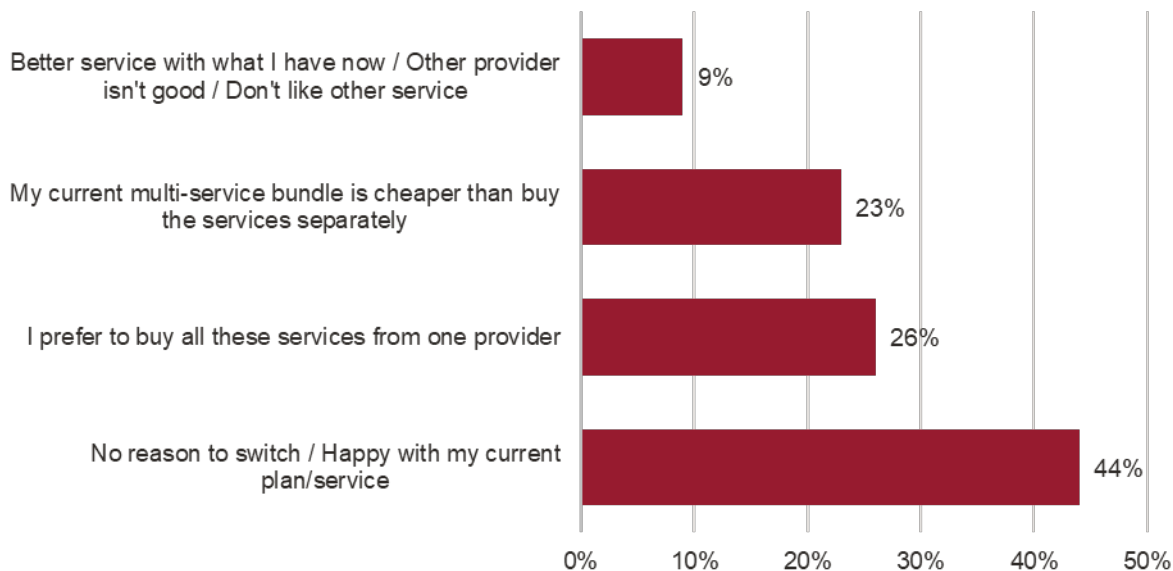
The multi-product bundled service offerings result in cost savings relative to purchasing standalone fixed voice and fixed broadband plans. URCA considers it likely that those end users that value both services are already subscribed to multi-product bundled plans. As such, it seems unlikely that customers currently subscribed to standalone fixed voice services value broadband services and would therefore switch to a multi-product bundle in case of a SSNIP in standalone services.

### **Switching behaviour**

URCA considers both customer groups to be distinct and thus unlikely to switch to the other product group in case of a SSNIP. Customers that subscribe to multi-product offerings value each of the products that make up the bundle and can utilise these more conveniently and at a lower price than purchasing them separately. Therefore, instead of subscribing to each of these services individually, these consumers subscribe to a bundle. This is best illustrated in Figure 10, where respondents to URCA Retail Customer Survey mentioned the reasons behind not subscribing to different fixed electronic communications services separately. Most multi-product bundle customers have not considered switching to standalone services because they are currently satisfied with their bundled

plan<sup>67</sup>, prefer to purchase services from one single provider, and/or their bundled plan is cheaper than acquiring each of the services separately.

**Figure 9: Reasons for not considering switching from a multi-product service to a standalone service**



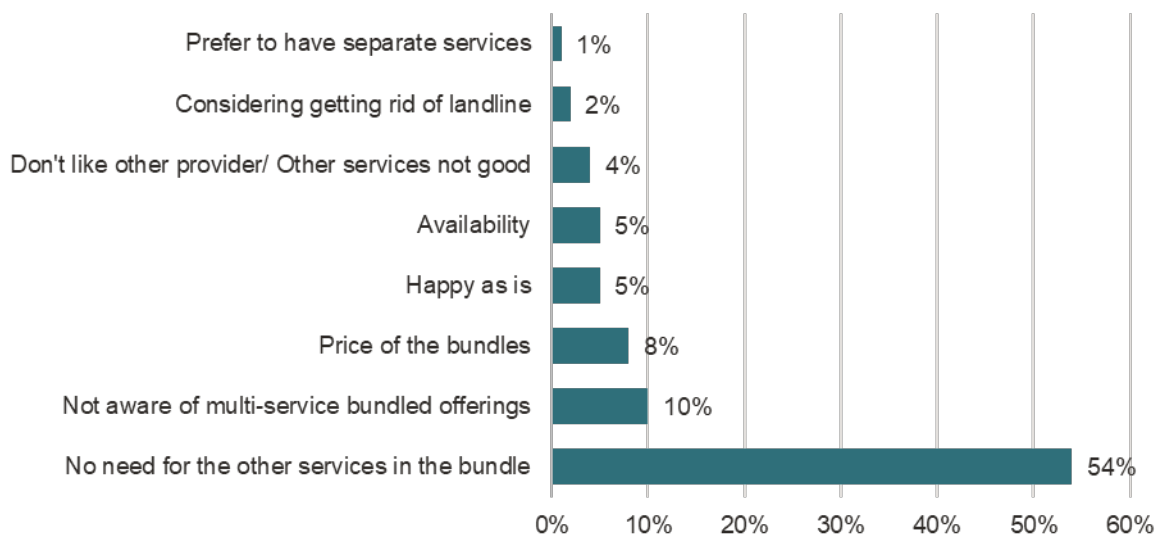
Source: URCA Bahamas Survey Report: Retail Fixed Market Review 2023

Equally, those customers currently subscribed to standalone fixed voice services are likely to not value the other fixed services contained within those bundles. For example, according to URCA’s Retail Customer Survey, 82% standalone fixed users have not considered switching to a multi-product bundle. As shown in Figure 10, when asked about the reasons for not considering switching, 54% of the respondents stated that they do not feel the need for the other services within the bundle. Only 1% of the respondents answered that they prefer to have separate services (i.e., standalone fixed voice and broadband).

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<sup>67</sup>Within this sub-group the main stated reason for their satisfaction is that their current bundled tariff plan is cheaper than buying the services separately.

**Figure 10: Reasons for not considering switching to a multi-product bundle**

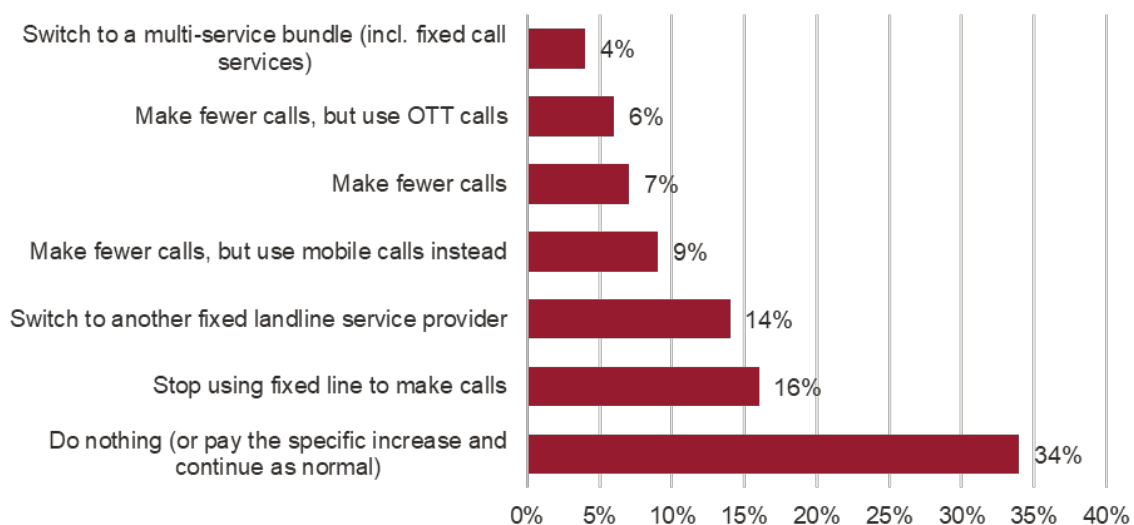


Source: URCA Bahamas Survey Report: Retail Fixed Market Review 2023

In determining whether standalone and bundled offerings form part of the same product market, it is important to assess if customers would switch, in sufficient numbers, following a SSNIP in the price of the standalone products, assuming prices are currently at competitive levels. As discussed further below, URCA’s Retail Customer Survey suggests that it is unlikely that these end users would switch to bundled plans in the event of a SSNIP.

Figure 11 shows the actions taken by standalone fixed voice users when faced with a small price increase. Most respondents stated they would either do nothing or stop using their fixed landline to make calls. Only a small proportion of these end users (i.e., less than 5% of the relevant respondents) mentioned they would switch to a multi-product bundle. This is likely related to a non-trivial price difference between standalone fixed voice and bundles as discussed above, and these customers not requiring the other services within the bundle.

**Figure 11: Action Taken if Provider Charged More for Fixed Calls**



Source: URCA Bahamas Survey Report: Retail Fixed Market Review 2023

Based on the demand-side considerations described above, URCA considers that multi-product bundle services that include fixed voice services do not form part of the same product market as standalone fixed voice services.

### **Supply-side substitution**

URCA considers that there is supply-side substitution between fixed voice and fixed broadband services in The Bahamas, irrespective whether these are sold on a standalone basis or as part of multi-play bundles.

From a technical perspective, fixed voice and fixed broadband services could be supply substitutes. This is because, due to the emergence of VoIP, both services can be delivered through similar infrastructure that shares common components. That is, in an IP/NGN network both calls and data services are conveyed in the same way and end users are commonly unable to distinguish whether their calls are conveyed as data packets or not. Thus, there is increasing supply substitution between these services.

Given the current market environment, there may be limited commercial incentives for a fixed broadband provider to enter the standalone fixed voice service market. Nevertheless, in the event of a SSNIP in fixed voice services, providers of fixed broadband services could start offering fixed voice services in a relatively short period of time and without incurring in large additional costs. This is supported by the fact that the two main players in the provision of standalone fixed voice services, BTC and CBL, are the same as in the provision of standalone fixed broadband services and bundles including fixed voice and broadband services.

### **Further considerations**

In addition to the demand-side and supply-side considerations described above, the market structure and competitive dynamics for the provision of standalone fixed voice and fixed broadband, and multi-play bundles are sufficiently different to consider these services part of separate markets. In particular, [REDACTED] has a larger market share in fixed voice services than in fixed broadband services. Differences between these markets are more noticeable in the provision of standalone services than for multi-play bundles where market shares are less concentrated.

### **Preliminary conclusion**

Given the assessment of both demand-side and supply-side substitutability set out above, URCA preliminarily concludes that retail standalone fixed voice, and standalone fixed broadband services and bundles including both services, should remain separate markets.

The market for retail fixed voice services should be limited to fixed voice services sold on a standalone basis only. That is, it should cover fixed voice services not sold together with other fixed services in multi-product bundles. Instead, retail fixed broadband services and retail fixed voice services sold as part of multi-product bundles will form part of a separate market (discussed further in Sections 5 and

7). This is mostly due to a lack of demand-side substitution between these services.<sup>68</sup> Further, the competitive dynamics differ between standalone fixed telephony and fixed broadband services and multi-play bundles. In particular, whilst most standalone fixed voice users are subscribed to [REDACTED], [REDACTED] represents the largest market share in standalone fixed broadband and bundles including both services. Defining separate markets for these services better allows taking this into consideration.

URCA notes that standalone fixed voice customers represent a non-trivial share of overall fixed voice customers, and they face a decreasing range of options and offers (i.e., they mostly depend on BTC's retail offerings to which currently [REDACTED] [● Confidential] of total standalone fixed voice customers are subscribed to). Therefore, in this context, having a market for standalone fixed voice services (separate from fixed bundles) serves as a tool for consumer protection.

#### **4.1.1.3 Are retail mobile voice services in the same product market as retail fixed voice services?**

In The Bahamas, retail mobile voice services<sup>69</sup> are offered by BTC and Aliv. Both operators provide these services throughout the territorial boundary of The Bahamas.

In the 2014 market review, URCA concluded that retail fixed voice and mobile voice services do not form part of the same product market. This was due to the prevailing price differential for making a local call from a mobile and a fixed line. As such, URCA considered it was not likely that customers would switch to mobile voice services in the event of a 5-10% SSNIP in fixed voice services.

Below, URCA reassesses this decision based on the latest available information. In conducting this analysis, URCA is assessing whether retail mobile voice services could be considered an effective substitute for retail fixed voice services and not the other way around.

##### **Demand-side substitution**

Mobile and fixed services are widely available and used in The Bahamas, and hence switching could be considered by most users. By the Q2 2023, the number of standalone fixed voice connections<sup>70</sup> was 29,915 compared to 37,857 in 2019. Within the same period, mobile connections<sup>71</sup> (voice, messaging and data) fell to 400,110 from 425,507. The fixed penetration rate in 2023 was 69%<sup>72</sup> of total households (118,221) compared to a mobile penetration rate of 107% of total population.<sup>73</sup>

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<sup>68</sup> In line with international best practice, URCA places a higher focus on demand-side substitutability, rather than supply-side substitutability. See for example, the European Union's Directive 2014/104/EU: "For the definition of the relevant market, demand-side substitution constitutes the most immediate and effective disciplinary force on the suppliers of a given product, in particular in relation to their pricing decisions." (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0104>)

<sup>69</sup> Most of the mobile plans include data allowance. For this section, URCA does not analyse if data services are a substitute for fixed voice services.

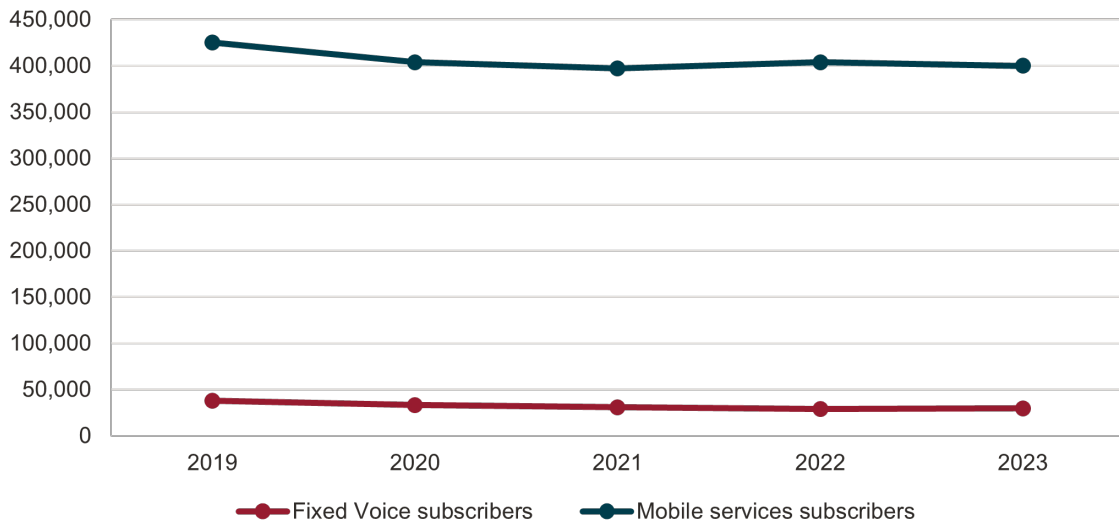
<sup>70</sup> Residential and non-residential customers

<sup>71</sup> Prepaid and postpaid

<sup>72</sup> The number of households in 2022 increased to 118,221 from 106,645 in 2019.

<sup>73</sup> Penetration rates were computed with all fixed voice plans (both standalone and bundles).

**Figure 12: Total number of fixed voice and mobile subscriptions, 2019-2023**

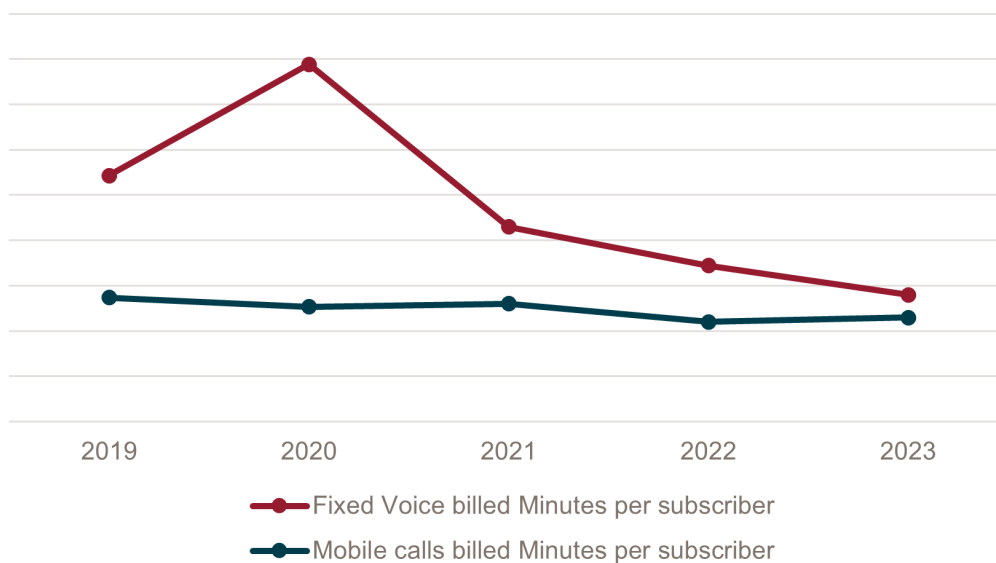


Source: Operators’ quantitative data submissions.

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

Fixed voice users make more billed calls than mobile services subscribers. This might indicate that fixed voice subscribers use their fixed landline to make calls of more time duration. But, as shown in Figure 13, the gap between fixed voice billed minutes and mobiles calls billed minutes has been narrowing. While this can be an indication that fixed voice subscribers are using their fixed landline less, it is important to consider that URCA does not have information on unmetered/free local calls. If local calls are considered, it is likely that the differential in average usage would increase.

**Figure 13: Average monthly usage per subscriber, 2019-2023**



Source: Operators’ quantitative data submissions.

Note: The values only capture billed minutes as unmetered calls. 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

### **Product characteristics**

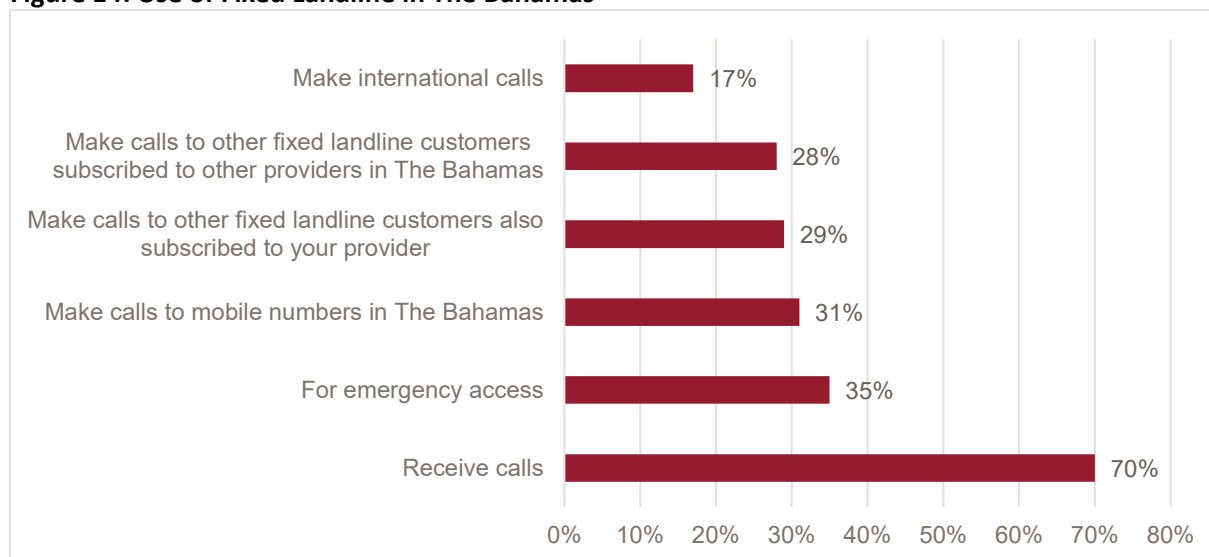
Mobile voice services and retail fixed voice services share common functionalities in that they both allow customers to make and receive calls to and from domestic and international destinations. These similarities in product characteristics suggest that mobile voice services could be a potential substitute when faced with a SSNIP in fixed voice services.

However, there are non-trivial differences between them, both in terms of price and non-price characteristics which can limit the extent of demand-side substitution. For example:

- Domestic mobile voice services are not fixed to a determined geographic location, and are specific to the end user, whilst domestic fixed services are tied to a location, typically in the home or business, and are often consumed by more than one user within a specific household. Therefore, demand for mobile call services tends to be at the level of the individual end user, while demand for fixed call services depends on household size and composition.
  
- Fixed landline local calls in The Bahamas are offered as unmetered or free. While mobile call services have a monthly call allowance.<sup>74</sup> This means that if end users make calls within their call allowance, the marginal price of the call is zero, as long as the total call minutes remain within the monthly allowance.

As shown, in Figure 14 below, the main use of fixed landlines in The Bahamas is to receive calls (70%). However, 57%<sup>75</sup> of the fixed landline consumers use fixed landlines to make calls to other fixed landline customers.

**Figure 14: Use of Fixed Landline in The Bahamas**



Source: URCA Bahamas Survey Report: Retail Fixed Market Review 2023

<sup>74</sup> However, some mobile postpaid plans offer an unlimited monthly call allowance.

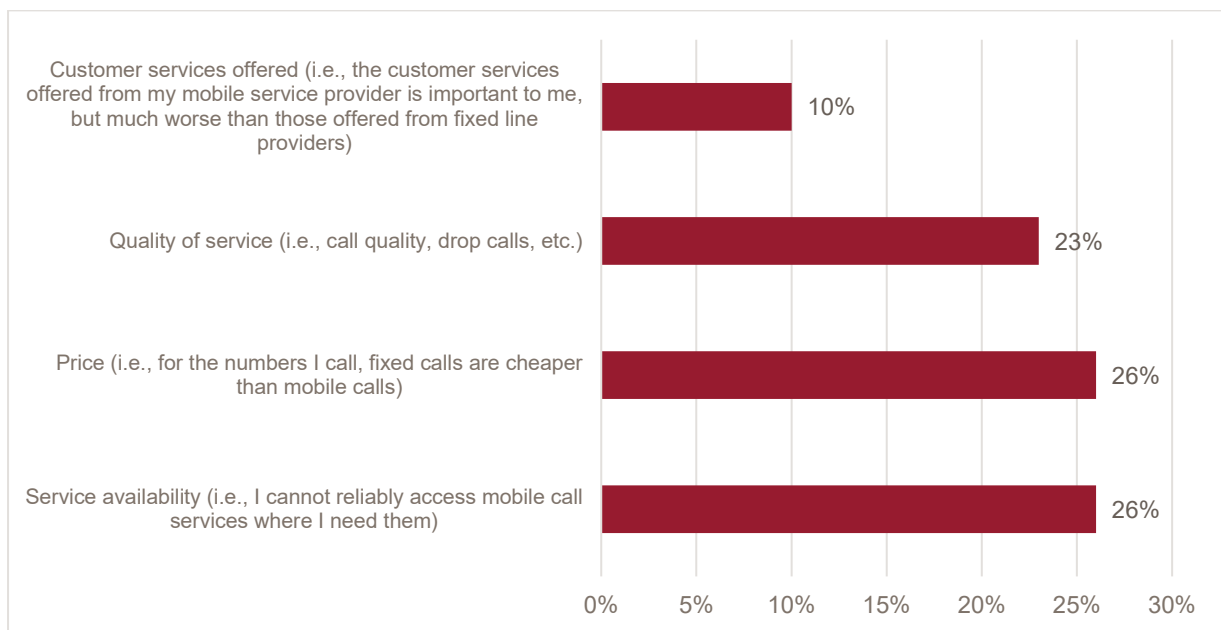
<sup>75</sup>The 57% is composed of calls to other fixed landline customers subscribed to the same provider and calls to other fixed landline customers in The Bahamas.



Both domestic fixed and mobile voice services are available throughout The Bahamas. Fixed voice uptake (penetration) by March 2021 was 62% of total households, and the mobile equivalent was 107%. This suggests that a sizeable proportion of the population in The Bahamas are likely to have access to both domestic mobile and fixed voice services, which would allow them to consider switching between these services on a call-by-call basis, if they wish to do. End users subscribed to fixed voice services value some benefits which are not provided by mobile services and this makes it unlikely for standalone fixed voice users to drop this service and rely entirely on mobile services (see Switching behaviour below).

According to the Customer Survey, end users in The Bahamas associate a higher level of service availability and reliability (i.e., ability to access landline call services more reliably than mobile call services where needed) of domestic fixed voice services compared to domestic mobile voice services. Figure 15 illustrates the main advantages that users of fixed landline plans highlight compared to mobile access and call services.<sup>76</sup> In addition to service availability (with 23% of the respondents stated they cannot rely on mobile call services where they need them), relative pricing is also seen as advantage of fixed voice services (with 26% of respondents stating that their fixed line is cheaper to call the numbers they usually call than their mobile phone). Finally, perceived quality of service is also identified as a key advantage of fixed landline plans (for 23% of respondents), in terms of call quality and dropped calls.

**Figure 15: Key advantages of your fixed landline plan**



Source: URCA Bahamas Survey Report: Retail Fixed Market Review 2023

**Relative Prices**

<sup>76</sup>Respondents of the Consumer Survey had to give the three main advantages of fixed landlines. In this context, users could answer as one of the three answers “No advantage”. 38% of the users answer they see no advantage in fixed landline compared to mobile services.

To ensure that prices are compared on a like-for-like basis, it is important to distinguish between prepaid and post-paid mobile plans. For both fixed voice and mobile voice users, the marginal cost of making a call might be zero if it lies within the customer’s allowance. This could limit the substitution between fixed and mobile calls.

Fixed voice plans represent a lower cost option than mobile prepaid and post-paid plans, to meet the average monthly demand of a fixed telephony end user in The Bahamas.<sup>77</sup> An average fixed voice customer would incur at least BSD\$27.27 and BSD\$59.99 to meet their monthly call demand utilising either a prepaid or post-paid mobile plan, respectively. In contrast, fixed voice plans that cover this demand are offered at prices as low as BSD\$22.00. Other fixed voice plans with unlimited call allowances are offered at BSD\$35.00.

Furthermore, end users with a consumption of fixed voice services below the average demand can still purchase fixed voice offers that are significantly cheaper than the cheapest prepaid monthly mobile plans (e.g., BTC’s Basic Landline at BSD\$15.00, and CBL’s “REVTALKPrime” at \$16.99).

Mobile prepaid and post-paid plans including unlimited data, SMS and local minutes are also relatively more expensive than residential fixed voice offerings with unlimited fixed-to-fixed and fixed-to-mobile calls. As shown in Table 9 below, both BTC and Aliv offer a variety of prepaid and post-paid plans including limited (or unlimited) data, SMS and local minutes.

**Table 9: Selected retail mobile voice plans**

Operator	Tariff Plan	Mins included	Monthly Price (BSD\$, excl. VAT)
<b>Prepaid tariff plans</b>			
Aliv	Liberty30	330 talk minutes to use in 30 days Unlimited Aliv to Aliv talk minutes 3Gb data	\$27.27
	Liberty60	600 talk minutes to use in 30 days Unlimited Aliv to Aliv talk minutes 12Gb data	\$54.54
	Liberty140	Unlimited talk minutes to use in 30 days Unlimited Aliv to Aliv talk minutes Unlimited data	\$127.27
BTC	30 DAY	Unlimited BTC to anywhere, US and Canada for to use in 30 days. 4 Gb of data, 3Gb TikTok data, 500Mb Youtube data and unlimited Whatsapp and Facebook Messenger data	\$35.45
<b>Post-paid tariff plans</b>			

<sup>77</sup>Based on the operators’ data submission, the average monthly consumption of a fixed voice user subscribed to a plan is 172 billed minutes.

Aliv	Liberty more	700 minutes to use in 30 days. No free roaming	\$59.99
	Liberty elite	Unlimited minutes to use in 30 days	\$149.99
BTC	Post-paid Exuma	Unlimited BTC to BTC 500 minutes off-net, US, and Canada	\$64.99
	Post-paid Andros	Unlimited BTC to BTC Unlimited minutes off-net, US, and Canada	\$149.99

Source: Operator’s websites. Accessed February 2024.

Note: The selected plans are not exhaustive of all the plans offered by the operators in The Bahamas. These selected plans are some plans that meet the criteria of the average monthly billed minutes consumed in The Bahamas.

- Prepaid mobile services.** It is not apparent to URCA that mobile prepaid represents the lowest cost option for an average fixed voice user in The Bahamas (i.e., a user who makes 172 minutes of fixed calls per month). Such a user could meet his or her monthly fixed call needs by using BTC’s prepaid Combo plan which offers unlimited All net calls (on-net mobile/off-net mobile to mobile/fixed) for \$35.45 per month, or Aliv’s prepaid Liberty 30 plan priced at \$27.27 per month with 330 off-net mobile to mobile/fixed minutes plus unlimited on-net mobile minutes. Standalone fixed voice plans offer a cheaper means to make 172 minutes of domestic calls (e.g., BTC’s Talk 300 plans offers free local calls and 300 fixed-to-mobiles for \$22 per month and CBL’s REVTALKPRO offers unlimited on-net fixed-to-fixed minutes and 900 off-net fixed-to-fixed/mobile minutes for \$25 per month).
- Post-paid mobile services.** These plans typically come with unlimited on-net mobile minutes and a pre-specified amount of off-net mobile-to-mobile and mobile-to-fixed minutes (plus data allowances ranging from 5GB to unlimited data). They are priced between \$59.99 and \$149.99 per month. BTC’s cheapest post-paid plan for \$64.99 per month could meet the monthly call needs of the average user and comes with unlimited on-net mobile minutes and 300 off-net mobile-to-mobile/mobile-to-fixed minutes, as could Aliv’s cheapest post-paid plan.

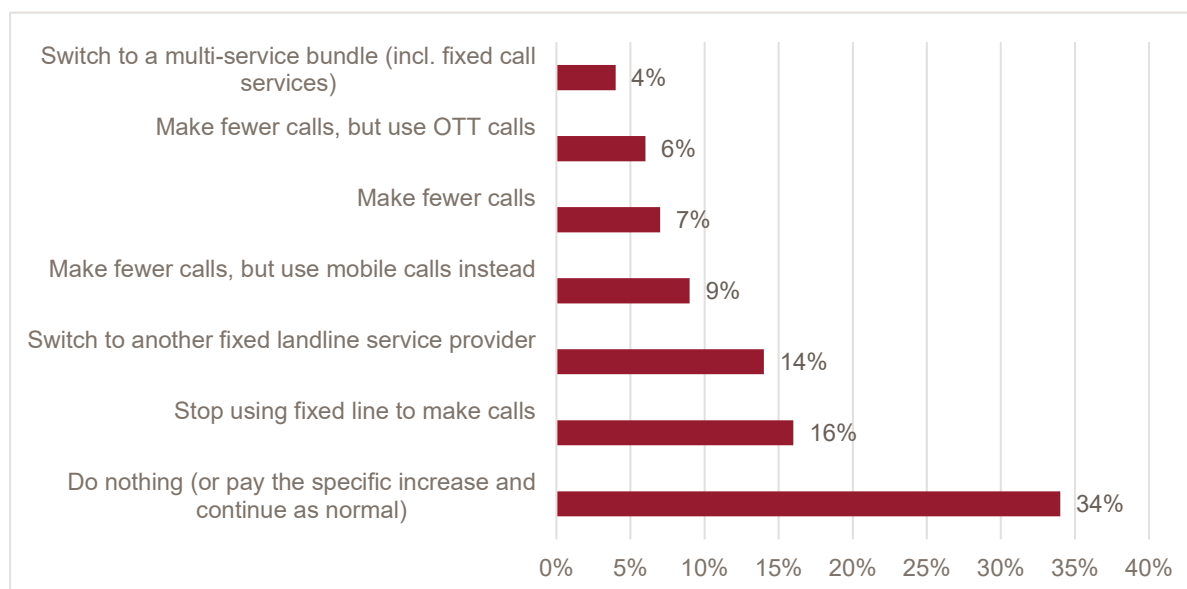
Again, fixed voice plans offer a cheaper means to make 172 minutes of domestic calls (see previous bullet point for the relevant fixed voice plan prices).

The evidence above suggests that fixed voice plans represent a lower cost option than mobile prepaid and post-paid plans to meet the average monthly demand of a fixed voice end user in The Bahamas. Given these price differentials, it is unlikely that fixed voice users would switch to mobile voice services, in the event of a SSNIP on fixed voice services. End users could consider switching part of their call demand from fixed to mobile services (i.e., on a call-by-call basis), but even this is likely to be limited given the nature of the retail fixed voice pricing (i.e., monthly call allowances rather than per minute charges). However, end users switching away entirely from their standalone fixed voice plan is not to be expected in response to a SSNIP as end users tend to rely on both services and value some key aspects where fixed voice services perform better than mobile voice (see discussion on product characteristics above).

### **Switching behaviour**

The evidence from the Retail Customer Survey supports the findings above, as only 9% of standalone fixed voice services users would make fewer fixed calls and use mobile calls instead, in the event of a SSNIP in their fixed voice service<sup>78</sup> (Figure 15).

**Figure 16: Action taken if standalone fixed voice provider charged more for fixed voice services**



Source: URCA Bahamas Survey Report: Retail Fixed Market Review 2023

### **Supply-side substitution**

There is no supply-side substitution between standalone fixed voice services and mobile voice services in The Bahamas.

Both services use different network infrastructures, and the fixed investment cost of deploying a fixed network is considerable, with it taking a significant amount of time to deploy such a network. Moreover, most costs would be sunk (i.e., they cannot be recovered if the entrant later decides to leave the market) and this creates additional barriers to entry. Additionally, there is currently no demand for wholesale access to existing fixed access networks in The Bahamas which could alleviate the need for providers to deploy their own networks.

Given the time, investment, and licence requirements, URCA considers it highly unlikely that a mobile service provider who is not currently offering standalone fixed voice services would be willing and able to deploy a fixed network following a SSNIP in standalone fixed voice services.<sup>79</sup>

<sup>78</sup> Whilst the consumer survey provides some insights into potential switching behaviour by end users between different services, the survey result needs to be treated with caution as they may overstate likely reactions by end users in case of actual price changes.

<sup>79</sup> BTC and CBL/Aliv provide both fixed and mobile retail services in The Bahamas. However, the substitutability test concerns the ability of a provider that currently does not already offer the focal product (in this case,

## **Preliminary conclusion**

URCA preliminarily concludes that mobile voice services do not form part of the same product market as standalone fixed voice services. There is no supply-side substitution, as fixed voice services are provided under distinct licences and are delivered via different network technologies. There is also likely to be only limited demand-side substitutability from fixed voice to mobile voice services, as current price differentials and customer preferences would reduce the possibility of customers switching to mobile plans following a SSNIP in fixed voice services. Moreover, the Retail Customer Survey results show that most respondents subscribed to standalone fixed voice services would not switch entirely to mobile voice services following a SSNIP. These users may consider partially switching to mobile voice services, on a call-by-call basis, but this will be limited by the nature of fixed voice services pricing (usually offered as monthly call allowances rather than per minute charges). More importantly given the scope of this product market, end users are unlikely to switch away entirely from their fixed voice services in response to a SSNIP. As presented above, there are some key advantages of fixed voice over mobile voice services that make it unlikely for standalone fixed voice users to rely entirely on mobile voice in case of a SSNIP in their fixed voice service.

### **4.1.1.4 Are OTT-based call and messaging services in the same product market?**

The recent widespread take-up of smartphones has facilitated the spread of OTT applications for communication purposes. OTT call and messaging services provide messaging, telephony, and video-call services delivered via IP networks and the public Internet. To use these services, end users must install the OTT provider's software/application (app) on their computer or smartphone.

These OTT services differ to the managed VOIP services offered by BTC and CBL, as the OTT provider does not offer the broadband connection required for the service, which needs to be purchased separately. Managed VOIP services allow for a user experience similar to using a traditional fixed landline (i.e., customers use a handset and there is no need to turn on the computer to make or receive calls) except that a pre-existing broadband connection is needed.

In The Bahamas, current OTT services penetration through Laptop or PC is 44% according to URCA's recent Retail Customer Survey. URCA notes that this is lower than the stated usage of OTT services through mobile phones (89%).

Below, URCA evaluates whether the market for standalone fixed voice services should be widened to include OTT calls and messaging services.

### **Demand-side substitution**

From URCA's viewpoint, OTT voice and messaging services are not sufficient demand-side substitutes for traditional fixed voice services. This means that when confronted with a demand-side SSNIP in fixed voice services, fixed voice customers are unlikely to switch, in sufficient numbers, from traditional fixed call services to using OTT services, such that the SSNIP would be unprofitable. While some Bahamian consumers have replaced some of their fixed calls with OTT calls, it seems unlikely

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standalone fixed voice services), nor own any inputs which would only be required to offer the focal products, such as a fixed service licence or fixed network infrastructure, to start offering that product in the case of a SSNIP of the focal product.

end users will have replaced their entire standalone fixed voice plan with OTT services. This is due to the following:

- OTT services require users to have a personal device and download the same OTT app. This applies to both the party making OTT calls and/or sending OTT messages and the receiver of such calls and/or messages.
- OTT users must have a fixed broadband or mobile data plan to use OTT. As explained throughout this section, standalone fixed voice users do not necessarily have a broadband connection.

These characteristics restrict OTT users’ ability to switch entirely away from fixed voice services to OTT services. Therefore, URCA believes that any substitution is unlikely to impact their decision to purchase standalone fixed voice services.

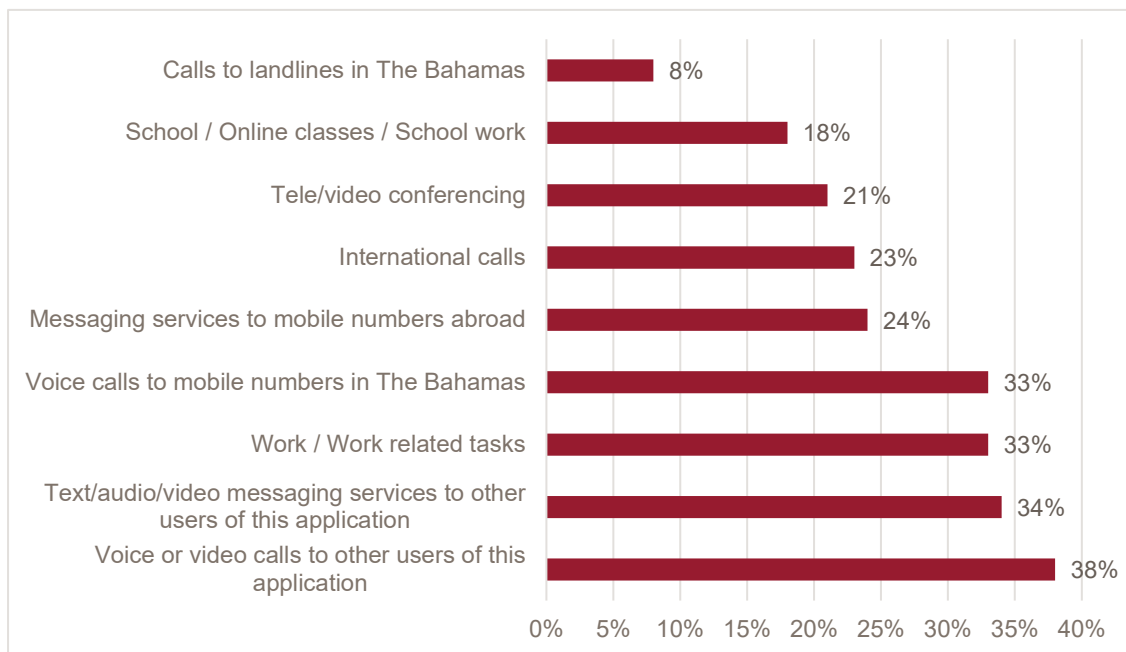
**Product characteristics**

There are similarities between traditional fixed voice and OTT voice and messaging services. Both fixed voice and OTT voice services allow users to make and receive calls to and from both domestic and international destinations.

URCA, however, does not consider OTT services as being sufficiently substitutable for traditional fixed voice services currently. To use OTT services, a consumer requires access to an active internet connection and a personal device.

This is also reflected in current OTT usage in The Bahamas. For example, the Retail Customer Survey evidence revealed that a high share of survey respondents (38%) uses their OTT apps mostly for voice/video calls to other OTT users (see Figure 17). Only 8% of OTT users make calls to landlines in The Bahamas.

**Figure 17: Use of OTT applications on Laptop/Computer**



Source: URCA Bahamas Survey Report: Retail Fixed Market Review 2023

The characteristics of the OTT apps restrict OTT users' ability to switch entirely away from fixed services to OTT services. Indeed, whilst customers may decide to switch between these services for individual calls, this is less relevant in the current context, as Bahamian consumers commonly purchase bundled fixed voice services which includes local calls, domestic, and international calls.

### **Relative Pricing**

Relative prices can limit demand-side substitutability between fixed telephony and OTT services.

Intra-platform OTT calls are not charged. However, the user needs to pay the fixed broadband connection or mobile data to be able to do the call. This means a consumer may be inclined to switch from a fixed telephony service to an OTT service in the event of a SSNIP of the former if that consumer has broadband connection.

Some OTT services also allow users to call Bahamas fixed and mobile numbers. However, in these cases, the per minute prices for calling Bahamian's fixed lines or mobile numbers are significantly higher than those offered by BTC under its retail fixed line tariff plans. For example, Skype has a plan that charges around \$15.73<sup>80</sup> per month for 200 min for calls to a fixed landlines and mobile numbers in The Bahamas. However, Skype's plans do not include emergency calls.

The charges for OTT services assume that the end user already has access to an Internet connection. However, standalone fixed voice users do not necessarily value broadband connections. Consequently, having to subscribe to a broadband connection may limit the migration of standalone fixed landline users to OTT apps in the event of a SSNIP in their standalone fixed voice plan.

Given the above, there is no evidence to suggest that end users are giving up fixed telephony services altogether to only use OTT services to make and receive calls. Therefore, URCA considers it unlikely that standalone fixed telephony users would switch from their fixed telephony services to OTT service only, in case of a SSNIP in standalone fixed telephony services.

### **Supply-side substitution**

As was the case with the analysis of the substitutability between fixed and mobile voice services discussed in Section 4.1.5 above, URCA is of the preliminary view that there is no supply-side substitution between OTT and standalone fixed voice services in The Bahamas. This is due to the high barriers to entry to the fixed services market, in terms of the need to deploy fixed network infrastructure and develop a retail distribution network.

From the supply-side perspective, the technology used to deliver OTT call services and fixed voice services are different. An OTT provider would not be able to switch and provide domestic fixed call services in the short term, since it would need to develop its own fixed network or buy the wholesale services of a fixed service provider. Given the time, investment, and licence requirements, URCA

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<sup>80</sup><https://secure.skype.com/en/offers/calling?offerHref=%2Foffers%2Fcalling%2Fskus%2Fbs-mixed-200%3Frevision%3D1.0%26pricetierRevision%3D1.0%26language%3Den-us%26currency%3DEUR%26billingCountry%3DES&cancelUrl=https%3A%2F%2Fsecure.skype.com%2Fen%2Finternational-calls%2FBahamas>

considers it is unlikely that an OTT provider would enter the fixed service market, following a SSNIP in standalone fixed voice services.

### **Preliminary conclusion**

Given the assessment of both demand-side and supply-side substitution set out above, URCA concludes that OTT voice and messaging services do not form part of the market for standalone fixed voice services.

This is mostly due to the lack of supply-side substitution between both services, but there is also no evidence to suggest that there is demand-side substitution between them.

#### **4.1.1.5 Are retail fixed voice services for residential and business customers in the same product market?**

In the 2014 Fixed Market Definition, URCA defined that the market for fixed retail voice services covered services offered to both residential and business end users. Below, URCA assesses if it remains appropriate to define a single product market for both customer segments.

Assessing the customer segmentation in the fixed voice market requires URCA to consider whether the demand for these services is likely to vary by business size as well as just between business and residential users. In particular:

- **Corporate/enterprise customers** tend to rely on leased lines and/or private circuits for their voice and data solutions. As such, they are less relevant for this product market and are covered as part of the business connectivity service market review.
- **Small and medium enterprises (SMEs)** may have to rely on products that are classified as business products, because residential products may not meet their specific business needs (such as reliability, conference bridges, automated caller greetings and/or power back-up) and their overall demand is too small for leased lines or private circuits. Also, small offices and home offices may have needs that are similar to a residential customer and could potentially be able to buy residential products (subject to the service provider's terms and conditions for residential services).

In assessing potential demand-side substitution between services provided to business and residential customers, URCA is using residential fixed voice services (offered on a standalone basis) as a focal product and then considering if there would be sufficient demand-side substitution to business fixed voice services.

### **Demand-side substitution**

Demand-side substitution can arise from both sides. Residential consumers that would be willing to switch to business segment fixed voice plans, and business consumers that would be willing to switch to residential fixed voice plans.

In the remainder of this sub-section, URCA analyses the extent to which the two-customer segment offers can be demand-side substitutes.

### **Product characteristics**



There are some differences between the two customer segments. For instance, business consumers might be more sensitive to quality-of-service levels and additional technical support provided.

However, these differences might not prevent small businesses, which might not have the same needs as large corporate end users, to switch to residential fixed voice plans.

URCA has considered if there are some contractual barriers that could prevent users of each of the two segments to switch to the other. For example, the service providers might ask for the business registration for a business to apply for a business plan. The contrary could also happen, that is, a residential consumer must prove that the service is acquired for residential purposes. Indeed, BTC’s qualitative submission reports that *“BTC relies on customers to self-identify as a small business. If identified as a small business owner, the customer must produce relevant documentation such as a business licence to be classified as small business owner and qualify for the SMB rates. However, were BTC to attempt to impose business service rates on any such home office customers who do not self-identify as a small business, those customers would likely switch to a CBL/Aliv residential service plan”*.

In The Bahamas, the main two operators, BTC and CBL provide services to residential and business users. The major fixed telephony plans for business customers are summarised in Table 10.

### Relative Prices

In terms of relative prices, it seems that in the case of a SSNIP in the business segment, companies which are currently subscribed to these plans would not consider switching to residential packages. The cheapest business package is BTC’s “Business Voice Starter” priced at \$37.50. This plan is 150% more expensive than BTC’s residential plan “Basic landline” which costs \$15.00. If companies are currently paying this price differential, they must have different needs to those covered under the \$15.00 tariff plan. Therefore, in the event of a SSNIP, the increase in price would not be large enough for these clients to consider switching to a residential plan.

Comparing the offerings to residential customers (Table 6 above) and business customers (Table 10), it is notable that these plans differ also in non-price terms, such as minutes included. For example, the Business voice starter plan includes services as Call forwarding or Caller ID, but it does not include an allowance of 100 domestic call minutes.

Also, CBL only offers fixed voice services to the business segment through multi-product bundles. Therefore, in the event of a SSNIP, it is unlikely that residential users subscribed to standalone fixed voice services would consider switching to CBL’s business plans unless they also value the other services included in those bundles.

**Table 10: Selected Business Packages**

Operator	Tariff plan	Mins included	Monthly Price (BSD\$, excl. VAT)
BTC	Business voice starter	Free local calls Call forwarding Caller ID	\$37.50
	Business Phone Plus 1K	Unlimited local calls Unlimited calls to the USA, Canada, UK, The Caribbean, and China. 1,000 minutes to all other international destinations	\$54.00

	Business Phone Plus 2K	Unlimited local calls Unlimited calls to the USA, Canada, UK, The Caribbean, and China. 2,000 minutes to all other international destinations	\$69.00
	Business Phone Plus 3K	Unlimited local calls Unlimited calls to the USA, Canada, UK, The Caribbean, and China. 3,000 minutes to all other international destinations	\$79.00
CBL	BiaB Micro (Bundle)	Unlimited local calls 30 Mbps download speed (if technology is HFC) 100 Mbps download speed (if technology is FTTB)	\$90.00
	BiaB Standard (Bundle)	Unlimited local calls 1,000 long distance minutes 50 Mbps download speed (if technology is HFC) 200 Mbps download speed (if technology is FTTB)	\$139.00

Source: BTC website, accessed in February 2024. CBL-BIAB FFTB submission April 2021.

Note: tables are not necessarily exhaustive of all tariffs available.

There are other considerations to have in mind. First, tariff plans for business customers commonly include other components/services that residential plans do not offer, such as tailor-made bundles, like CBL’s “Business in a Box” solution. Second, business users are likely to be offered greater levels of technical support, such as dedicated customer service representatives or specific marketing or retail distribution channels.

### **Switching evidence**

URCA currently does not hold any information on customer switching behaviour for these services. In the absence of switching data, it is not clear if demand-side substitutability exists. It could be argued that the features of the two types of products are not distinctive enough to inhibit switching should there be a price increase, especially for small businesses.

However, business customer may struggle to obtain residential contracts because providers have visibility of whether the customer is a business or a residential subscriber when installing the fixed voice connection.

The requirement for a customer to possess a commercial registration number to apply for any business plan may, in part, hinder demand-side substitution from residential customers. However, given current price differentials (explained in more detail below) it is unlikely that a residential user would seek to switch to a business plan, in the event of a SSNIP, assuming prices are currently at competitive levels. Instead, substitution in the other direction (from business to residential) may be more likely.

The ability for both Licensees to maintain a different price for both customer segments indicates that demand-side substitutability is limited.

However, it is from URCA's view that these two customer segments could be demand-side substitutes, as the product offerings are very similar, except for some more specific solutions in the business segments.

### **Supply-side substitution**

URCA notes that business and residential services are provided over the same network which facilitates supply-side substitution. To URCA's understanding there is no significant difference between a network designed to carry fixed services provided to business end users and a network designed to carry these services to residential users, as both customer groups are based in similar locations. There is also no requirement for a provider to have separate licences to offer residential and business services. URCA notes that there are a few differences between the retail marketing and customer service activities used for the residential customer segment and those deployed for business. Business users are likely to be offered greater levels of technical support, such as dedicated customer service representatives or specific marketing or retail distribution channels. Whilst a hypothetical provider of business standalone fixed voice services may incur additional costs compared to providing residential services (for example, to ensure higher quality of service and invest in better customer support), this is unlikely to create a sufficient barrier to supply-side substitution to mean that business and residential standalone fixed telephony services should form separate markets. This is because it should be possible for a hypothetical provider of residential fixed voice services to replicate such a network (through for example, the provision of call centres and customer relationship managers) within the timeframe considered in this market review (12-24 months).

### **Further considerations**

The competitive dynamics for standalone fixed voice services provided to residential and business customers are fairly similar. This means that defining a separate market for both customer segments would unlikely lead to a different outcome in any dominance assessment within these markets.

### **Preliminary conclusion**

In summary, given the assessment of both demand-side and supply-side substitutability set out above, URCA preliminarily concludes that due to supply-side substitutability, there is a single market for retail standalone fixed voice services, covering both residential and business customers.

## **4.1.2 Geographic Market Definition**

The relevant geographic market considers the degree to which demand and/or supply-side substitutes for the fixed voice services varies by geography. In the absence of any such evidence on sub-national differences in product substitutability, the relevant geographic market should be defined as national. Therefore, the focus of this sub-section is to assess whether defining a single geographic market for the retail standalone fixed voice service market is appropriate or whether there is a need to define sub-national markets for this product market.

As part of this, URCA has considered both demand-side and supply-side considerations, by analysing whether in The Bahamas:

1. There are non-trivial and non-transitory differences in the market structure across The Bahamas, in terms of the number of operators delivering the relevant electronic communications services.
2. The services and/or price levels differ across the country.
3. There are non-trivial differences in the demand for the relevant electronic communications services across The Bahamas.
4. Any sub-national geographic markets would be significantly large (in terms of the number of end users covered) and have clear and stable boundaries.

The starting point for URCA's assessment is its previous market review in 2014 where the market for retail fixed voice services was defined as areas where BTC has coverage, which is national. URCA has then assessed whether there has been any significant change in the markets since the last market review which would require changing its position on these services. When doing so, URCA has come to the preliminary conclusion that a national geographic market remains relevant for these services. This is based on a review of the following:

- **Demand-side factors.** URCA has not seen any evidence that the nature of demand for standalone fixed voice services varies significantly at a sub-national level. This is even though demand for standalone fixed voice services is inherently local in nature (i.e., a subscriber cannot move to another island in reaction to a SSNIP on their fixed voice service).

URCA is also not aware of any observable differences in the characteristics of standalone fixed voice customers in different geographic areas, such as preference for use of specific electronic communications services (e.g., preference for accessing mobile as opposed to fixed voice services), which could affect the geographic scope of the demand for standalone fixed voice services.

- **Supply-side factors.** BTC and CBL offer retail standalone fixed voice services at a uniform price and product specifications within their respective network coverage areas across The Bahamas. While CBL has coverage only on four islands, its market share is currently low even controlling for its geographic coverage<sup>81</sup>, indicating that localized competition for standalone fixed voice services has not emerged, and that competitive conditions are likely to remain relatively uniform across the country – especially as BTC is the primary provider of retail fixed voice services. Lastly, all licences are national in scope, and URCA continues to support national coverage. As such, there are currently no regulatory or legal barriers to provide standalone fixed voice services under the same terms and conditions across The Bahamas.

Given the similarity in the competitive dynamics across different islands, URCA sees no reason for defining sub-national markets. As such, URCA has come to the preliminary view that the geographic reach of the relevant product should not be narrower than the area in which BTC has facilities to provide standalone fixed voice services.

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<sup>81</sup>URCA understands that, in 2022, approximately 97% of all BTC fixed-line subscribers were based on the four islands where CBL also offers fixed voice services. Given this, BTC's market share of total fixed access lines on those four islands are expected to be very similar to that on a national level, as set out above. Since BTC did not provide customers by island, to obtain the approximate fraction of customers in these four islands, URCA assumed the penetration rate to be constant across islands.

URCA recognizes that there could be other factors and information accessible to existing and potential Licensees that may have a bearing on the boundaries of the relevant geographic market. URCA notes and accepts its obligation to consult with interested parties on matters of public significance. As such, URCA reiterates its desire to receive written submissions from interested parties on all aspects of this Preliminary Determination for URCA’s review and consideration.

### 4.1.3 Preliminary conclusions on the Market Definition for Retail Fixed Voice Services

Based on its assessment set out above, URCA preliminarily concludes that there is single national market for retail standalone fixed voice services including fixed access, local, domestic, and international call services), across all the relevant customers segments (i.e., both residential and business customers) and irrespective of the technology used to deliver these services.

The full scope of this market is set out in the table below.

**Table 11: List of services included in the retail standalone fixed voice service market**

Product Scope	Customer Segments	Geographic Scope
<ul style="list-style-type: none"> <li>▪ Fixed access services<sup>82</sup></li> <li>▪ Local, domestic, and international call services<sup>83</sup></li> <li>▪ Calls to special numbers (e.g., non-geographic numbers, directory enquiries, emergency services, and other free services) <sup>84</sup></li> </ul>	Non-residential/residential tariff offerings	Single, national market

It should again be noted that multi-product bundles including fixed voice services, fixed broadband services, retail mobile services, and OTT call and messaging services do not form part of this market.

In common with recent market definition exercises in Trinidad & Tobago, Bermuda and other jurisdictions, the product scope of the retail standalone fixed voice service market in The Bahamas has been defined on a technology neutral basis and thus includes fixed access and call services delivered over copper, FTTX and/or HFC network technology which is currently deployed or may in future be deployed by Licensees. A technology neutral market is appropriate because retail customers are generally not aware of the network technology used to deliver their services.

**Consultation Question 1 – Market definition for Retail Fixed Voice Services**

**Do you agree with URCA’s proposed definition of the market for retail fixed voice services in The Bahamas? If not, why?**

<sup>82</sup> This includes fixed access services provided through a fixed network or managed VOIP service.

<sup>83</sup> This includes fixed call services provided through any fixed network technology and managed VOIP service.

<sup>84</sup> Ibid.

## 4.2. Market Review Stage 2 - Dominance Assessment

In this section, URCA assesses the evolution of competition in the market for retail fixed voice services, as defined in Section 4.1 above, with a view to determine whether either single or joint dominance exists in this market.

Under section 39(1) of the Act:

“... a Licensee is an SMP if the Licensee, individually or with others, enjoys a position of economic strength which enables it to hinder the maintenance of effective competition on the relevant market by allowing it to behave to an appreciable extent independently of its competitors, consumers and subscribers.”

SMP as defined above is equivalent to the economic concept of dominance in competition law. The existence of SMP or dominance indicates the absence of effective competition.

URCA begins this market dominance exercise by considering whether, on their own, either BTC or CBL is likely to enjoy a dominant position in the defined market. Only if URCA determines that the structural conditions in the market are not supportive of single dominance will URCA investigate the possible existence of joint dominance.

### 4.2.1 Assessment of Single Dominance

In sub-section 3.3.2 (Table 5) of this document, URCA sets out the elements URCA will consider when assessing whether either Licensee enjoys a position of single firm dominance in the retail fixed service markets. Further, as noted in URCA’s SMP Methodology document, at the outset of any dominance assessment URCA:

“...will review the relevant market shares to decide whether it could be appropriate to apply a presumption based on the above thresholds [40%]. In conducting such a review, URCA shall have regard to the criteria set out in s.39(3) of the Comms Act and, to the extent URCA considers necessary to ensure that the presumption is appropriate in all the circumstances, ...”<sup>85</sup>

**Provisionally, URCA concludes that BTC remains dominant in the retail fixed voice market. This is explained below.**

#### Current and historic market outcomes

##### **Market Structure and Market Share Trends**

The **market structure** criterion is concerned with whether the market structure is likely to give rise to single firm dominance in the retail fixed voice service market. Standalone retail fixed voice services are currently supplied by both BTC and CBL. There has been no market entry or exit recently.

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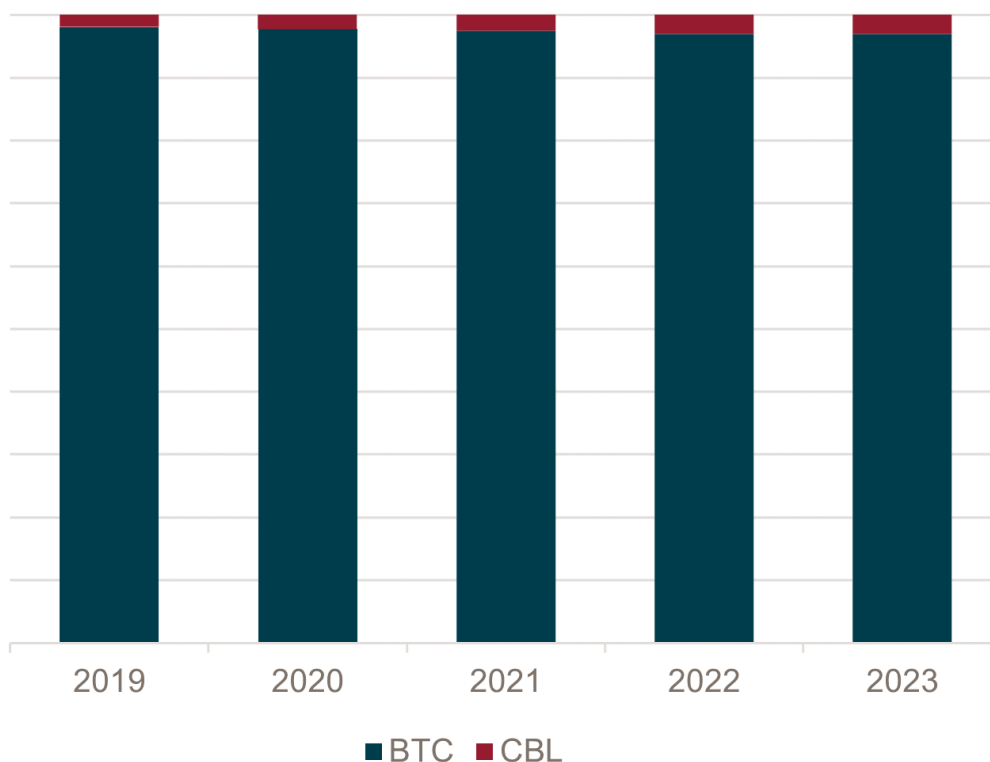
<sup>85</sup> Page 6 of ECS 20/2011

Within this duopolistic market structure, BTC has retained by far the largest share of the retail standalone fixed voice market (both in terms of number of subscribers and revenues). This is shown in Figure 18 below. Such a market structure is highly unlikely to be compatible with a competitive market. As such, URCA infers single dominance by BTC based on this criterion.

**Market share trends** provide an indication of how competitive a market is and measure the outcome of the competitive process. If a service provider has a persistently high market share it usually implies that there have been obstacles to effective competition in the past. Based on market share trends, there is evidence for URCA to make a finding of single firm dominance by BTC in the described retail fixed voice market.

Figure 18 below summarizes BTC’s and CBL’s share of standalone fixed voice subscribers over the period 2019 to 2023 (Q2). The analysis of recent market share trends suggests that there has been no change to BTC’s market share, indicating that the competitive dynamics have not changed significantly since 2019. Further, BTC’s market share remains significantly above the 40% threshold at which a presumption of SMP is made.<sup>86</sup>

**Figure 18: Standalone Fixed Voice Services Market Share Trends, 2019-2023**

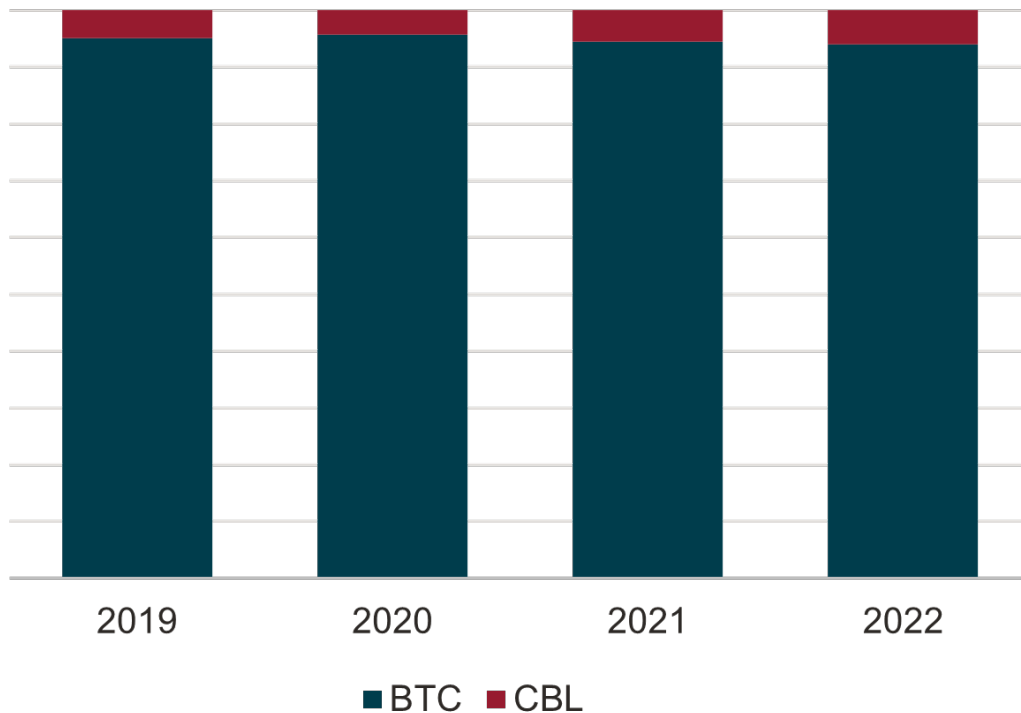


Source: Operators’ quantitative data submissions

<sup>86</sup>The Comms Act does not specify a market share threshold for dominance. However, within its framework for SMP assessment (ECS 20/2011), URCA established a presumption of dominance where an operator has a market share more than 40%.

In terms of revenue,<sup>87</sup> BTCs market share has declined over the period 2019 to 2022, as shown below in Figure 19. Nevertheless, BTC still captures more than [● Confidential] of the revenues in this market and given BTC’s prevailing high share of total connections in this market, revenue share trends are not sufficient evidence to discredit BTC’s single dominance.

**Figure 19: Standalone Fixed Voice Services Access Revenues, 2019-2022**



Source: Operators’ quantitative data submissions

Note: The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

**Economies of scale and/or scope**

Economies of scale and/or scope are common features of communications markets. *Scale economies* exist when the average cost of connecting an additional customer to the network is lower than the previous customer connected. By contrast, *scope economies* occur when it is more cost effective for a firm to produce a wider range of goods or services in tandem than producing less of a variety or producing each good/service independently. Where a firm enjoys economies of scope, its long-run

<sup>87</sup>Includes fixed voice access and call revenues for standalone fixed voice services. Total access revenues for retail standalone fixed voice services are defined as the sum of revenues from retail fixed access/line rental services. These include a one-off installation fee, monthly recurring fees, and reconnection fees; while excluding revenues for fixed voice services sold as part of a multi-service bundled offer and revenues from handset/CPE sale/rental. Fixed call revenues cover domestic/outbound international calls, calls to ancillary services and CLASS features, adjusted for the share of standalone fixed voice customers in total fixed voice customers. Source: [https://www.urcabahamas.bs/wp-content/uploads/2021/07/Addendum-to-Collecting-Format\\_Final.pdf](https://www.urcabahamas.bs/wp-content/uploads/2021/07/Addendum-to-Collecting-Format_Final.pdf)



average cost decreases due to the joint production of goods and services. Economies of scale and/or scope may constrain entry as well as provide an incumbent with an advantage over entrants.

Given the existing operators' investment in large capacity upgrades, this typically results in *economies of scale* for both. That is, the high fixed costs required to build a network result in close to zero marginal costs until the operator fully utilizes the installed capacity. In the access network, the main cost driver is coverage, rather than capacity. Therefore, once the network has been established it is only a matter of extending coverage. Moreover, until an alternative operator can attract high volumes of subscribers, average costs will be high and not competitive compared to the incumbent.

In this case, BTC serving [REDACTED] • Confidential] of standalone fixed voice subscribers means it may benefit more from scale economies compared to CBL. This is especially in achieving the purchasing power needed to negotiate volume discounts for network equipment specific for fixed voice services, and marketing and sales. It is worth noting that BTC operates a ubiquitous fixed network nationally, while CBL only has coverage on four islands. This factor on its own would not lead URCA to give BTC market power. However, given the previous assessment this only strengthens the views on single dominance.

Similarly, both Licensees participate in activities that commonly give rise to *economies of scope* in this market such as customer care, marketing, sales and distribution, administration, and shared infrastructure. Based on its preliminary assessment, URCA considers that both operators may benefit from economies of scope in retail fixed voice services (i.e., reducing the average cost of providing retail fixed voice services) by spreading joint and common costs amongst multiple retail markets and services. Both BTC and CBL also offer retail fixed broadband, business connectivity services and IPTV services in The Bahamas.

Based on this criterion, neither Licensee is expected to be in an advantaged position over the other. However, it is likely to result in high and non-transitory barriers to entry into this market.

### **Countervailing Bargaining Power ('CBP')**

CBP (or demand-side bargaining power) relates to the relative strength of a fixed voice end user in negotiations with their retail fixed voice providers. A buyer with high CBP has the ability to neutralize the bargaining power of the seller and negotiate more favourable terms and conditions of purchase. CBP could therefore limit the ability of BTC to set prices for standalone fixed voice services above the competitive level and hence to behave independently of buyers and ultimately of consumers.

In general, URCA considers the retail fixed voice service market is characterized by limited, if any, CBP. This particularly holds for residential and small business customers who commonly purchase mass-market products, with no one customer individually constituting a large part of either Licensees' output or cost base.<sup>88</sup>

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<sup>88</sup> The factors URCA looks at when considering CBP include:

- where the buyers' share of purchases represents a sizeable proportion of BTC's and CBL's overall output;
- where a single or a few buyers' shares of purchases represent a sizeable proportion of BTC's and CBL's total cost;
- where buyer could switch between service providers without incurring significant costs, despite the supplier having invested in assets specific to that buyer; and
- where the buyer could produce the service itself or could sponsor new entry by another supplier

Meanwhile, large corporate customers are more likely to be in a stronger position to counteract the bargaining strength of both providers by negotiating discounts and other favourable terms. This is because large enterprises are more likely to purchase fixed voice plans with multiple connections and large volume of minutes, messaging and/or data to distribute among their employees. In addition to fixed voice services, such packages may include fixed broadband and other electronic communication services. However, the ability of a large enterprise to exercise buyer power by negotiating on price or non-price terms is not the same as the exercise of CBP. While that buyer may benefit by way of volume discounts, its exercise of buyer power does not deter fixed service provider from increasing prices in general.

For a specific business to have CBP, this customer's share must represent a significant share of the service provider's total revenues for these services. BTC's largest customer share in retail standalone fixed voice amounts to [● confidential] of its total retail fixed voice revenues. Furthermore, the combined share of the Top-10 business clients is less than [● confidential] of total revenues, which makes it unlikely for any of them to have CBP over BTC in these retail services.

Despite the above, URCA provisionally finds that this criterion does not support the case for single dominance in this retail market. This is because CBP is less relevant to this market and there is no evidence that the level of CBP faced by either Licensee differs.

### **Barriers and switching costs**

This criterion relates to the factors or costs that restrain a customer's ability to switch from one fixed voice provider to another. In a market with effective competition, consumers should be able to switch easily between service providers. It appears to URCA that barriers to switching remain an issue in the retail fixed voice service market. Retail fixed voice services are exclusively offered on a post-paid basis which reduces the ability for end users to switch their plan or provider, compared to a market characterised by prepaid services (such as the retail mobile services market in The Bahamas).<sup>89</sup>

URCA notes that Fixed Number Portability ('FNP') was introduced in 2013<sup>90</sup> as a pro-competitive measure to reduce switching costs, as it allows end users to retain their fixed telephone number in the event of changing provider. Number portability has long been recognized as a fundamental prerequisite of open competition and choice in communications markets. The volume of fixed number porting is a key indicator of the level of switching between BTC and CBL. As recognized in Section 3.2 (Table 4) above, on average only 0.58% of Bahamian fixed voice subscribers ported their numbers each year, between 2017 and 2022.

This is also consistent with the recent Retail Customer Survey conducted by URCA, where less than 4% of respondents stated that they had switched fixed voice providers within the last two years. Meanwhile, only 2% of respondents said they are certain they will change their fixed service provider within the next two years. This appears to indicate that most fixed voice customers have little or no incentive to switch their current provider. These survey results are consistent with the stable market shares presented above.

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<sup>89</sup>For example, CBL asks for a month written notice to cancel their business services: <https://www.rev.bs/general-terms-and-conditions-for-business-services/>

<sup>90</sup> <https://www.urcabahamas.bs/number-portability-schedule-december-2nd-start/>

Altogether switching seems to be infrequent in the market for standalone retail fixed voice services, implying BTC's high market shares are expected to remain.

### **Absence of potential competition**

Potential competition relates to whether operators that are not in the examined market today can contribute to increased competitive dynamics within the current review period (12-24 months). URCA currently holds no information on the prospect of a new Licensee entering the market within the foreseeable future.

URCA has assessed whether it is likely that BTC's current dominance in retail standalone fixed voice services may change within the 12-24 months' timeframe of this review, i.e., whether the dominance is only temporary and whether there is any prospect of effective competition emerging. URCA is of the view that this is unlikely to be the case. In particular, URCA has not seen any evidence of potential competition emerging that is likely to alter the current market dynamics. URCA is not aware of any major developments or market entries from adjacent markets that may likely affect competition in this market. This is a consequence of prevailing high barriers to entry discussed above, as well as this market being small and declining in size (as presented in sub-section 4.1.1.2.1).

As such, taking all the evidence above into account, URCA concludes that it is unlikely that competition will emerge to a sufficient extent in this market to limit any market power BTC has.

**Based on its review of the overall market characteristics and recent market outcomes, URCA is of the preliminary view that these point to BTC being dominant in the market for standalone retail fixed voice services. However, URCA now assesses the remaining relevant factors.**

### **Characteristics of service providers**

#### **Control over infrastructure that is not easily duplicated**

As per URCA's SMP Methodology document "In certain circumstances the control of infrastructure not easily duplicated can make it feasible for a Licensee to behave independently of other Licensees and consumers. This may exist in specific situations in which the availability of certain infrastructure is:

- Necessary to produce a particular service/product;
- The required infrastructure is exclusively or overwhelmingly under the control of a Licensee; and
- There are high and non-transitory barriers to substitute the infrastructure in question.<sup>91</sup>

Both BTC and CBL self-supply their wholesale inputs and have their own retail distribution channels/networks, infrastructures which are hard to replicate. In the areas where both Licensees have network coverage, URCA's assessment does not reveal existence of single dominance in the retail fixed voice service market. However, as previously mentioned, CBL only has coverage on four islands. This has adversely impacted the ability of CBL to compete with BTC. Therefore, URCA considers BTC is in an advantageous position over the other Licensee, CBL, based on this criterion.

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<sup>91</sup> Page 11, ECS20/2011

### **Vertical integration or relationships**

Vertical concerns that may arise in retail fixed voice markets include an incumbent operator refusing to provide wholesale access to its network on reasonable terms – for example, either denying access or possibly creating a margin squeeze. URCA notes that BTC and CBL are both vertically integrated companies. This means that, except for fixed call termination services, neither of them depends on wholesale inputs from the other to deliver its retail fixed voice services. Accordingly, both Licensees are similarly positioned to leverage their market position into downstream (retail) or upstream (wholesale) markets.

**Based on its review of these characteristics, URCA remains of the view that BTC is likely to be a dominant provider in the market for standalone retail fixed voice services.**

### **Market outlook or prospect of competition**

#### **Barriers to entry**

Barriers to entry may take the form of legal and regulatory factors that constrain market entry in The Bahamas. Indeed, anyone wishing to enter and supply retail fixed voice services in The Bahamas needs a business license and an operating licence, in addition to blocks of numbering resources.

Another important barrier relates to the high fixed and sunk costs required to build a fixed voice network with national coverage. The likely sunk costs relate to the costs of developing, building, and establishing networks and infrastructure for retail fixed voice services.

In general, retail fixed voice service markets are characterized by high and non-transitory barriers to entry. This appears to also apply to the Bahamian market context, as discussed below.

In considering the impact of barriers to entry on the market, URCA has considered two forms of possible entry to this retail market: Either a new entrant deploys its own fixed access (and core) network infrastructure or, where available, gains access to the fixed access network of existing operators (either on commercial or regulated terms).

Given BTC's and CBL's existing end-to-end fixed networks and the overall size of the Bahamian market, URCA considers the need to deploy alternative infrastructure to constitute a high barrier to entry in the fixed voice market. Alongside substantial capital investment, a new entrant would need to seek permission from the relevant authorities for the civil works required to lay a wireline network. The resulting time and resource requirements to obtain such permits will likely constitute a potentially significant barrier to a firm rolling out a competing network in a short space and time.

In The Bahamas, there is currently no regulated access to BTC's or CBL's fixed access network. Thus, to enter the market, this would require any potential new entrant to reach a commercial agreement with BTC or CBL to be able to offer call services via the existing network. Whilst this form of (reseller-based) entry is a less capital-intensive entry strategy; it requires the entrant to reach a commercial agreement with BTC or CBL. As URCA is not aware of any alternative provider having reached a commercial agreement with either operator to provide fixed voice services in The Bahamas, URCA considers this as strong indication that barriers to entry remain high in the retail fixed voice market.

#### **Innovation and diversity of plans**

URCA is of the preliminary view that this retail market is not characterised by much innovation or diverse tariff plans.

Overall, there is a limited variety of tariff plans available to end user. As shown in Table 6 for residential customers, BTC offers four different tariff plans, while CBL has three. Both operators also offer comparable tariff plans, in terms of both price and non-price terms. For example, all standalone retail fixed voice plans for residential customers offered by BTC and CBL (see section 4.1.1.1.1, Table 6), include fixed access and unmetered local landline calls. Further, when comparing the offerings by both providers, BTC and CBL offer similar prices for comparable monthly allowances.

### **Barriers to expansion**

Demand for standalone fixed voice services is not expected to grow substantially during the period considered in this review (12-24 months). The overall market (including both standalone fixed voice and bundles) may reach saturation given that penetration of fixed voice services currently stands at 73% of all Bahamian households. Unlike with retail mobile services, it is reasonable to assume that the upper bound limit to penetration is around 100%, as it is unlikely that many residential end users would purchase multiple fixed voice connections per household. Moreover, there is a general downwards trend in the take-up of fixed voice services. As shown in Section 3.2 (Figure 1) the fixed landline penetration rates have fallen from 80% in 2017 to 73% in 2022. URCA notes that this trend relates to all fixed voice services (not standalone fixed voice connections only). However, the prevailing trend of fixed voice consumers switching to multiproduct bundles (see Figure 4 in Section 3.2) is likely to add further limitation on future growth in the market for retail standalone fixed voice services.

If we consider the specific barriers to expansion that each Licensee may face, as far as URCA is aware, barriers to expansion are likely to be low in this retail market. URCA has seen no evidence to suggest that the existing Licensees are currently faced with capacity constraints within their existing networks. Neither is URCA aware of any current constraints in terms of international and domestic on-island and inter-island capacity. However, given the standing difference in geographic coverage, CBL would face significant barriers if it was to expand its reach to the other islands which are already covered by BTC.

URCA believes that BTC thus enjoys a commanding advantage over CBL as the latter is constrained by significant barriers to expansion originated in their limited coverage.

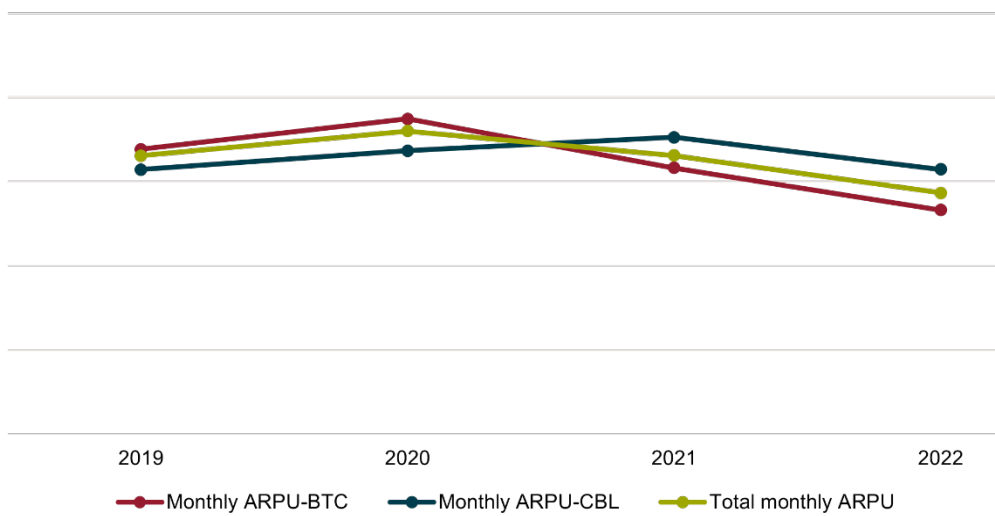
**As such, taking all the evidence above into account, URCA concludes that it is unlikely that competition will emerge to a sufficient extent in this relevant market, over the 12-24 months' timeframe of this review, to limit any market power BTC has.**

In reaching this preliminary conclusion, URCA has also considered all the other factors outlined in its analytical framework. However, it concludes that these criteria are not relevant for, or do not impact the assessment of competition in this market. URCA's reasoning for this is listed below:

- **Excessive pricing and profitability.** As per the URCA SMP methodology document "In a competitive market, a Licensee should not be able to persistently raise prices above costs and sustain excess profits. As costs fall, prices should similarly fall, if competition is effective. Factors that may explain higher prices, such as greater innovation and efficiency, would be

considered in interpreting high profit margins.”<sup>92</sup> The retail market for standalone fixed voice services in The Bahamas is characterized by decreasing monthly ARPUs (in real terms). Based upon the available evidence, there has been a 13.34% fall in total monthly ARPU for standalone fixed voice services between 2019 and 2022. However, some of this decline may be a result of a reduction in average fixed voice traffic per user, as shown in [Confidential] *Figure 13*. Further, and more importantly, it is not clear whether this reduction in monthly ARPUs is consistent with a competitive market, with BTC maintaining its high market share (Figure 19). There have been no reductions in headline prices in recent years, indeed prices have historically been low compared to the underlying costs. URCA does not currently observe evidence that BTC is benefitting from excessive pricing in the market for standalone retail fixed voice services.

**Figure 20: Development in Average Monthly ARPUs, in real terms, 2019-2022**



Source: Operators’ quantitative data submissions

Note: The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

- Overall size of the undertaking.** This is concerned with any potential benefits and the sustainability of those benefits arising from the large size of the Licensee relative to its competitors. As set out in URCA’s SMP Methodology document, these benefits may result from other activities of the Licensee outside the market in question but by and large these benefits may arise from economies of scale, access to finance, purchasing, production capacities, distribution, and marketing. URCA recognizes that both BTC and CBL are sizeable undertakings which have operations beyond retail fixed voice services in The Bahamas. URCA is not aware of this creating market power for either of them in the market for standalone retail fixed voice services. In any event, market players do not have to be of equal overall size for competition to be effective.
- Experience in providing products to the market.** As the situation currently stands, both BTC and CBL sell similar retail fixed voice products/services to the same customer segment. Both

<sup>92</sup> Page 16, URCA’s SMP Methodology document

have a significant presence in the marketplace, are well established entities and have brand recognition amongst consumers. In view of these considerations, URCA has no reason to believe that this criterion confers individual dominance on either of the two existing providers.

- **Highly developed distribution and sales network.** This criterion is concerned with the methods or channels used by the existing, licensed retail fixed voice services providers to deliver their products and services to the Bahamian public. Both Licensees operate their own, independent sales and distribution channels, which are both physical and online. Their own websites are a big part of the distribution and sales networks operated by both companies. This is additional to the numerous physical sales outlets used by the companies to deliver retail products and services to end users throughout The Bahamas. URCA considers that BTC and CBL operate distribution and sales networks that are similarly effective in terms of reaching potential customers and/or serving existing customers. This means that neither of them is in an advantageous position relative to the other based on this criterion.
- **Access to finance.** URCA's review of this criterion does not warrant a finding of single dominance in the retail fixed voice market. URCA appreciates that whether a Licensee can access financial resources (i.e., capital markets and internal cash flow) on a scale and terms more favourable than others may represent a barrier to entry as well as a competitive advantage. However, it is not apparent to URCA that BTC or CBL can access financial resources on a scale and terms more favourable than the other. While BTC is affiliated with a major multinational communications group, CBL is a publicly traded company on The Bahamas International Securities Exchange with the Government owning half of it.
- **Technological advantage or superiority.** While BTC operates with fixed network (PTSN), CBL's fixed voice services are VoIP. However, both existing providers offer almost equivalent network service quality and sell similar products and services to the same segment of customers nationwide. URCA thus is currently not aware that either Licensee holds a technological advantage or superiority which provides it with a degree of market power over the other.
- **Network Effects.** These appear when a product gains value as more people consume it. As such, a service provider may gain a competitive advantage when due to its larger customer base, all other things being equal, more customers are attracted to its network, relative to that of a smaller competitor. This effect may be further facilitated by the larger provider offering price and non-price terms that incentivize customers to join its network (such as lower on-net calling prices or higher on-net monthly call allowances). Whilst the significant differences in market shares would allow BTC to benefit from network effects, it is less clear that this is the case. As reflected in their current retail tariffs, neither of the two Licensees offer fixed voice plans differentiating between on-net and off-net calls.

#### **4.2.1.1 Preliminary Conclusion on Single Dominance**

Having analysed the relevant criteria set out above, URCA finds that BTC is dominant in the retail standalone fixed voice service market.

In arriving at this preliminary position, URCA has reviewed all other criteria listed in sub-section 3.3.2 (Table 5) of this document. However, as explained above, URCA concluded that most of these criteria

are not relevant for or have no bearing on the conclusion of whether any of the Licensees is singly dominant in this retail market.

Considering the analysis set out above in relation to single dominance, URCA does not further investigate the potential presence of joint dominance in this retail market.

**Consultation Question 2 - Dominance Assessment in Retail Fixed Voice Market**

**Do you agree with URCA's preliminary conclusion from its single dominance assessment in the retail fixed voice service market? If not, please set out your alternative views and provide evidence to substantiate your position.**



## 5. Retail Fixed Broadband Services

This section sets out URCA's review of retail broadband services provided at a fixed location ("fixed broadband services" hereafter) in The Bahamas, covering the first two stages of a market review discussed in Section 3.3 (i.e., market definition and competition assessment). The third stage (i.e., SMP remedies) being discussed in Section 8. As part of this, URCA sets out its preliminary views and consultation questions.

### 5.1. Market Review Stage 1- Market Definition

As part of the 2014 Market Review, URCA defined two separate product markets for retail fixed broadband services: a market for fixed broadband services where CBL was present (Geographic Market 1) and a market for fixed broadband serviced where CBL was not present (Geographic Market 2). Each of these markets were defined irrespective of whether these services were offered on a standalone basis or as part of multi-product bundles over xDSL, HFC or fixed-wireless networks.

In this Section, URCA assesses whether the 2014 Market Definition remains appropriate considering the key market developments described in Section 3.2. That is, URCA evaluates whether, based on the evidence available, customers of standalone fixed broadband services would switch to an alternative service in the event of a SSNIP for the service. When doing so, URCA has also reviewed whether multi-product bundled offers including fixed broadband and mobile data services should form part of the same product market.

URCA has structured the remainder of this section in the following way:

- Product Market Definition (Section 5.1.1); and
- Geographic Market Definition (Section 5.1.2); and
- Preliminary Conclusion on the Product and Geographic Market (Section 5.1.3)

#### 5.1.1 Product Market Definition

Retail broadband services provide end users with Internet access at a fixed location (such as their home or an office) and can be delivered via several network technologies. In The Bahamas, fixed broadband connections are predominantly offered based on wired technologies (i.e., HFC, xDSL and FTTx). However, as mentioned in Section 3.2, there are a number of small ISPs that also provide wireless technologies (i.e., FWA LTE and WiMax) and an LEO-based operator (Starlink) started providing broadband services in parts of The Bahamas in late 2023.

Apart from technology, retail fixed broadband services may further be differentiated by:

- Customer segments, i.e., retail fixed broadband services offered to residential and business customers.

- Tariff plans, such as standalone retail fixed broadband plans and multi-product bundled offerings including fixed broadband services, jointly with other retail services, such as fixed voice and/or pay TV.

As explained in Section 3.3, a good starting point is to use the product set defined in the previous market review as the focal product for the market definition exercise. As part of the 2014 Market Definition, URCA defined a single product market for fixed broadband services, irrespective of whether these services were offered on a standalone basis or as part of multi-product bundles.

However, as presented in Section 3.2, the recent market developments (i.e., network upgrades, availability of high-speed broadband services) and the increase in take-up of multi-product bundles since the last market review, mean it is important to consider whether such a wide market definition for fixed broadband services is still appropriate.

Therefore, URCA conducts this analysis by starting with standalone fixed broadband services (sold to residential customers). Then URCA applies the SSNIP test to determine whether these services should be considered as part of their own product market or should be widened to include any effective substitutes. In doing so, URCA addresses the following considerations:

- Whether standalone fixed broadband services and multi-product bundles that include fixed broadband services jointly with other retail services (i.e., fixed voice and pay TV) are in the same product market.
- Whether retail mobile data services are effective substitutes for fixed broadband services, and hence should be part of the same market.
- Whether fixed broadband services provided via LEO satellites are part of the same product market.
- Whether service offerings for residential and business customers form part of the same relevant product markets.

Following the approach set out in Section 3.3, each of these issues are considered in turn below.

#### **5.1.1.1 Are standalone and bundled fixed broadband products in the same product market?**

As part of the previous market review in 2014, URCA defined a single product market for fixed broadband services, irrespective of whether these services were offered on a standalone basis or as part of multi-product bundles. In the context of this market review, URCA has assessed whether this conclusion remains valid.

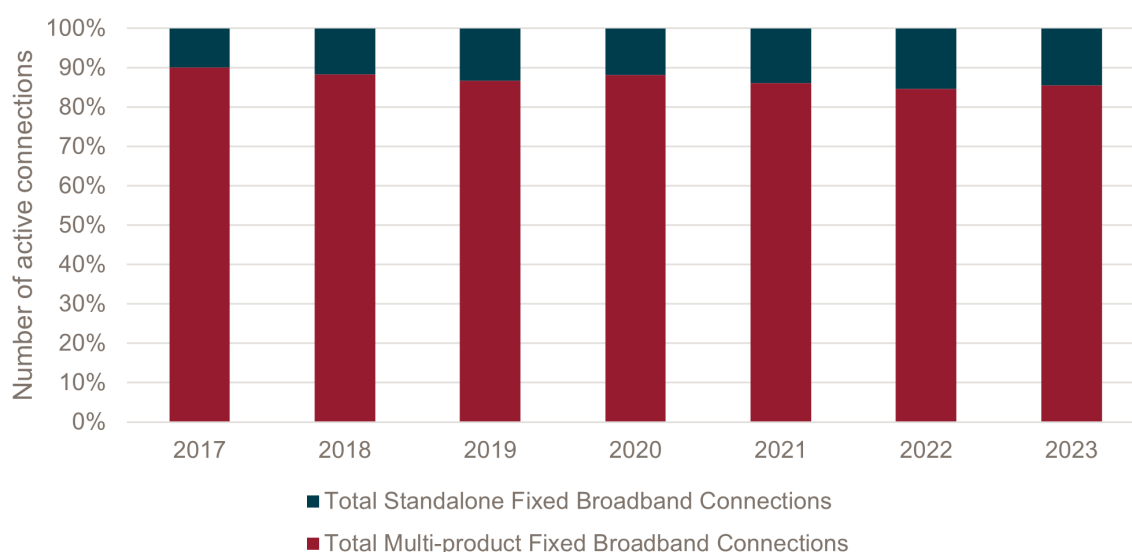
Fixed broadband services are supplied mainly by BTC and CBL, though a few smaller providers also supply broadband in limited geographic areas, mostly using wireless networks and infrastructure. BTC and CBL continue to offer both standalone fixed broadband and multi-product plans that include broadband. In particular, BTC offers double-play and triple-play bundles to residential customers, and

bundles with broadband and mobile services to business customers.<sup>93</sup> CBL offers double-play and triple-play bundles to both residential and business customers.<sup>94</sup>

### Demand-side substitution

As mentioned in Section 3.2, the most common form of accessing fixed broadband services in The Bahamas is through multi-product bundled offers. As shown in Figure 21, in 2023, 85% of fixed broadband subscriptions were multi-product bundles, and this share has been relatively stable over the five-year period under review. In line with trends observed elsewhere, the share of fixed broadband subscriptions accessed via multi-product bundles is likely to remain high going forward.

**Figure 21: Total broadband connections, 2017-2023**



Source: Operators’ quantitative data submissions

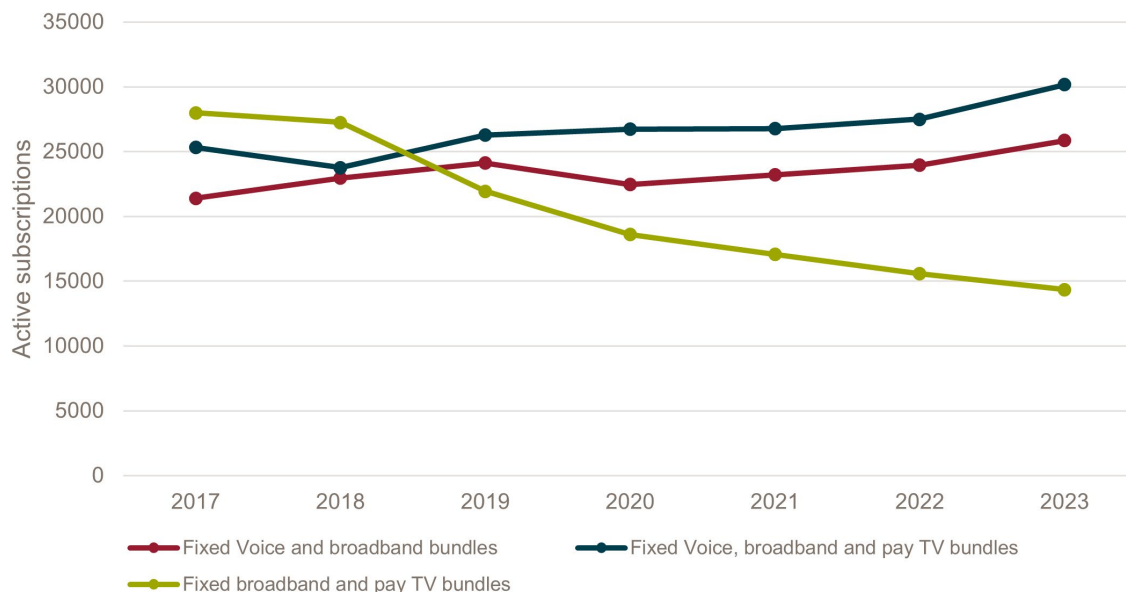
Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

When assessing the types of multi-product bundles end users are subscribed to, there is a growing trend to bundle fixed broadband services with fixed voice, or with fixed voice and pay TV, as shown in Figure 22. It is important to note that this is not the case for fixed voice as there is a higher share of subscribers that access this service on a standalone basis (as mentioned in Section 3.2). Figure 22 also displays the fall of double-play bundles including broadband and pay TV.

<sup>93</sup> <https://business.btcbahamas.com/packages>

<sup>94</sup> <https://www.rev.bs/business-solutions/>

**Figure 22. Multi-product bundled subscriptions (residential), 2017-2023**



Source: Operators’ quantitative data submissions

Note: 2023 figures correspond to Q1 2023

### **Product characteristics**

Fixed broadband services sold on a standalone basis or as part of a multi-product bundle offer the same functionality (i.e., connectivity to the Internet) with similar non-price characteristics (i.e., unlimited data usage and similar speed ranges).

Since the 2014 market review, both operators have increased their advertised download speeds: BTC now offers broadband speeds between 8 Mbps and 1 Gbps, and CBL between 30 Mbps and 1 Gbps. According to URCA’s Retail Customer Survey, the majority of respondents who were aware of the bandwidth of their service, are subscribed to fixed broadband plan that include speeds higher than 25 Mbps.<sup>95</sup>

Due to the prevailing high take-up of multi-product bundles (in particular, double-play bundles including fixed broadband and fixed voice, and triple-play bundles), it is reasonable to assume that end users have made a rational decision to meet their demand for fixed services based on the least cost option available to them.

The fixed standalone and multi-product bundled monthly subscription prices provided to residential customers, available on the operators’ websites, are presented in Table 12.

<sup>95</sup> URCA notes that several survey respondents did not know the advertised speed of their fixed broadband plan.

**Table 12: Standalone and selected multi-product bundles inc. fixed broadband residential offerings**

Operator	Tariff plan	Type of plan	Advertised download speed	Minutes included	Other services included	Monthly price (BSD\$, excl. VAT)
BTC	Basic 8 Mbps	Standalone	8 Mbps			\$30.99
	Basic 20 Mbps	Standalone	20 Mbps			\$33.99
	Basic 50 Mbps	Standalone	50 Mbps			\$43.99
	Extreme 30	Standalone	30 Mbps			\$35.99
	Extreme 50	Standalone	50 Mbps			\$43.99
	Extreme 100	Standalone	100 Mbps			\$48.99
	Extreme 150	Standalone	150 Mbps			\$69.99
	Extreme 300	Standalone	300 Mbps			\$89.99
	Extreme 600	Standalone	600 Mbps			\$129.99
	Extreme 1 Gb	Standalone	1 Gbps			\$145.00
	Basic 8 + Talk 300	Double-play	8 Mbps	Free local fixed-to-fixed, 300 minutes fixed-to-mobile		\$44.99
	Basic 20 + Talk 300	Double-play	20 Mbps	Free local fixed-to-fixed, 300 minutes fixed-to-mobile		\$49.99
	Basic 50 + Talk 24/7	Double-play	50 Mbps	Talk 24/7 unlimited		\$54.99
	Fiber & TV 300	Double-play	100 Mbps		TV Max (164 channels)	\$84.99 <sup>96</sup>
	Basic 50 Bundle	Triple-play	50 Mbps	BTC	TV Max (157 channels)	\$94.99
Fiber, Talk 24/7 & TV 300	Triple-play	300 Mbps	Talk 24/7 unlimited	TV Max (164 channels)	\$99.99	
Fiber, Talk 24/7 & TV 1 Gb	Triple-play	1 Gbps	Talk 24/7 unlimited	Watch All (208 channels)	\$159.00	
CBL	RevNetPrime	Standalone	30 Mbps			\$49.50
	RevNetPro	Standalone	45 Mbps			\$71.50
	RevNetPremium	Standalone	75 Mbps			\$90.50
	RevNetPrestige	Standalone	105 Mbps			\$124.75
	REVNETPrime Fibre	Standalone	50 Mbps			\$54.50
	RevNetPro Fibre	Standalone	100 Mbps			\$74.50

<sup>96</sup> Currently BTC offers a 3 months promotion at \$42.50 per month.

Operator	Tariff plan	Type of plan	Advertised download speed	Minutes included	Other services included	Monthly price (BSD\$, excl. VAT)
	RevNetPremium Fibre	Standalone	200 Mbps			\$90.50
	RevNetPrestige Fibre	Standalone	300 Mbps			\$124.74
	REVNETPrime + REVTALKPrime	Double-play	30 Mbps	Unlimited local minutes		\$54.98
	REVNETPro + REVTALKPrime	Double-play	45 Mbps	Unlimited local minutes		\$71.98
	REVNETPremium + REVTALKPrime	Double-play	75 Mbps	Unlimited local minutes		\$86.98
	REVNETPrestige + REVTALKPrime	Double-play	105 Mbps	Unlimited local minutes		\$113.99
	REVNETPrestige + REVTALKUnlimited	Double-play	105 Mbps	Unlimited local minutes		\$124.00
	REVNETPrime + Prime Local	Double-play	30 Mbps		Prime Local (6 TV channels)	\$59.50
	REVNETPrime + REVTVPrime	Double-play	30 Mbps		REVTVPRIME (69 channels)	\$77.99
	REVNETPro + REVTVPrime	Double-play	45 Mbps		REVTVPRIME (69 channels)	\$94.99
	REVNETPremium + REVTVPrime	Double-play	75 Mbps		REVTVPRIME (69 channels)	\$109.99
	REVNETPrestige+ REVTVPrime	Double-play	105 Mbps		REVTVPRIME (69 channels)	\$137.00
	REVNETPrime + REVTVPro	Double-play	30 Mbps		REVTVPRIME (98 channels)	\$87.99
	MyREVPRIME	Triple-play	30 Mbps	Unlimited local minutes	REVTVPRIME (69 channels)	\$92.98
	MyREVPRO	Triple-play	75 Mbps	Unlimited local minutes	REVTVPRO (98 channels)	\$124.99
	MyREVPREMIUM	Triple-play	100 Mbps	Unlimited local minutes	REVTVPRO (98 channels)	\$144.99
	MyREVPRESTIGE	Triple-play	150 Mbps	Unlimited local minutes	REVTVPRO (98 channels)	\$172.00
	ALIV Fibr Infinite 200	Triple-play	200 Mbps	Unlimited local minutes	141 IPTV channels + 24 radio channels	\$109.00
	ALIV Fibr Infinite 500	Triple-play	500 Mbps	Unlimited local minutes	171 IPTV channels	\$119.00
	ALIV Fibr Infinite 1000	Triple-play	1 Gbps	Unlimited local minutes	171 IPTV channels	\$169.00

Source: Operators’ websites and operators’ submissions to URCA, accessed February 2024.

Note: Monthly prices do not include VAT. Includes plans for residential customers only

From this, URCA concludes:

- The price for triple-play bundles is higher than for double-play bundles, at least for those that include pay TV, and these are higher than for standalone fixed broadband. But both operators offer discounts for subscribing to a multi-product bundle. Therefore, any customer who values fixed voice, broadband and pay TV simultaneously would be very likely to choose to subscribe to a triple-play bundle.
- Due to the price differentials, it is unlikely that end users that do not value the incremental services would switch to a multi-product bundle that includes pay TV services in the event of a price increase in the standalone broadband service. Conversely, an end user might consider switching to a double-play bundle that includes fixed voice. This is because:
  - There is a small price differential between standalone fixed broadband and fixed voice offerings purchased separately, and double-play bundles. For example, CBL provides its “REVNetPrestige Fiber” standalone plan at BSD\$124.74, whilst also offering the possibility to combine this plan with “REVTalkUnlimited” for around the same price.
  - Price differentials are larger between standalone fixed broadband plans and multi-product bundles including pay TV, than with those bundles that do not include pay TV. For example, BTC’s “Fiber Internet 100” standalone plan costs \$48.99. The price of the double-play bundle with pay TV and fixed broadband with similar advertised download speed is \$84.99 while triple-play bundles start at \$94.99. These large price differentials are also present between standalone pay TV and double-play bundles including fixed broadband and pay TV, and these and triple-play bundles.

Given the evidence on relative pricing presented above, URCA considers it unlikely that a significant proportion of customers would switch to multi-product bundles that include pay TV in case of a SSNIP in the standalone fixed broadband services. Those customers who also value pay TV services are likely to have already switched to such bundles as they can purchase them most economically and conveniently in a bundle. Given the price advantage of bundles over combining standalone fixed broadband and standalone pay TV, it seems unlikely that customers who are still subscribed to standalone fixed broadband would value pay TV services.<sup>97</sup>

Those customers that do not necessarily value the other services contained within multi-product bundles, would not switch to multi-product bundles in the case of a SSNIP in the standalone fixed broadband services. This is particularly the case for fixed broadband bundles with pay TV, where the price differentials are large compared to those that do not include pay TV.

In light of the discussion above, URCA concludes that there is demand-side substitution between fixed broadband services sold on a standalone basis and multi-product bundles that do not include pay TV (i.e., double-play bundles including fixed voice and fixed broadband). Due to current price

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<sup>97</sup> Currently, URCA does not hold information on customers purchasing multiple services on a standalone basis, but for the reasons above, URCA considers it unlikely that these would represent a large share of fixed broadband customers. However, if Licensees provide support evidence to the contrary as part of their consultation responses, this will be taken into consideration by URCA when finalising the market definitions.

differentials, substitutability between standalone fixed broadband services and multi-product bundles including pay TV is constrained.

### **Supply-side substitution**

URCA considers that there is supply-side substitution between standalone fixed broadband services and multi-product bundles that do not include pay TV (i.e., double-play bundles including fixed voice and fixed broadband). In the event of a SSNIP in standalone fixed broadband services, providers of these double-play bundles could start offering standalone fixed broadband services in a relatively short period of time and without incurring large additional costs. This is because the fixed network infrastructure underlying the provision of fixed broadband and fixed voice services is similar. Further, as these providers already offer fixed broadband services as part of their bundled plans, there is no incremental investment need by them beyond potential marketing expenditures.

Supply-side substitution between standalone fixed broadband services and double-play bundles is more evident with the emergence of VoIP-based services. CBL's (and increasingly BTC's) fixed voice services are delivered through VoIP, meaning that fixed voice call and broadband services can be delivered through infrastructures that share common components (in an IP/NGN network both calls and data services are conveyed as data packets).

Similarly, from a supply-side perspective, substitution is also feasible between standalone fixed broadband services and multi-product bundles. In the event of a SSNIP in standalone broadband or double-play fixed voice and broadband services, a provider or multi-product bundles could start offering these services in a relatively short period of time and without incurring in large additional costs.

### **Preliminary conclusion**

In summary, given the assessment of both demand-side and supply-side substitution set out above, URCA concludes that fixed broadband services and multi-product bundles that do not feature pay TV (i.e., double-play bundles including fixed voice and fixed broadband), and multi-play bundles that include pay TV, should be part of separate markets.<sup>98</sup> The market for multi-product bundles that include pay TV are discussed in detail in Section 7.

#### **5.1.1.2 Are retail mobile data services in the same product market?**

End users can access the Internet through fixed broadband and mobile data services. Mobile data is a wireless Internet service that is delivered over cellular mobile networks to personal computers, laptops, smartphones and other digital devices. In The Bahamas, mobile data services are supplied by both BTC and Aliv.<sup>99</sup> Both operators provide these services throughout the territorial boundary of The Bahamas.

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<sup>98</sup> In line with its assessments in other sections of this document, URCA again has put more weight on demand-side substitutability.

<sup>99</sup> There is currently no mobile virtual network (MVNO) or reseller of mobile services to retail customers in The Bahamas.



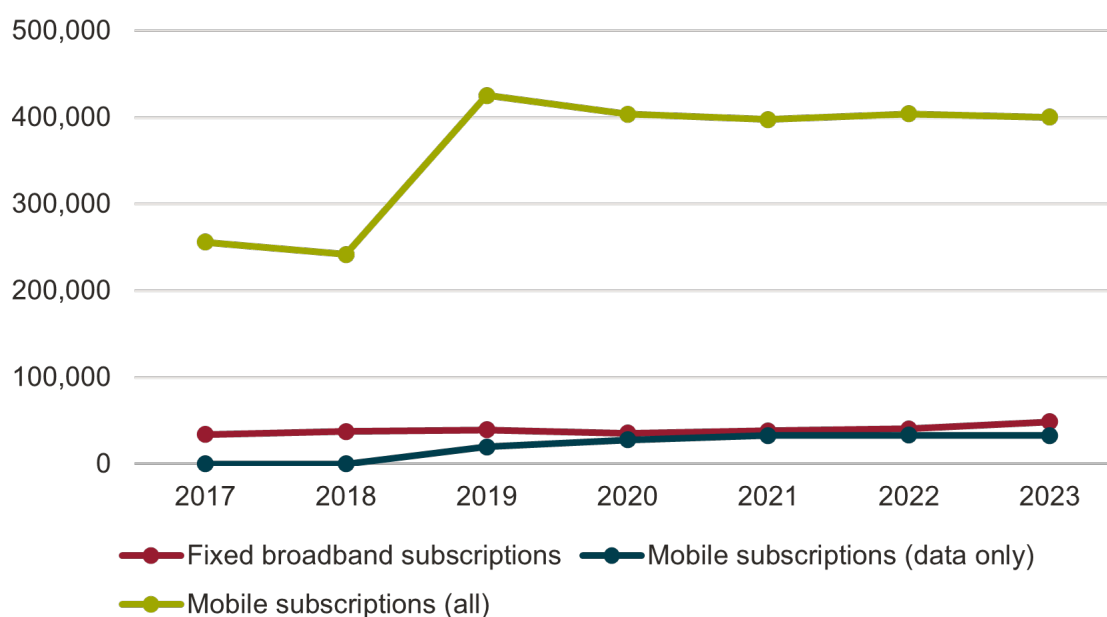
In the fixed market review 2014, URCA did not consider mobile data services to be an effective substitute to fixed broadband services and therefore these services were part of separate markets. Instead, URCA concluded that end users were more likely to use mobile data services complementarily to fixed broadband services, allowing them to access the Internet both from a fixed location and ‘on the go’. In the following Section, URCA reassesses this decision based on the latest evidence and recent trends in the market.

### Demand-side substitution

Mobile data and fixed broadband services are widely available and used in The Bahamas, and hence switching could be considered by most users. Both BTC and Aliv offer mobile data services jointly with other mobile services (i.e., smartphone bundles); and/or as a standalone (i.e., mobile data only) service. As shown in Section 3.2, end users mostly consume mobile data services as part of a pre-paid or post-paid mobile smartphone bundle which includes calls, messaging and data allowances.

At year-end 2022, the number of fixed broadband connections was 40,671 compared to 39,503 in 2019.<sup>100</sup> Within the same period, mobile data only connections increased from 19,665 to 33,327, while total mobile connections, which are mainly smartphone bundles that include mobile data, fell to 403,993 from 425,507. The fixed broadband penetration rate in 2022 was 31%<sup>101</sup> of total households (around 118,000) compared to a mobile penetration of 98.5% and mobile data only penetration rate of only 8% of total population.

**Figure 23: Total number of fixed broadband and mobile data subscriptions, 2017-2023**



Source: Operators’ quantitative data submissions.

<sup>100</sup> Includes both residential and non-residential customers of standalone fixed broadband and double-play bundles including fixed broadband and fixed voice.

<sup>101</sup> This penetration rate is lower than the total fixed broadband penetration rate presented in Section 3 as it only includes residential standalone fixed broadband connections and double-play bundles including fixed voice and fixed broadband (but excludes double-play and triple-play connections with pay TV).

Note: 2023 figures are based on data for Q2 2023, the latest operators' quantitative submissions available at the time of preparing the Preliminary Determination.

### **Product characteristics**

There are significant differences in the product characteristics of fixed broadband and mobile data services, in terms of the available download speeds, data cap limits, prices and user experience, that potentially limit the extent to which these services will be considered to be effective substitutes.

In particular, fixed broadband is usually shared in a household, whilst mobile data services are commonly used for personal internet access (although this would not hold for mobile broadband offerings with WiFi routers). Therefore, demand for mobile data services tends to be at the level of individual end users, while demand for fixed broadband services depends on household sizes and its composition. However, this feature of fixed broadband services is reducing in importance due to tethering through smartphone or dongle-based plans. Tethering allows using mobile data plans to access the Internet on a computer or a laptop. Therefore, multiple users rely on a single mobile data plan, similarly to households relying on a single fixed broadband service. In URCA's view, this enhances the complementarity of these two services: mobile data services are primarily used outside the home or 'on the go', with customers 'offloading' to fixed broadband services at home.<sup>102</sup> Indeed, according to URCA's Retail Customer Survey, 95% of respondents subscribed to mobile services are also subscribed to fixed broadband services and 88% of MiFi (mobile data only services) are subscribed to fixed broadband too.

Access to fixed broadband services is restricted to within a short distance of the router (almost always indoors), while mobile data services allow end users to access the Internet regardless of their location, subject to network coverage. This increased mobility of mobile data services commonly comes at a financial cost (i.e., a "mobility premium" in relative prices) and lower average speeds experienced (as the actual speed available on mobile data services depends, amongst other things, on the congestion of the cell site where the user is located).

Fixed broadband services are differentiated by download/upload speeds but have no usage allowances (i.e., they have unlimited data usage, subject to a fair user policy). Mobile data services, on the other hand, commonly have a usage allowance<sup>103</sup> (which, if exceeded, would require an end user to pay extra or experience slower speeds), but the download/upload speed is commonly not advertised. This is related to the underlying differences in the network technologies over which the services are delivered, with network capacity being a key concern for mobile network operators and download/upload speeds not being guaranteed.<sup>104</sup>

Fixed network technologies allow the provision of higher (download/upload) speeds compared to mobile data services. For example, as mentioned in Table 12, BTC and CBL offer fixed broadband plans with up to 1 Gbps of advertised download speed, which is considerably higher than the 50 Mbps

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<sup>102</sup>ECS 15/2022 – Statement of Results and Final Determination – Retail Cellular Mobile Market Review and Assessment, available here: <https://www.urbahamas.bs/decisions/ecs-15-2022-statement-of-results-and-final-determination-retail-cellular-mobile-market-review-and-assessment/>

<sup>103</sup> All of BTC's mobile data plans have a usage allowance. Aliv has only one plan with unlimited data.

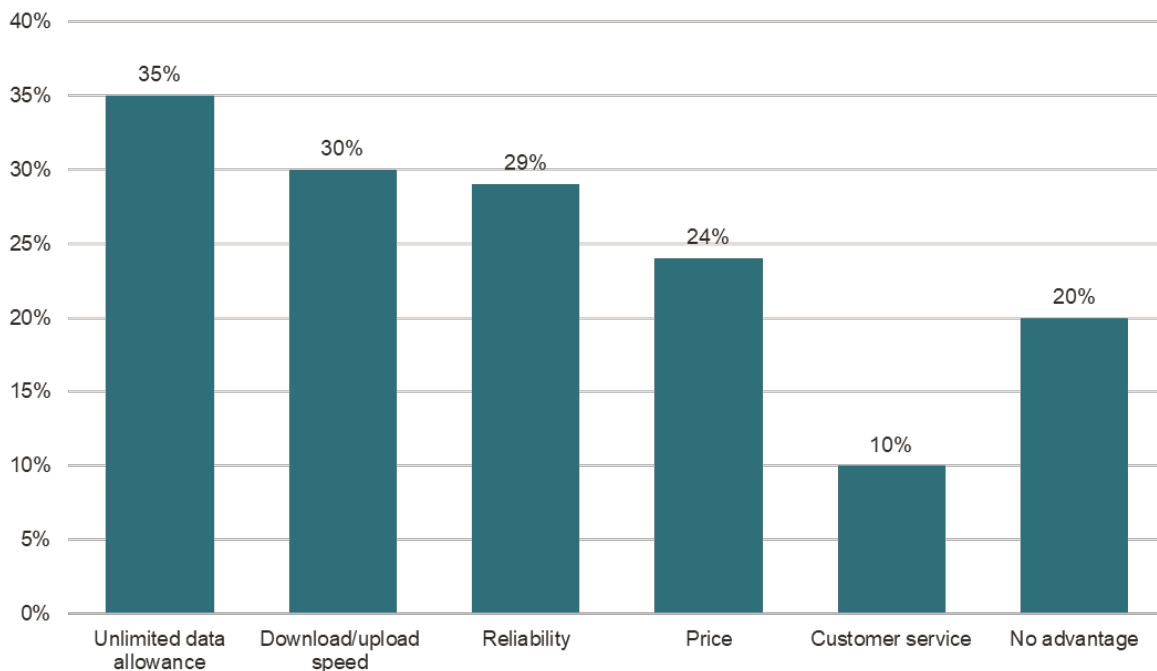
<sup>104</sup> The speeds mobile data end users experience depend, to a large extent, on the congestion on the relevant mobile cell site, which is likely to vary with the number of users also utilising that cell site at that point in time.

maximum speed commonly marketed for mobile data services (i.e., LTE mobile data speeds which could vary depending on the customer’s location and data consumption).<sup>105</sup> Similarly, there is a non-trivial difference in actual observed download speeds, with average mobile download speeds of around 36.54 Mbps compared to fixed download speeds of around 58.49 Mbps<sup>106</sup> which might constrain fixed-to-mobile broadband substitutability.<sup>107,108</sup>

All these differences in non-price characteristics, which stem from the different purposes end users have for each service, are reflected in the monthly average usage of fixed broadband and mobile services. On average, [● Confidential] of data per month<sup>109</sup> is downloaded per fixed broadband connection, whereas average monthly usage on mobile broadband is [● Confidential].<sup>110</sup>

As illustrated in Figure 21, end users in The Bahamas indicate that the possibility of accessing an unlimited data allowance and higher download/upload speeds is the main advantage of fixed broadband services compared to mobile data services. End users also mentioned that download speeds on mobile data services are less reliable than on fixed broadband services.

**Figure 24: Distribution of main advantages of fixed broadband compared to mobile data plans**



<sup>105</sup> See for example: <https://www.verizon.com/articles/internet-essentials/4g-lte-speeds-vs-your-home-network>

<sup>106</sup> <https://www.speedtest.net/global-index/> (accessed December 2023)

<sup>107</sup> A 58 Mbps download speed offers increased performance for data-intensive tasks such as streaming, online gaming with lower latency, and simultaneous high-definition video conferencing. In comparison, a 36 Mbps connection is suitable for HD streaming, regular online gaming, and standard video calls, making it sufficient for typical internet activities, but may fall short to serve multiple users.

<sup>108</sup> URCA notes that the actual speeds experienced on mobile data services is commonly more variable than on fixed broadband services, as the former depends on the congestion of the mobile site a user is connected to.

<sup>109</sup> Calculated based on operators’ quantitative submissions.

<sup>110</sup> Based on information provided by ALIV.

Source: URCA Fixed Retail Survey

As shown in Table 13 below, fixed broadband offerings, including double-play bundles with fixed voice, are advertised based on download speeds with unlimited data allowances on a post-paid only basis, while mobile data pre-paid and post-paid plans include a cap on data usage, subject to additional charges or lower speeds if end users exceed this allowance. For example, “ALIV liberty140” and “ALIV liberty elite” mobile bundles include an unlimited data allowance but this is subject to a ‘fair use’ policy, if end users exceed more than 50 GB of data usage in any month, they reserve the right to reduce the download speed available.<sup>111</sup> Considering average monthly data usage on fixed broadband service in The Bahamas [● Confidential]), all but two of the mobile data plans shown in Table 13 would be insufficient to cover the monthly average data usage by fixed broadband users in The Bahamas. Therefore, caps on mobile data usage are likely to be a constraining factor for end users switching between fixed and mobile broadband services.

**Table 13: Selected fixed broadband (standalone and double-play) and pre-paid/post-paid mobile offerings**

Operator	Tariff plan	Type of plan	Advertised download speed	Monthly data allowance	Minutes included	Monthly price, excl. VAT (BSD\$)
BTC	Basic 8 Mbps	Standalone, fixed broadband	8 Mbps	Unlimited	n/a	\$30.99
	Basic 20 Mbps	Standalone, fixed broadband	20 Mbps	Unlimited	n/a	\$33.99
	Basic 50 Mbps	Standalone, fixed broadband	50 Mbps	Unlimited	n/a	\$43.99
	Extreme 30	Standalone, fixed broadband	30 Mbps	Unlimited	n/a	\$35.99
	Extreme 100	Standalone, fixed broadband	100 Mbps	Unlimited	n/a	\$48.99
	Extreme 150	Standalone, fixed broadband	150 Mbps	Unlimited	n/a	\$69.99
	Extreme 300	Standalone, fixed broadband	300 Mbps	Unlimited	n/a	\$89.99
	Extreme 600	Standalone, fixed broadband	600 Mbps	Unlimited	n/a	\$129.99
	Extreme 1 Gbps	Standalone, fixed broadband	1 Gbps	Unlimited	n/a	\$145.00
	Basic 8 + Talk 300	Double-play, fixed broadband and fixed voice	8 Mbps	Unlimited	Free local fixed-to-fixed, 300 minutes fixed-to-mobile	\$44.99
Basic 20 + Talk 300	Double-play, fixed broadband and fixed voice	20 Mbps	Unlimited	Free local fixed-to-fixed, 300 minutes fixed-to-mobile	\$49.99	
Basic 50 + Talk 24/7	Double-play, fixed broadband and fixed voice	50 Mbps	Unlimited	Talk 24/7 unlimited	\$54.99	

<sup>111</sup> <https://www.bealiv.com/fair-use-policy/aliv-fup/>

Operator	Tariff plan	Type of plan	Advertised download speed	Monthly data allowance	Minutes included	Monthly price, excl. VAT (BSD\$)
	30 DAY	Pre-paid mobile	n/a	4 GB	Unlimited	\$35.45
	30 DAY – data only	Pre-paid mobile	n/a	3 GB	n/a	\$15.45
	Post-paid Exuma	Post-paid mobile	n/a	12 GB	Unlimited	\$64.99
	Post-paid Abaco	Post-paid mobile	n/a	20 GB	Unlimited	\$99.99
	Post-paid Andros	Post-paid mobile	n/a	150 GB	Unlimited	\$149.99
CBL	RevNetPrime	Standalone fixed broadband	30 Mbps	Unlimited	n/a	\$49.50
	RevNetPro	Standalone fixed broadband	45 Mbps	Unlimited	n/a	\$71.50
	RevNetPremium	Standalone fixed broadband	75 Mbps	Unlimited	n/a	\$90.50
	RevNetPrestige	Standalone fixed broadband	105 Mbps	Unlimited	n/a	\$124.75
	REVNETPrime Fibre	Standalone fixed broadband	50 Mbps	Unlimited	n/a	\$54.50
	RevNetPro Fibre	Standalone fixed broadband	100 Mbps	Unlimited	n/a	\$74.50
	RevNetPremium Fibre	Standalone fixed broadband	200 Mbps	Unlimited	n/a	\$90.50
	RevNetPrestige Fibre	Standalone fixed broadband	300 Mbps	Unlimited	n/a	\$124.74
	REVNETPrime + REV-TALKPrime	Double-play, fixed broadband and fixed voice	30 Mbps	Unlimited	Unlimited local minutes	\$54.98
	REVNETPro + REV-TALKPrime	Double-play, fixed broadband and fixed voice	45 Mbps	Unlimited	Unlimited local minutes	\$71.98
	REVNETPremium + REV-TALKPrime	Double-play, fixed broadband and fixed voice	75 Mbps	Unlimited	Unlimited local minutes	\$86.98
	REVNETPrestige + REV-TALKPrime	Double-play, fixed broadband and fixed voice	105 Mbps	Unlimited	Unlimited local minutes	\$113.99
Aliv	ALIV liberty30	Pre-paid mobile	n/a	3 GB	330	\$27.27
	ALIV liberty45	Pre-paid mobile	n/a	6 GB	450	\$40.90
	ALIV liberty60	Pre-paid mobile	n/a	12 GB	600	\$54.55
	ALIV liberty90	Pre-paid mobile	n/a	18 GB	900	\$81.82
	ALIV liberty140	Pre-paid mobile	n/a	Unlimited*	Unlimited	\$127.27
	mifi75	Pre-paid mobile	n/a	50 GB	n/a	\$75.00
	mifi90	Pre-paid mobile	n/a	125 GB	n/a	\$90.00
	mifi140	Pre-paid mobile	n/a	200 GB	n/a	\$140.00
	ALIV liberty more	Post-paid mobile	n/a	12 GB	700	\$59.99
	ALIV liberty prime	Post-paid mobile	n/a	15 GB	800	\$74.99
	ALIV liberty premium	Post-paid mobile	n/a	20 GB	1,200	\$99.99
	ALIV liberty elite	Post-paid mobile	n/a	Unlimited*	Unlimited	\$149.99

Source: Operators’ websites, February 2024.

Note: Monthly prices do not include VAT. Includes plans for residential customers only. \*subject to fair usage policy.

### **Relative Prices**

URCA has also assessed whether relative prices are such that a SSNIP in fixed broadband services could lead to some substitution to mobile broadband and data services. Table 13 above sets out selected tariff plans for standalone fixed broadband, double-play bundles including fixed broadband and fixed voice, and (pre-paid and post-paid) mobile data plans.

On average, the monthly data traffic per fixed broadband connection in The Bahamas is [● Confidential] (as shown in Section 3.2). If a fixed broadband user with this average monthly data consumption profile were to buy a mobile data plan to satisfy his/her Internet connectivity needs, it would cost at least \$126.00 (“ALIV liberty140”). Instead, the cheapest fixed broadband plan with unlimited data allowance is priced at \$30.99 (BTC’s “Basic 8 Mbps”). Even when assuming the end user wishes to subscribe to a fixed broadband plan offering at least the average speed of around 50 Mbps, this would be possible for a price of \$54.50 (CBL’s “REVNETPrime Fibre”). This suggests an average fixed broadband customer would not typically substitute his/her fixed broadband plan for a mobile one to satisfy their Internet connectivity needs.

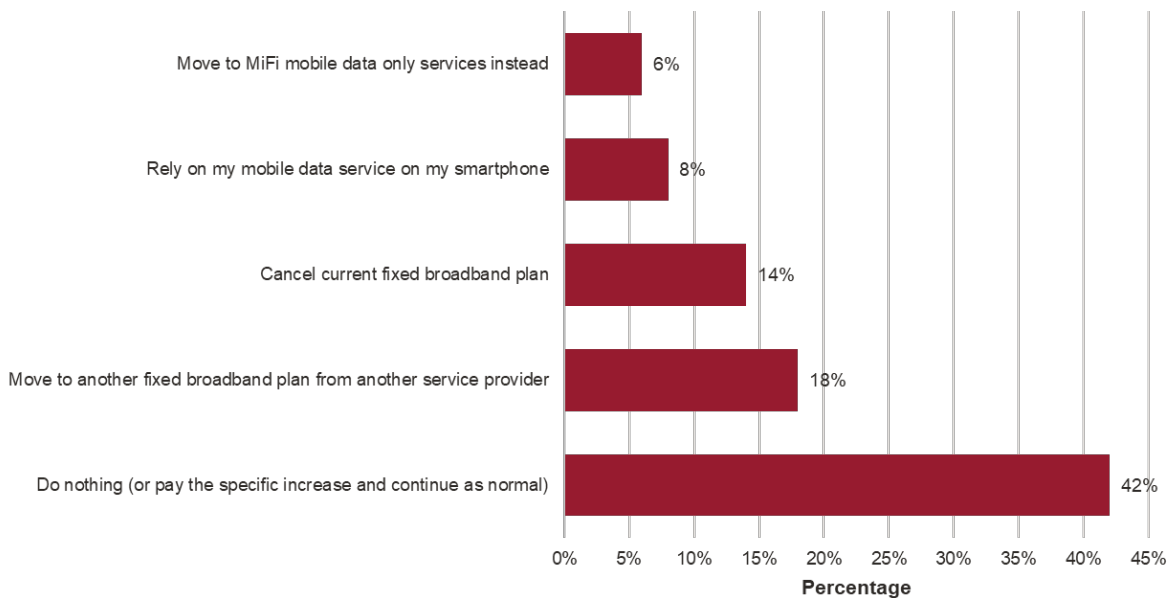
The cheapest MiFi is less expensive than the cheapest standalone broadband plan, but the former only includes a monthly data allowance of 3 GB –which is significantly lower than the average monthly fixed broadband consumption per connection of [● Confidential] – while the latter includes access to unlimited data (subject to any fair use policy).

In the case of double-play bundles including both fixed broadband and fixed voice, the cheapest mobile plan available to meet the average monthly data usage of [● Confidential] and the average monthly fixed metered domestic calls minutes consumed per user (150, as shown in Section 3.2) is again ALIV’s “liberty140” at \$126.00 (prepaid) or “liberty elite” at \$149.99 (post-paid). However, as mentioned above, both plans are subject to a “fair usage” policy. In contrast, the cheapest double-play bundle is BTC’s “Basic 8 + Talk 300” which starts at \$44.99. Due to these price differentials, an end user subscribed to a double-play bundle would not typically switch to a mobile plan in case of a SSNIP in the bundle.

### **Switching evidence**

There is evidence that end users in The Bahamas currently do not consider mobile data and fixed broadband services as demand-side substitutes. In particular, it was observed that only 8% and 6% of respondents to URCA’s Fixed Retail Survey that are currently subscribed to a fixed broadband plan would rely on mobile smartphone data services or move to a mobile data only/MiFi plan, respectively, if faced with an increase in monthly prices of their fixed broadband service. The majority of respondents would “do nothing” and a small proportion would either move to another fixed broadband plan from another service provider or cancel their current fixed broadband plan.

**Figure 25: Distribution of actions to be taken if broadband service price was increased**



Source: URCA Fixed Retail Survey

Conclusively, mobile data/broadband services are not an effective demand-side substitute for fixed broadband services. The available evidence suggests that fixed broadband and mobile data services may not be seen by end users as comparable in terms of prices, especially when considering the average monthly data usage of fixed broadband users [● Confidential]). Further, the differences in product characteristics – particularly the unlimited data allowances and higher download speeds of fixed broadband services – as well as the available switching evidence, strongly indicate that mobile data services are not considered to be demand-side substitutes for fixed broadband services currently.

### Supply-side substitution

As in the case of retail fixed voice services discussed in Section 4.1, URCA considers mobile data/broadband services are not supply-side substitutes to retail fixed broadband services. This is because both services are delivered over separate network infrastructure and technologies and require different service licences. Further, it is extremely costly and time intensive to deploy a fixed (access) network.

Whilst regulated access to existing fixed networks is currently available in The Bahamas, these services are not geared towards mass-market entry and take-up has remained low to date.<sup>112</sup>

<sup>112</sup> Broadband Resale Obligation (BRO) is a resale broadband offering with no take-up to date. There is also Wholesale Dedicated Internet Access (DIA) which is mostly used as an input used by OLOs to supply small geographic areas. Neither of these wholesale services are likely to support a larger scale entry.

Given the requisite time, investment and licences needs, URCA considers it highly unlikely that, following a SSNIP in fixed broadband services, a mobile Licensee would deploy a fixed network and start offering fixed broadband services.<sup>113</sup>

### **Preliminary conclusion**

Overall, URCA therefore concludes that demand and supply-side substitutability do not exist from mobile data services to fixed broadband services to an extent that mobile data services should form part of the same product market as retail fixed broadband services.

#### **5.1.1.3 Are fixed broadband services provided via LEO satellites part of the same product market?**

In this sub-section, URCA assesses the potential substitutability between fixed broadband services offered via wired technologies (i.e., HFC, xDSL and FTTx) and Low-Earth Orbit (LEO) services.

##### **Demand-side substitution**

As stated in Section 3.2, there is currently one LEO satellite provider in The Bahamas - Starlink which provides standalone fixed broadband services via its LEO satellites network.

URCA is not aware of any satellite fixed broadband service providers in The Bahamas other than Starlink.

##### **Take-up and availability**

Unlike traditional electronic communications network operators, once licensed, satellite providers are able to provide their service throughout The Bahamas. URCA understands that this also applies to Starlink with its broadband services being available in all parts of The Bahamas. This implies geographic overlap with both, (i) the geographic areas where both CBL and BTC offer fixed broadband services via wired technologies (New Providence, Abaco, Grand Bahama and Eleuthera), and (ii) the geographic areas where only BTC offers fixed broadband services.

By the end of 2023, satellite broadband subscribers in The Bahamas constituted [● Confidential] of all fixed broadband users in The Bahamas (including both residential and business subscribers, either in a standalone basis or as part of multi-product bundles).

##### **Product Characteristics**

In line with its current licence terms, Starlink offers broadband only services at a fixed location in The Bahamas (i.e. it does not offer voice services and its broadband services require a receiving device to be installed in or around the customer premise).

Starlink only offers two tariff plans in The Bahamas, differing in download speed and pricing.

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<sup>113</sup> While BTC and CBL/Aliv both have fixed and mobile licences and networks, a hypothetical operator with only a mobile fixed licence/network would not be able to easily and at a low-cost switch to offer fixed broadband mobile services.



- A “Standard” Plan at BSD\$73 per month which is targeted at residential users, offering unlimited data with download speeds between 25 - 100 Mbps and upload speeds between 5-10 Mbps.
- A “Priority – 1TB” plan at BSD\$293 per month, is targeted at small and midsize businesses with average bandwidth needs.<sup>114</sup> It includes unlimited data with download and upload speed, between 40-220 Mbps and 8-25 Mbps, respectively.

While Starlink only offers two tariff plans, BTC and CBL offer a wide range of tariff plans to end users, i.e. more than eight residential standalone broadband plans each. Additionally, BTC offers three standalone broadband plans for businesses. Both BTC and CBL further offer multi-product bundles, which Starlink does not offer.

Otherwise, the product offerings from all three providers are similar. They all include unlimited data and the tariff plans differ in the asymmetric speeds and monthly price offered. In terms of speed, URCA notes that Starlink presents a wide range of possible speeds, with the lower bound (25 Mbps and 40 Mbps for its residential and business plans, respectively) being close to the lower end of fixed broadband speeds and the upper bounds (100 Mbps and 220 Mbps for its residential and business plans, respectively) being within the mid-range of the plans offered by CBL and BTC.

### **Relative pricing**

Given the wide download speed range quoted in Starlink’s tariff plans, it is challenging to identify the most likely comparator standalone fixed broadband tariff plan offered by BTC and CBL. However, based on the tariff plans set out in Table 12, URCA considers that Starlink’s residential tariff plan is more expensive than those offered by BTC (and comparable to those from CBL). For example, BTC offers “Extreme 100” which features 100 Mbps download speed for a monthly charge of BSD\$48.99. Similarly, CBL’s “RevNetPro Fibre” also features 100 Mbps for BSD\$74.50 per month.

Similarly, Starlink’s business tariff plan is more expensive than comparable tariff plans from BTC and CBL. For example, BTC’s “Internet 200” standalone broadband tariff for business customers is available for BSD\$139.99 per month, compared to BSD\$ 293 per month for Starlink’s Priority – 1TB plan.

Additionally, Starlink’s LEO satellite network requires specific hardware, so end users incur an additional one-off cost of BSD\$545 (or refurbished, also available in their website for BSD\$327<sup>115</sup>) when subscribing to Starlink’s services.

Given the above, URCA considers that, based on relative prices, Starlink’s services are unlikely to be a substitute for BTC’s and CBL’s fixed broadband services.

However, URCA recognises that Starlink’s broadband services may offer non-price features that are likely to make these services attractive to end users in The Bahamas. In addition to being available throughout the country, LEO satellite technology may also be more reliable and suffer less internet outages than BTC’s and CBL’s fixed broadband services. This could result in end users considering them

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<sup>114</sup> i.e. with up to 5-10 users sharing each link.

<sup>115</sup> <https://www.starlink.com/orders/?processorToken=493c1224-b9f6-4471-81f3-27e96caa1c48>

as a substitute to fixed wired broadband services. As such, URCA is of the preliminary view that these services are demand-side substitutes.

### **Supply-side substitution**

From a supply-side perspective, a company offering satellite LEO-based fixed broadband services cannot easily offer wired fixed broadband services in the event of a SSNIP in the price of wired broadband services. This is because both services are delivered over separate network infrastructure and technologies. Further, it is extremely costly and time intensive to deploy an HFC, xDSL or FTTx network. As mentioned in Section 5.1.1.2, whilst regulated access to existing fixed networks is available in The Bahamas (BRO and WDIA), URCA is not aware that these regulated wholesale accesses have resulted in any mass-market market entry.

Given the requisite time and investment needs, URCA considers it highly unlikely that following a SSNIP in fixed broadband services, a satellite-based broadband provider would deploy a wired network or relay on regulated access and start offering fixed broadband services via wired technology.

### **Preliminary conclusion**

LEO satellite-based broadband services are nascent to the Bahamian electronic communications sector, with Starlink having launched its services less than a year ago. This makes any assessment of these services, in terms of their impact on the existing services, preliminary and indicative only at this stage.

However, given the comparable product characteristics and likely increase in take-up over the next 12-24 months (from its current low base), URCA preliminary concludes to include LEO satellite-based broadband services within the product market of fixed broadband services.

Further, despite the lack of supply-side substitutability due to both services being delivered via different technologies, URCA notes that from a practical point of view there is no need to define separate product markets for both services. This is because the treatment of satellite-based fixed broadband services does not affect URCA's preliminary conclusions on the dominance of CBL in fixed broadband services (set out in Section 5.2 below).

URCA is cognizant that the introduction of LEO-based services is new to The Bahamas and that URCA holds limited evidence on Starlink given its recent market entry. As such, it invites stakeholders to provide, as part of their consultation response, their views and supporting evidence to appropriate treatment of these services in the context of this market review. This will then be taken into consideration by URCA when finalising the market definitions.

#### **5.1.1.4 Are retail broadband services for residential and business customers in the same product market?**

Determining the relevant product market requires an assessment of whether there is a need to define separate markets for residential and business customers.

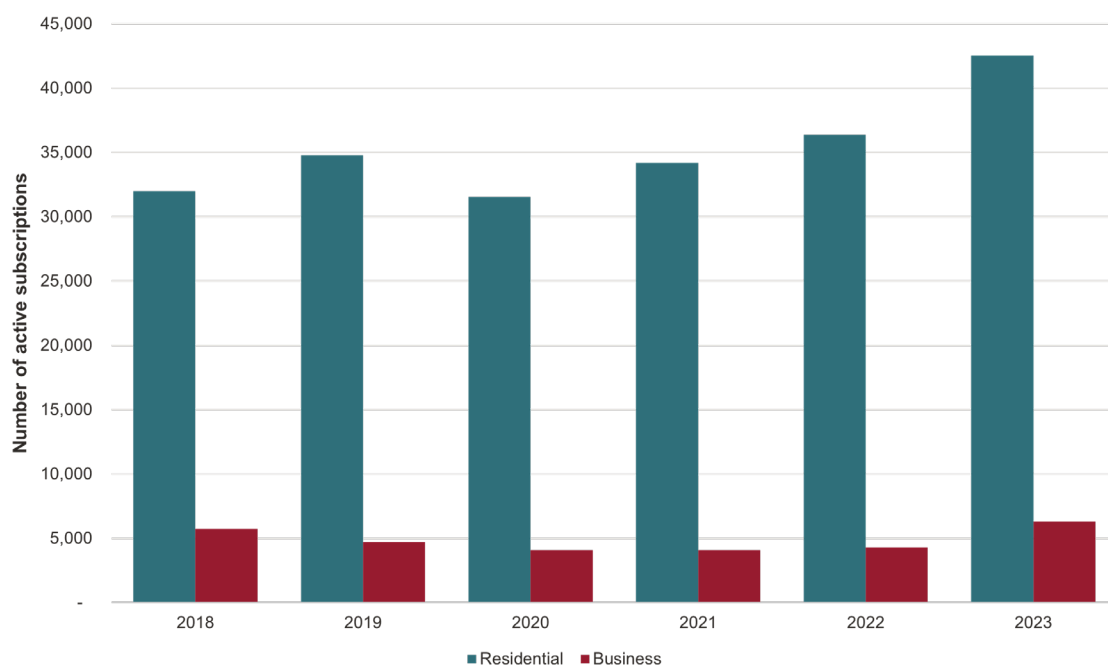
In the 2014 market review, URCA defined a single market for both businesses and residential broadband services. This was based on the limited available evidence at the time and existence of

supply-side substitutability. In this section, URCA considers whether the boundaries of the fixed broadband market remain appropriate, or if it should be separated into two distinct markets for residential and non-residential customers.

### Demand-side substitution

In terms of take up, in 2022, 94% of fixed broadband subscriptions (standalone and double play including fixed broadband and fixed voice) in The Bahamas were residential. This share has been relatively stable over the past six years. As shown in Figure 26, between 2017 and 2023, business fixed broadband subscriptions have been largely stable, with a slight decrease in 2019, potentially due to the Covid-19 pandemic and Hurricane Dorian. However, this downward trend in 2019 is observed in the residential segment also.

**Figure 26. Fixed broadband subscriptions (standalone and double-play, including fixed broadband and fixed voice), by customer segment, 2018-2023**



Source: Operators’ quantitative submissions

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

The offerings targeted at small/medium sized businesses available on the operator’s websites, as well as equivalent residential offerings, are presented in Table 14. From this, URCA draws the following conclusions:

- Both BTC and CBL provide fixed broadband services to both residential and business customers (SME).<sup>116</sup> BTC offers fixed broadband services on a standalone basis and as part of a bundle with mobile services. CBL provides multi-product bundles with fixed broadband, fixed voice, and mobile services as part of its “Business in a Box” brand, which is advertised for start-ups and small businesses and can be upgraded with Business TV, ALIV Soho (wireless broadband), better mobile plans and other business solutions.
- Neither BTC nor CBL offer double-play bundles including fixed broadband and fixed voice to businesses, and only BTC provides standalone fixed broadband services.<sup>117</sup>
- The general fixed broadband proposition offered to residential and small/medium businesses has essentially similar characteristics. They both provide the end user with connection to the Internet from a fixed location over a shared (i.e., non-dedicated) connection with advertised asymmetric bandwidth (i.e., higher download speed than upload speed), and offer similar bandwidths ranges and unlimited data allowances.
- Business offerings are relatively more expensive than residential plans, which may limit the possibility of demand-side substitution in response to a SSNIP in the price of residential products. For example, BTC’s “Internet 200” business fixed broadband standalone plan includes an advertised download speed of 200 Mbps and unlimited data allowance which is offered at \$139.00. The most comparable residential plan is “Fiber Internet 300”, at \$89.99, making the business offer more than 50% more expensive with a 33% slower advertised download speed.

**Table 14 Fixed broadband offering for small/medium companies**

Operator	Tariff plan	Type of plan	Type of customers	Advertised download speed	Fixed data/call allowance fixed	Mobile data allowance mobile	Monthly price, excl. VAT (BSD\$)
BTC	Internet 30	Standalone broadband	Business	30 Mbps	Unlimited		\$89.99
	Internet 200	Standalone broadband	Business	200 Mbps	Unlimited		\$139.99
	Internet 600	Standalone broadband	Business	600Mbps	Unlimited		\$219.00
	Essential	Double-play, fixed broadband + mobile	Business	30 Mbps	Unlimited	10 GB	\$99.00
	Advanced	Double-play, fixed broadband + mobile	Business	200 Mbps	Unlimited	10 GB	\$149.00
	Elite	Double-play, fixed	Business	600 Mbps	Unlimited	20 GB	\$229.00

<sup>116</sup> Both operators also offer more advanced telecommunication business solutions targeted at large corporate customers that require multiple fixed lines and dedicated connectivity services connecting multiple locations. These solutions are often tailored to the customer’s overall communications/connectivity needs, and not based on published tariff plans/list prices.

<sup>117</sup> BTC’s and CBL’s limited offer of broadband plans for businesses is not problematic from a market definition perspective since only 6% of fixed broadband subscriptions are non-residential.

Operator	Tariff plan	Type of plan	Type of customers	Advertised download speed	Fixed data/call allowance fixed	Mobile data allowance mobile	Monthly price, excl. VAT (BSD\$)
		broadband + mobile					
	Fiber Internet 300	Standalone broadband	Residential	300 Mbps	Unlimited		\$89.99
	Fiber Internet 1 Gb	Standalone broadband	Residential	1 Gbps	Unlimited		\$145.00
CBL	Essential	Triple-play	Business	50 Mbps	Unlimited	8 GB	\$164.00
	Executive	Triple-play	Business	70 Mbps	Unlimited	8 GB	\$236.00
	RevNetPro	Standalone broadband	Residential	45 Mbps	Unlimited		\$71.50
	RevNetPremium	Standalone broadband	Residential	75 Mbps	Unlimited		\$90.50
	REVNETPrime + REVTALKPrime	Double-play, fixed broadband + fixed voice	Residential	45 Mbps	Unlimited	Unlimited local minutes	\$54.98
	REVNETPremium + REVTALKPrime	Double-play, fixed broadband + fixed voice	Residential	75 Mbps	Unlimited	Unlimited local minutes	\$86.98

Source: Operators’ websites, accessed February 2024.

Note: Monthly prices do not include VAT. BTC’s Internet 100 only allows 5-6 devices at maximum speed. CBL’s triple-play bundles include VoIP-based fixed voice with unlimited local and international minutes to selected countries.

URCA recognises that some of the service offerings to residential and small/medium businesses differ in certain aspects linked to their terms and conditions and additional services included as part of plans. Non-residential offerings usually include a wider range of features such as, amongst others, static IP addresses, cloud storage, 24/7 digital helpdesk, and free website creation. These additional services are commonly reflected in higher prices. However, these differences might not prevent small businesses, which might not have the same needs as large corporate end users, to switch to residential fixed broadband plans. Indeed, CBL’s qualitative submission report that *“services taken tend to be more tailored to large corporates/government, where the SME segment is served with more standardised services and, for example, asymmetric broadband services, where larger businesses opt for symmetric broadband services like DIA”*.

### **Switching evidence**

URCA currently does not hold any information on customer switching behaviour for these services. In the absence of switching data, it is not clear if any substitution is taking place. However, when studying if demand-side substitutability is feasible, considering that the characteristics of products offered to residential and small/medium businesses are not distinctive enough, switching may occur in the case of a price increase, especially for small businesses.

However, there could be contractual barriers to switching for residential customers. Businesses must present a business licence, VAT registration certificates as well as certificates of incorporation and good standing to apply for any business plan.<sup>118</sup> Additionally, CBL's qualitative submission indicates that "*regular random audits are done to ensure SME customers do not take residential services*". On the contrary, the requirements for residential service only include presentation of a national ID.

From URCA's point of view there might be limited demand-side substitution between residential and non-residential fixed broadband services due to differences in administrative requirements and product characteristics. Nonetheless, in some circumstances residential customers might access business products, and vice versa. This is, for example, particularly the case for home offices who could, in principle, switch to a residential service in the case of a SSNIP in the business plan they purchase. This is in line with BTC's statement in its qualitative submission that in practice it is possible for home-based businesses to subscribe to residential plans as they rely on customers to self-identify as a small business.

The requirement for companies to possess a commercial registration to apply for any business plan may, in part, hinder demand-side substitution from residential customers. Additionally, given current price differentials it is unlikely that a residential user would seek to switch to a business plan, in the event of a SSNIP, assuming prices are currently at competitive levels. Instead, substitution in the other direction (from business to residential) may be more likely, particularly for home-based businesses.

Based on the demand-side considerations set out above, URCA considers that residential and business offerings should be considered as part of the same market. For this conclusion, large companies are excluded due to the uniqueness of the services provided to this segment, and the customer buying power they possess in order to negotiate customised terms.

### **Supply-side substitution**

Business and residential fixed broadband services are provided over the same network which fosters supply-side substitution. To URCA's understanding, there is no significant difference between a network designed to carry fixed broadband services provided to business end users (SMEs especially) and a network designed to carry these services to residential users, as both customer groups are based in similar locations. There is also no requirement for a provider to have separate licences to offer residential and business services.

URCA notes that there are a few differences between the retail marketing and customer service activities used for the residential customer segment and those deployed for business. Business users are likely to be offered greater levels of technical support, such as dedicated customer service representatives or specific marketing or retail distribution channels.

Whilst a hypothetical provider of business standalone fixed broadband services may incur additional costs compared to providing residential services (for example, to ensure higher quality of service and invest in better customer support), this is unlikely to create a sufficient barrier to supply-side substitution to mean that business and residential fixed broadband services should form separate product markets. This is because it should be possible for a hypothetical provider of residential fixed broadband services to replicate such a network (through for example, the provision of call centres and

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<sup>118</sup> <https://www.rev.bs/general-terms-and-conditions-for-business-services/>

customer relationship managers) within the timeframe considered in this market review (12-24 months).

### **Further considerations**

The competitive dynamics for fixed broadband services provided to residential and business customers are fairly similar.<sup>119</sup> This means that defining a separate market for both of these customer segments would unlikely lead to a different outcome in any dominance assessment within these markets.

### **Preliminary conclusion**

In summary, given the assessment set out above, URCA preliminarily concludes that there is a single market for retail fixed broadband services, covering both residential and business customers.

#### **5.1.1.5 Preliminary conclusions on Product Market Definition**

Based on its assessment set out in the sub-section above, URCA preliminarily concludes that there is a single market for retail standalone fixed broadband services and multi-product bundles that do not feature pay TV. This market further includes fixed broadband products offered across all bandwidths irrespective of underlying technology and fixed broadband offered to both residential and business customers. The market for multi-product bundles that includes pay TV is discussed in detail in Section 7.

#### **5.1.2 Geographic Market Definition**

As in the case of fixed voice services, in this Section, URCA assesses whether defining a single geographic market for the retail fixed broadband market is appropriate or whether there is a need to define sub-national markets due to regional differences in the provision of this service.

The starting point for this assessment is the 2014 market review, where two separate product markets for retail fixed broadband services were defined: a market for fixed broadband services where CBL was present (Geographic Market 1<sup>120</sup>) and a market for fixed broadband serviced where CBL was not present (Geographic Market 2<sup>121</sup>).

URCA has assessed whether there has been any significant change in the market since the last review. Defining the relevant geographic market in the context of retail services requires an assessment whether competitive dynamics and market outcomes are significantly different on a sub-national level to conduct separate dominance assessments in different parts of the country.

As part of this, URCA has considered both demand-side and supply-side consideration, as explained in Section 4.1.2 above.

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<sup>119</sup> CBL's business subscribers' revenues from standalone cable TV services show a significant jump in 2022, but CBL explained this was the result of discovering some additional relevant data needed to be included.

<sup>120</sup> New Providence, Abaco, Grand Bahama and Eleuthera.

<sup>121</sup> All remaining islands where BTC had deployed network infrastructure to offer fixed broadband services.

Preliminarily, URCA concludes that two geographic markets remain relevant for retail fixed broadband services. This conclusion is in line with the 2014 market review, the 2009/10 SMP assessment and the current evidence. This is based on a review of the following:

- **Demand factors.** URCA has not seen any evidence that the nature of demand for fixed broadband services varies significantly at a sub-national level. This is even though demand for fixed broadband products is local in nature (i.e., a subscriber cannot move to another island in reaction to a SSNIP on their fixed broadband service). URCA is also not aware of any observable differences in the characteristics of fixed broadband customers in different geographic areas, such as preference for use of specific electronic communications services (e.g., preference for accessing mobile as opposed to fixed broadband services), which could affect the geographic scope of the demand for standalone fixed broadband services.
- **Supply factors.** The primary driver for defining sub-national geographic markets is the prevailing differences in the geographic coverage of CBL's fixed networks, relative to BTC's fixed network coverage, in conjunction with CBL's strong market position in the geographic locations where there is an overlap in network coverage.
  - CBL still has network coverage only on the main populated islands. Whilst in these areas, both BTC and CBL have similar networks and tariff offerings, CBL's market share within its geographic footprint is very high [REDACTED] • Confidential] Equally, in all remaining parts of The Bahamas, BTC is currently the only Licensee that has a network deployed across these islands. URCA recognises that Starlink is also able to deliver broadband services in all geographic areas within The Bahamas.
  - BTC and CBL continue to offer fixed broadband services at a uniform price and product specifications across The Bahamas. However, the fixed broadband plans offered in a geographic area depend on the network deployed in that area in line with the technical limitations of the network technologies. The network technologies deployed and thus the tariff plans available differ between these geographic areas. While in the islands where both BTC and CBL are present, there is an ongoing transition from copper and HFC networks to FTTH, the remaining islands are still mostly served by BTC's copper network.<sup>122</sup> Even as Starlink extends its service coverage to those islands, its tariff offerings (in terms of speeds and performance) are not expected to resemble those delivered via FTTH.

Overall, the above indicates that the market structure and competitive conditions differ across the geographic areas where both Licensees are present relative to those areas outside of CBL's current network coverage.

Given the prevailing differences in the competitive conditions in the areas where both CBL and BTC are present to the areas where only BTC is present, URCA considers it necessary to retain sub-national markets for retail fixed broadband services. URCA notes that it would not be appropriate to adopt a similar approach as taken in case of standalone fixed voice service given the current market shares in the fixed broadband markets (i.e., CBL holding a high market share in those geographic areas served

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<sup>122</sup>BTC's coverage map: <https://www.btcbahamas.com/coverage-map/family-islands>



by both BTC and CBL). These shares indicate that competition is likely to vary significantly across both sub-national markets.

URCA has come to the preliminary view that there are two separate geographic markets to be considered:

- The islands where CBL and BTC both offer fixed broadband services (currently New Providence, Abaco, Grand Bahama and Eleuthera).<sup>123</sup>
- All remaining islands (i.e., where CBL does not offer fixed broadband services).

URCA recognizes that there could be other factors and information accessible to existing and potential Licensees that may have a bearing on the boundaries of the relevant geographic market. URCA notes and accepts its obligation to consult with interested parties on matters of public significance. As such, URCA reiterates its desire to receive written submissions from interested parties on all aspects of this Preliminary Determination for URCA’s review and consideration.

### 5.1.3 Preliminary Conclusions on the Market Definition for Retail Fixed Broadband Services

Based on its assessment set out above, URCA preliminarily concludes that there is single national market for retail standalone fixed broadband services and multi-product bundles excluding pay TV (i.e., double-play bundles including fixed broadband and fixed voice), across all the relevant customers segments (i.e., both residential and business customers).

The full scope of this market is set out in the table below.

**Table 15: List of services included in the fixed broadband market**

Product Scope	Customer Segments	Geographic Scope
Standalone fixed broadband and double-play bundles including fixed voice <sup>124</sup> and fixed broadband services, irrespective of the network technologies used and download speeds	Non-residential and residential tariff offerings	<ul style="list-style-type: none"> <li>▪ Geographic market 1 – All islands where both BTC and CBL have fixed network coverage (i.e., at time of writing: New Providence, Abaco, and Grand Bahama and Eleuthera)</li> <li>▪ Geographic market 2 - All remaining islands where CBL has not deployed network infrastructure to offer fixed broadband services</li> </ul>

It should again be noted that multi-product bundles including pay TV do not form part of this market (see Section 7) as well as mobile data services.

<sup>123</sup>Geographic Market 1 is defined by the geographic overlap of BTC’s and CBL’s broadband coverage. At the time this document was drafted, this consists of New Providence, Abaco, Grand Bahama and Eleuthera. But this may be extended if CBL deploys fixed network infrastructure in geographic areas which are currently considered in Geographic Market 2. (See for example: <https://www.rev.bs/press-room/fast-powerful-broadband-to-the-exuma-cays/>)

<sup>124</sup> This includes fixed access services provided through a fixed network or managed VoIP.

In common with recent market definition exercises in Trinidad & Tobago, Bermuda and other jurisdictions, the product scope of the retail standalone fixed broadband service market in The Bahamas has been defined on a technology neutral basis and thus includes fixed broadband services offered through wired technologies (i.e., HFC, xDSL and FTTx) which are currently deployed by Licensees. A technology neutral market is appropriate, because retail customers are generally not aware of the network technology used to deliver their services.

**Consultation Question 3 – Market definitions for Retail Fixed Broadband Services**

**Do you agree with URCA’s proposed definitions of the markets for retail fixed broadband services in The Bahamas? If not, why?**

## **5.2. Market Review Stage 2- Dominance Assessment**

In this section, URCA assesses the evolution of competition in the market for retail fixed broadband services, as defined in Section 5.1 above, with a view to determine whether either single or joint dominance exists in this market.

In line with the dominance assessment of standalone fixed voice services in Section 4.2, URCA again begins this market dominance assessment by considering whether, on their own, either BTC or CBL is likely to enjoy a dominant position in the defined market. Only if URCA determines that the structural conditions in the market are not supportive of single dominance will URCA investigate the possible existence of joint dominance.

### **5.2.1 Assessment of Single Dominance**

In sub-section 3.3.2 (Table 5) of this document, URCA sets out the elements URCA will consider when assessing whether either Licensee enjoys a position of single firm dominance in the retail fixed broadband services market. Further, as noted in URCA’s SMP Methodology document, as a starting point, URCA will review the relevant market shares to decide whether it could be appropriate to apply a presumption of dominance in case a Licensee’s market share exceeds the 40% thresholds stated in the SMP Guidelines.

**Provisionally, URCA concludes that CBL remains dominant in the retail fixed broadband market, in the areas where it offers these services (Geographic Market 1); and BTC remains dominant in the market for retail fixed broadband services in all remaining islands where CBL is not offering these services (Geographic Market 2).**

#### **Current and historic market outcomes**

##### **Market Structure and Market Share Trends<sup>125</sup>**

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<sup>125</sup> As mentioned in Section 3.2, URCA notes that, further to BTC and CBL, there are OLOs active in The Bahamas, offering retail fixed broadband services to end users. However, these OLOs are niche players focusing on certain

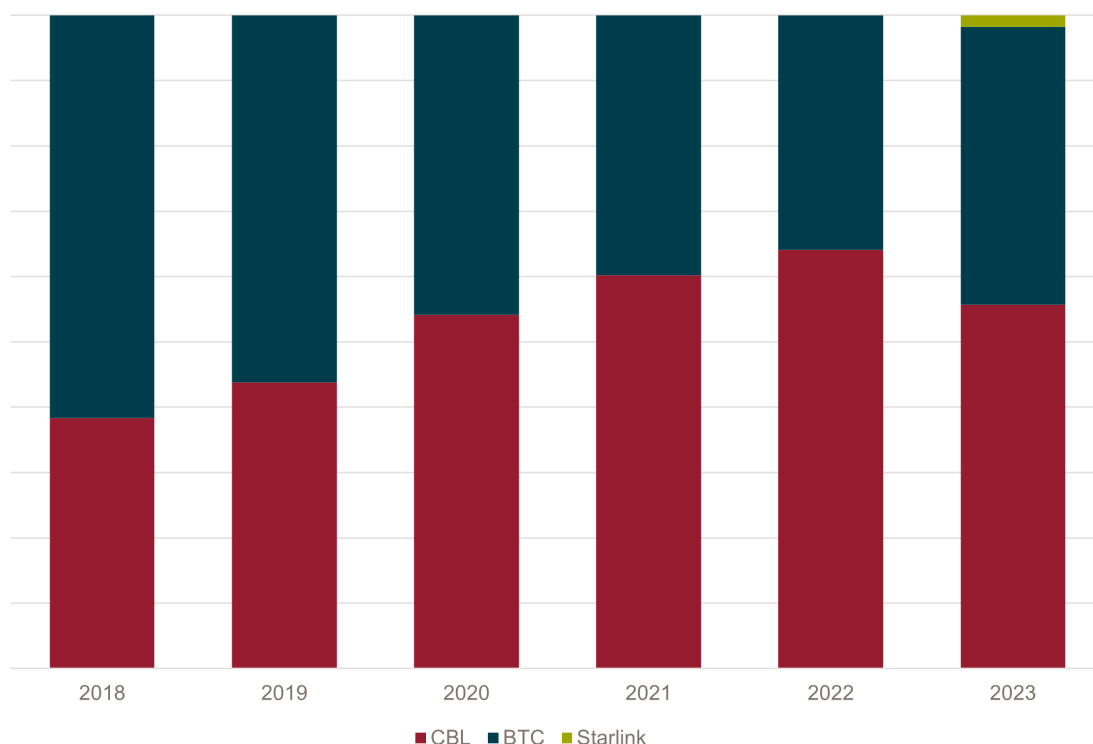
The **market structure** criterion is concerned with whether the market structure is likely to give rise to single firm dominance in the retail fixed broadband services market. **Market share trends** provide an indication of how competitive a market is and measure the outcome of the competitive process. If a service provider has a persistently large market share, it usually implies that there have been obstacles to effective competition in the past.

*Geographic Market 1 - The islands where CBL and BTC are both offering fixed broadband services*

Retail fixed broadband services are currently supplied by both BTC and CBL in Geographic Market 1. There has been no market entry or exit recently. Within this duopolistic market structure, CBL has managed to grow its market share of total fixed broadband connections over recent years to [Confidential] [Confidential] in 2022. CBL’s revenue market shares have fluctuated [Confidential] in recent years. This is illustrated further below.

Figure 27 shows BTC’s, CBL’s and Starlink’s share of retail fixed broadband subscribers over the period 2018 to 2023. The analysis of recent market share trends suggests that there has been an increase in CBL’s market share.

**Figure 27: Retail Fixed Broadband Services Market Share Trends (including standalone fixed broadband and double play bundle combining fixed voice with broadband on the islands where CBL**



is present), 2018-2023

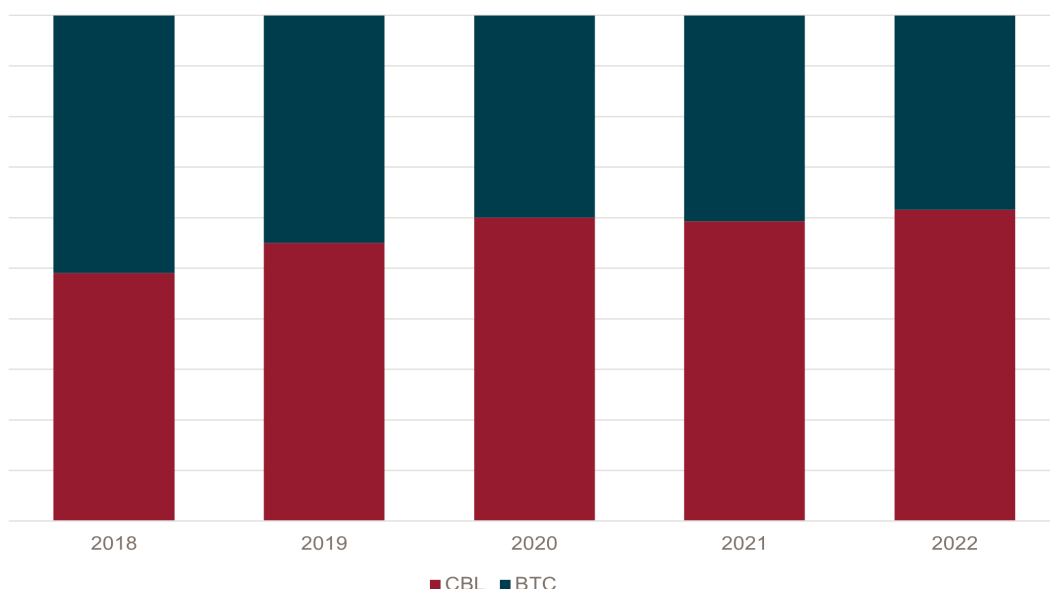
Source: Operators’ quantitative data submissions

geographies and/or customer segments only. Most notably, they jointly serve around 3% of the relevant total retail customers base. As such, in line with its 2014 market review, URCA has not consider these OLOs further in this market review.

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

Revenue market share trends also exhibit a high and increasing market share by CBL. Especially, after increasing its share of total market revenues between 2018 and 2020, CBL has retained a share of around [● Confidential] each year. Moreover, as the revenue data was not provided at a sub-national level, Figure 28 includes revenues across both geographic markets. Considering CBL is not present in Geographic Market 2, CBL’s actual share of total revenues in Geographic Market 1 is likely to be larger than shown in Figure 28.

Click or tap here to enter text. **Figure 28: Retail Fixed Broadband Services Revenue Market Share Trends, 2018-2022**<sup>126</sup>



Source: Operators’ quantitative data submissions

Note: he data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

The assessment of recent market share trends suggests that CBL has managed to retain, and even grow, its high market share in this geographic market in recent years, thus indicating that competition has not changed substantially since URCA’s last market review (where CBL was found to have SMP in retail fixed broadband services within a similar geographic market).

The main driver for CBL’s market share growth in the fixed broadband services market appears to be a compositional effect of underlying trends in standalone broadband services and double-play bundles featuring fixed broadband and fixed voice services. In particular, standalone broadband subscriptions

<sup>126</sup> No annual revenue data available for Starlink at the time of preparing this document. However, given Starlink’s small share of total broadband connections, URCA expects its revenue market share in 2023 to be small.

have gained an increasing share of the overall market, growing from 25% of this market in 2018 to 34% in 2022. CBL is particularly strong in this market segment, serving in excess of [● Confidential] of total standalone broadband customers. The combination of this compositional effect and the growth of CBL in both standalone and double-play (fixed voice plus fixed broadband) subscribers has led to a considerable market share growth for CBL during that period (CAGR 14%).

Based on market structure and market share trends, there is evidence supporting a finding of single firm dominance by CBL in this Geographic Market.

#### *Geographic Market 2 - All remaining islands (i.e., where CBL is not offering fixed broadband services)*

CBL is not offering fixed broadband services in this geographic market. Whilst Starlink and other niche ISPs are offering retail fixed broadband services (based on BTC wholesale inputs and their own local access network) in this geographic market, they are currently small in size.<sup>127</sup>

Therefore, BTC is expected to hold a market share in excess of 90% (of total connections and revenues) and thus has a dominant position in this Geographic Market.

#### **Economies of scale and/or scope**

As discussed in Section 4.2, economies of scale and/or scope are common features of communications markets.<sup>128</sup> Economies of scale and/or scope may constrain entry as well as provide an incumbent with an advantage over entrants.

#### *Geographic Market 1 - The islands where CBL and BTC are both offering fixed broadband services*

Given the existing operators' investment in large capacity upgrades, this typically results in **economies of scale** for both. That is, the high fixed costs required to build a fixed network result in close to zero marginal costs until the operator fully utilizes the installed capacity. Moreover, until an alternative operator can attract high volumes of subscribers, their average costs will be higher and not competitive compared to the incumbent.

Similarly, both Licensees participate in activities that commonly give rise to **economies of scope** in this market such as customer care, marketing, sales and distribution, administration and shared infrastructure. Based on its preliminary assessment, URCA considers that both operators may benefit from economies of scope in retail fixed broadband services (i.e., reducing the average cost of providing retail fixed broadband services) by spreading joint and common costs amongst multiple retail markets

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<sup>127</sup> Based on the information available to URCA, Starlink's total connections represent less than [● Confidential] of total fixed broadband connections. Further, URCA understands that around [● Confidential] of these connections are within Geographic Market 1. Hence, URCA estimates Starlink to have a market share of less than [● Confidential] of total fixed broadband connections in Geographic Market 2.

<sup>128</sup> *Scale economies* exist when the average cost of connecting an additional customer to the network is lower than the previous customer connected. By contrast, *scope economies* occur when it is more cost effective for a firm to produce a wider range of goods or services in tandem than producing less of a variety or producing each good/service independently. Where a firm enjoys economies of scope, its long-run average and marginal cost decrease due to the joint production of goods and services.

and services. Both BTC and CBL also offer retail fixed voice services, business connectivity services and pay TV services in The Bahamas.

Whilst both Licensees benefit from economies of scale and scope, it is not clear to URCA that this results in a relative advantage for either of them. However, it is likely to result in high and non-transient barriers to entry into this market.

*Geographic Market 2 - All remaining islands (i.e., where CBL is not offering fixed broadband services)*

As BTC is the main fixed broadband operator within this geographic market, BTC is enjoying both economies of scale and economies of scope that may constrain entry and which provide BTC with a competitive advantage over any potential entrants. Starlink has no disadvantage in terms of economies of scale, having already deployed a LEO-satellite network which is still far from reaching full capacity. However, Starlink cannot take advantage from economies of scope, since it only provides standalone fixed broadband and no other fixed services.

**Countervailing Bargaining Power ('CBP')**

As discussed in Section 4.2, CBP relates to the relative strength of a fixed broadband end user in negotiations with their retail fixed broadband providers. If present, CBP could limit the ability of CBL or BTC to set prices for retail fixed broadband services above the competitive level and hence to behave independently of buyers and ultimately of consumers.

In line with its assessment of this criterion in the context of retail fixed voice services (Section 4.2), URCA considers the retail fixed broadband services market to be characterized by limited, if any, CBP. This particularly holds for residential and small business customers who commonly purchase mass-market products, with no one customer individually constituting a large part of either Licensees' output or cost base.

Large corporate customers instead, are more likely to be in a stronger position to counteract the bargaining strength of both providers by negotiating discounts and other favourable terms. This is because large enterprises are more likely to purchase fixed broadband plans with multiple connections and higher download speed to supply their establishments. In addition to fixed broadband services, such packages may include fixed voice and other electronic communication services. However, the ability of a large enterprise to exercise buyer power by negotiating on price or non-price terms is not the same as the exercise of CBP. While that buyer may benefit by way of volume discounts, its exercise of buyer power does not deter the fixed service provider from increasing prices in general. For a specific business customer to have CBP, this customer's share must represent a significant share of the service provider's total revenues for these services.

CBL has not provided information on concentration of their largest customers for retail fixed broadband services. However, BTC's largest customer in the market for retail fixed broadband services accounts for less than [● Confidential] of its total retail fixed broadband revenues<sup>129</sup>, which makes it unlikely for this or any other client to have CBP in these retail services. Further none of BTC's Top 10

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<sup>129</sup> BTC provided URCA with a list of major non-residential customers for standalone broadband services and double play bundles separately. The largest customer share in the market for retail fixed broadband services was computed from this client's share in BTC's combined revenues from standalone broadband and double play bundles.

customers for standalone fixed broadband plans are located in the islands covered by Geographic Market 2.

Given the above, URCA is of the preliminary view that CBP is not present in either of the geographic markets.

### **Barriers and switching costs**

This criterion relates to the factors or costs that constrain a customer's ability to switch from one fixed voice provider to another. In a market with effective competition, consumers should be able to switch easily between service providers.

It appears to URCA that barriers to switching remain an issue in the retail fixed broadband services market. This holds equally for both Geographic Markets.

Retail fixed broadband services are exclusively offered on a post-paid basis which reduces the ability for end users to switch their plan or provider<sup>130</sup>, compared to a market characterised by prepaid services (such as the retail mobile services market in The Bahamas). Further, within its response to URCA's information request, CBL claims the primary barrier to switching is the time the end user needs to spend to facilitate the switch (contracts, possibly site visits etc.).

This is also reflected in URCA's Retail Customer Survey where less than 4% of the relevant survey respondents stated that they had switched their retail fixed broadband service provider in the last two years. Further, 18% of the respondents stated that they would switch to another fixed broadband provider if there was a significant increase in the price their current provider charges them. Out of those who would not change provider, the third most popular answer when asked for their reason not to switch was "Due to high barriers to switching fixed broadband service provider".<sup>131</sup>

Altogether, switching seems to be infrequent in the market for retail fixed broadband services, implying that CBL's high market shares are expected to prevail in the foreseeable future (12-24 months).

### **Absence of potential competition**

As discussed in Section 4.2, this criterion relates to whether operators that are not in the examined market today can contribute to increased competitive dynamics within the 12-24 months' timeframe of this review.

#### *Geographic Market 1 - The islands where CBL and BTC are both offering fixed broadband services*

URCA has evaluated whether there is any prospect of effective competition emerging in Geographic Market 1 within the time frame considered in this market review. CBL has been the dominant provider in this geographic market for several years and Figure 27 above shows consistent growth in subscriber shares, reaching [● Confidential] in 2022. As noted in Section 3.2, Starlink joined this market in

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<sup>130</sup>Switching is also possible between fixed broadband and mobile data services (as pointed out in CBL's submission to URCA). However, URCA will not consider mobile data services in the dominance assessment after presenting the reasons why retail mobile data is not within the same product market in sub-section 5.1.1.5.

<sup>131</sup>The two most popular answers being: "I am ok to pay more for my fixed broadband service" and "I do not consider any alternative service offerings to be better than my current fixed broadband service."

2023 launching its LEO satellite based broadband services, after being licensed in February 2023.<sup>132</sup> However, it remains unclear what the resulting impact on the retail fixed broadband service market will be in the timeframe considered in this market review (12-24 months). Furthermore, Starlink's strategy elsewhere has been targeted at currently unconnected users<sup>133</sup>, as its LEO technology allows it to provide fixed broadband services in areas where it is difficult (or too expensive) to deploy wired broadband. URCA will monitor the impact of Starlink going forward.

Therefore, URCA is of the preliminary view that the retail fixed broadband services is not tending to competition and it is unlikely that competition will emerge to a sufficient extent in this market, within the 12-24 months' timeframe considered, to limit any market power CBL has.

#### *Geographic Market 2 - All remaining islands (i.e., where CBL is not offering fixed broadband services)*

BTC is the dominant fixed broadband provider on these islands, with an estimated market share in excess of 90%. URCA has assessed whether it is likely that BTC's dominance may change within the foreseeable future (12-24 months). In doing so, URCA has again considered Starlink's recent entry. This may be more relevant in Geographic Market 2, providing customers with a choice of retail broadband providers which they do not currently have. As stated above, Starlink has launched its services throughout The Bahamas and it has acquired around [REDACTED] [● Confidential] clients (with around [REDACTED] [● Confidential] of its customers being located in Geographic Market 2). There remains uncertainty on the evolution of Starlink's market share going forward, however URCA does not expect BTC's SMP position to be eroded in the time frame considered, particularly given its prevailing market share. URCA will monitor the market developments and the role of Starlink.

URCA does not expect any further entry into Geographic Market 2. Geographic Market 2 represents a small share of total households within The Bahamas which are spread out across a number of islands (resulting in a low population density) and the chances of further competitors willing to enter this market are low.

As such, taking all the evidence above into account, URCA concludes that it is unlikely that competition will emerge to a sufficient extent in this geographic market to limit any market power BTC has.

#### **Excessive pricing and profitability**

In a competitive market, a Licensee should not be able to persistently raise prices above costs and sustain excess profits, as outlined per the URCA SMP methodology document previously cited in Section 4.2.

#### *Geographic Market 1 - The islands where CBL and BTC are both offering fixed broadband services*

Given the range of retail tariffs available, URCA has considered trends in monthly ARPUs (in real terms) as a proxy for pricing trends in retail fixed broadband services. As illustrated in the graph below, monthly ARPUs have increased slightly over the period 2019-22 (CAGR 1.8%). URCA notes that the

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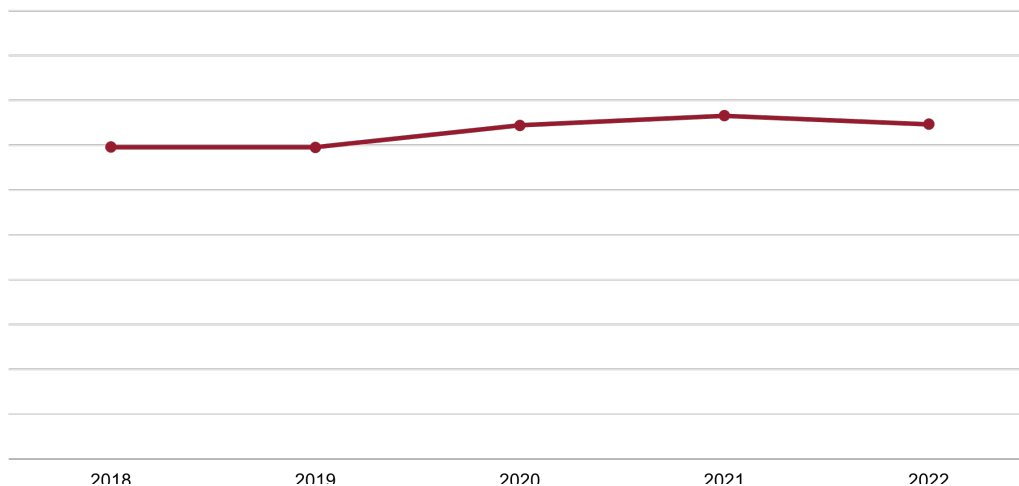
<sup>132</sup> URCA is not aware of any further, planned entry into Geographic Market 1.

<sup>133</sup> However, URCA notes that this strategy does not imply Starlink may only target those customers. Indeed, due to its satellite technology, Starlink can provide broadband to anyone throughout The Bahamas.



observed increase in monthly ARPU could be a result of a change in the distribution of customers across the various broadband tariff plans (including an increasing take-up of double-play bundles) and/or changes in the headline prices, rather than increases in headline prices.

Click or tap here to enter text. **Figure 29: Development in Average Monthly ARPUs, in real terms, 2018-**



Source: Operators’ quantitative data submissions

Note: The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

**2022**

Table 16 below compares the retail prices at which BTC and CBL offer comparable retail broadband tariff plans (i.e., those with equivalent advertised download speed). This indicates that for the three price points considered, CBL is consistently charging a higher retail price than BTC (ranging from 38% to 52% higher). Whilst URCA recognises that both Licensees may incur different unit costs in delivering these services (due to the different network technologies deployed), the observed differences in retail prices could suggest that CBL is able to price independently of the market. This is particularly the case when taking into account its increasing market share over time (i.e., CBL has been able to sustain higher prices without losing customers to BTC, with this potentially being indicative of CBL having market power).

**Table 16 Selected standalone retail broadband tariff plans**

Operator \ Tariff Plan	30 Mbps	100 Mbps	300 Mbps
BTC	\$35.99	\$48.99	\$89.99
CBL	\$49.50	\$74.50	\$124.74
<b>Difference</b>	<b>38%</b>	<b>52%</b>	<b>39%</b>

Source: Operators’ websites, accessed February 2024.

Note: URCA is not aware of the take-up of specific plans or download speeds. These plans were only selected for comparability as both BTC and CBL offer these download speeds on a standalone basis.

Based on CBL’s regulated accounts, CBL has managed to earn an annual pre-tax return in excess of [● Confidential] each year during the period 2015 to 2022 on its fixed broadband services.

In doing so, it has sustained a level of profitability on its broadband activities<sup>134</sup> beyond its regulated cost of capital (10.86%)<sup>135</sup> even though profits have fallen from [● Confidential] to [● Confidential] between 2015 and 2021. 2022 was the only year when its ROCE [● Confidential] was marginally below the regulated WACC.<sup>136</sup>

*Geographic Market 2 - All remaining islands (i.e., where CBL is not offering fixed broadband services)*

Price levels and trends are less relevant in the assessment of dominance in Geographic Market 2. This is due to the prevailing market structure and BTC being required to offer uniform national pricing for fixed broadband services as part of the remedies proposed in URCA's 2014 Final SMP Determination.<sup>137</sup> As such, any observations on price trends and levels made in the context of Geographic Market 1 also hold for this geographic market. Further, URCA is not aware of any price increases by BTC in recent years.

As BTC is the main provider in Geographic Market 2 and its main competitor in this market, Starlink, charges a higher price for the equivalent plan<sup>138</sup>, BTC could set high prices high at the national level to extract rents in this geographic market. An analysis of BTC's regulatory accounts however shows that, at the national level, BTC's ROCE for retail fixed broadband services is below the regulated WACC in recent years.

**Based on its review of the overall market characteristics and recent market outcomes, URCA is of the preliminary view that these point to CBL being dominant in Geographic market 1 and BTC being dominant in Geographic market 2. However, URCA now assesses the remaining relevant factors.**

### **Characteristics of service providers**

#### **Control over infrastructure that is not easily duplicated**

The control of infrastructure not easily duplicated can make it feasible for a Licensee to behave independently of other Licensees and consumers in the specific circumstances introduced in Section 4.2.

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<sup>134</sup>The scope of services covered by CBL when computing its ROCE on broadband activities differs from the market definition for fixed broadband services established by URCA in this market review, where only standalone broadband and double play bundles including also fixed voice are considered.

<sup>135</sup>ECS 23/2009 dated 2 November 2009 available at <https://www.urbahamas.bs/wp-content/uploads/2017/02/Final-Determinations-Cost-of-Capital-Designated-Significant-Market-Power-Operators.pdf>

<sup>136</sup> CBL's regulatory accounts for the financial year 2023 are not available yet, thus URCA cannot confirm if CBL's ROCE for fixed broadband services was again below its regulated WACC or 2022 was an exception.

<sup>137</sup>ECS 14/2014, available here: <https://www.urbahamas.bs/wp-content/uploads/2017/02/ECS-14-2014-Assessment-of-Significant-Market-Power-in-the-Electronic-Communications-Sector-in-The-Bahamas.pdf>

<sup>138</sup> Starlink's "Standard" plan charges BSD\$73 for up to 100 Mbps download speed, while BTC offers the same download speed for BSD\$48.99 on a standalone basis with "Extreme 100".

Both BTC and CBL self-supply their wholesale inputs required to provide retail fixed broadband services and have their own retail distribution channels/networks, infrastructures which are hard to replicate.

*Geographic Market 1 - The islands where CBL and BTC are both offering fixed broadband services*

URCA does not consider that this criterion supports any dominance findings in Geographic Market 1. All operators have control over their own infrastructure to serve their fixed broadband customers and URCA is not aware of one Licensee having a relative advantage over the other based on the infrastructure deployed.

*Geographic Market 2 - All remaining islands (i.e., where CBL is not offering fixed broadband services)*

URCA does not consider that this criterion supports any dominance findings in Geographic Market 2.

BTC is the main provider in control of wired network infrastructure to deliver retail fixed broadband services throughout Geographic Market 2; while Starlink, is the only provider to have a satellite network. Whilst Starlink has only recently launched its services in The Bahamas, it has control over its satellite network which is ubiquitously available within this geographic market. As such, URCA considers BTC and Starlink to be in a similar position based on this criterion.

Given the high barriers to entry in terms of the financial and non-financial costs of deploying the relevant infrastructure, combined with the low population density in most parts of Geographic Market 2, URCA considers it unlikely that other providers (including CBL) will start deploying fixed network infrastructure, either wired or satellite-based, in these geographic areas in order to compete with BTC and Starlink for retail fixed broadband customers.

### **Vertical integration or relationships**

In retail fixed broadband markets, vertical concerns may arise when an incumbent operator refuses to provide wholesale access to its network on reasonable terms as in the examples provided in Section 4.2.

*Geographic Market 1 – The islands where CBL and BTC are both offering fixed broadband services*

URCA notes that BTC and CBL are both vertically integrated operators. This allows both providers to self-supply retail broadband services and neither of them is dependent on gaining access to the other's network for the required wholesale inputs. As noted in Section 3.2, there are a small number of OLOs serving niche market segments which rely on wholesale access services from BTC and CBL to deliver retail broadband services to their customers. URCA reviewed the wholesale broadband access market in 2020<sup>139</sup> and imposed the obligation on BTC and CBL to offer wholesale Dedicated Internet Access (WDIA) services on regulated terms.<sup>140</sup>

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<sup>139</sup>[Review of Wholesale Broadband Access Services, ECS 13/2020](#)

<sup>140</sup>[Final Determination for Review of wholesale Dedicated Internet Access reference offers from BTC and CBL, ECS 10/2021](#)

Accordingly, both Licensees are similarly positioned in Geographic Market 1 to leverage their market position into downstream (retail) or upstream (wholesale) markets.

*Geographic Market 2 - All remaining islands (i.e., where CBL is not offering fixed broadband services)*

As stated in the context of Geographic Market 1, BTC is vertically integrated and owns one of the only two network infrastructures to supply retail fixed broadband customers throughout Geographic Market 2, with the other network being owned by Starlink. There are a small number of OLOs serving niche market segments which rely on wholesale access services from BTC to deliver retail broadband services to their customers. However, BTC is currently required to offer WDIA services on regulated terms in this market.

**Based on its review of these characteristics, URCA remains of the preliminary view that CBL is in a dominant position in Geographic Market 1 and BTC in Geographic Market 2.**

**Market outlook or prospect of competition**

**Barriers to entry**

Barriers to entry may take the form of legal and regulatory factors that constrain market entry in The Bahamas. In general, retail fixed broadband services markets are characterised by high and non-transitory barriers to entry due to high sunk costs and time requirements related to licensing and infrastructure deployment. This appears to also apply to the Bahamian market context, as discussed below.

*Geographic Market 1 - The islands where CBL and BTC are both offering broadband services*

The likely sunk costs relate to the costs of developing, building, and establishing networks and infrastructure for retail fixed broadband services, in particular considering the sunk costs that BTC and CBL have already invested in their fixed networks and their existing subscriber base.

Indeed, anyone wishing to enter and supply retail fixed broadband services in The Bahamas would need to commit significant financial resources to deploy the necessary infrastructure to provide end-to-end fixed broadband services to end users. Moreover, they would need to obtain a license to operate and deploy an end-to-end fixed network in The Bahamas.

In considering the impact of barriers to entry on this market, URCA has again considered two forms of possible entry to this retail market: Either a new entrant deploys its own fixed access (and core) network infrastructure or, where available, gains access to the fixed access network of existing operators (in regulated terms).

In line with the assessment for retail fixed voice services in Section 4.2, given BTC's and CBL's existing end-to-end fixed networks in Geographic market 1 and the overall size of the Bahamian market, URCA considers the need to deploy alternative infrastructure to constitute a high barrier to entry in the fixed broadband market. Alongside substantial capital investment, a new entrant would need to seek permission from the relevant authorities for the civil works required to lay a wireline network. The

resulting time and resource requirements to obtain such permits will likely constitute a potentially significant barrier to a firm rolling out a competing network in a short space and time.

In The Bahamas, there are currently two forms of regulated wholesale broadband services available, Broadband Resale Obligations (BRO)<sup>141</sup> and WDIA. These SMP obligations aim to provide a low-cost option for OLOs to enter the fixed broadband market and offer retail services in direct competition to BTC and CBL without having to deploy their own network infrastructure and therefore further URCA's objective of promoting competition. There has been some take-up of WDIA by existing OLOs, but not the BRO.<sup>142</sup> However, URCA is not aware that these wholesale services have resulted in further market entry per se. Given the elapsed time since these regulatory obligations are in place, URCA considers this as strong indication that barriers to entry prevail in Geographic Market 1.

The exception to this is Starlink, which has entered the market based on a new alternative technology (LEO satellites). This new technology allows it to overcome the barriers to entry associated with fixed networks. Yet deploying the necessary satellites for connection to be stable, requires significant investment, which represents a barrier to entry for other potential entries to follow suit. As such, URCA remains of the view that barriers to entry are high in Geographic Market 1.

#### *Geographic market 2 - All remaining islands, (i.e., where CBL is not offering fixed broadband services)*

Given the existing resale broadband and WDIA obligations imposed on both BTC and CBL, the assessment of barriers to entry is equivalent in both geographic markets. Similarly, to Geographic Market 1, if a new provider was to enter Geographic Market 2 it would either deploy its own network or access BTC's existing network relying on BTC's BRO or WDIA services.

As in Geographic Market 1, despite the entry of Starlink, URCA still considers there to be high barriers to entry in Geographic Market 2, even for a provider who does not rely on the fixed network.

#### **Innovation and diversity of plans**

URCA is of the preliminary view that this retail market is not characterised by much innovation; however, end users have a choice of several retail fixed broadband tariff plans, mostly varying by the advertised download speed and whether these also include fixed voice services double-play bundled plans.

#### *Geographic Market 1 - The islands where CBL and BTC are both offering fixed broadband services*

Table 12 (in Section 5.1.1.1.1 above) sets out the main residential retail fixed broadband tariff plans currently offered by BTC and CBL. Residential users have a choice of thirteen different tariff plans from each provider, ranging from 8 Mbps to 1 Gbps for BTC and 30 Mbps to 1 Gbps for CBL. URCA is not aware of much innovation in the tariff offering in recent years, with most changes relating to increases in the advertised speeds as a result of the ongoing migration to fibre networks from both Licensees.

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<sup>141</sup> URCA imposed an obligation as part of its 2010 Final Decision (ECS 11/2010) for both BTC and CBL to offer a resale fixed broadband product in the respective geographic markets where they were considered to have SMP.

<sup>142</sup> [Press Release – Final Determination on the Review of Wholesale Broadband Access Services](#)

*Geographic market 2 - All remaining islands, (i.e., where CBL is not offering fixed broadband services)*

With BTC continuing to serve the vast majority of fixed broadband customers in this geographic market it has little incentives to innovate in order to remain competitive. Starlink's entry in 2023 may incentivize BTC to be more competitive. Nevertheless, Starlink currently only offers one tariff plan targeted at residential clients and another tariff plan for businesses in The Bahamas, both of which are more expensive than the equivalent BTC plan with similar advertised download speed.

Further, URCA notes that BTC offers uniform tariff offerings across The Bahamas (subject to network coverage areas). As such, a similar range of tariffs will be available in Geographic Market 1 and 2.

**Barriers to expansion**

Active competition is often greater where there are lower barriers to growth and expansion. While growth and expansion are easier to be achieved by Licensees in embryonic or growth markets, it might be inhibited in mature, saturated markets, where customer are locked into an existing Licensee and have to be induced to switch. The higher the barriers to entry, the more significant barriers to expansion will be in assessing potential competition, as higher entry barriers largely limit competition to existing market participants.

*Geographic market 1 – The islands where CBL and BTC are both offering fixed broadband services*

Demand for retail fixed broadband services in The Bahamas is not expected to grow substantially in the foreseeable future (12-24 months). As shown in Figure 27 above, the overall market for both residential and business customers, in terms of the number of active subscriptions has remained fairly constant since 2018.<sup>143</sup>

If we consider the specific barriers to expansion that each Licensee may face, as far as URCA is aware, barriers to expansion are likely to be low in this retail market (in terms of serving more customers within the existing network coverage areas). URCA has seen no evidence to suggest that the existing Licensees are currently faced with capacity constraints within their existing networks. Neither is URCA aware of any current constraints in terms of international and domestic on-island and inter-island capacity. URCA considers that no Licensee enjoys a commanding advantage over the other based on this criterion.

*Geographic market 2 - All remaining islands (i.e., where CBL is not offering fixed broadband services)*

Similar to Geographic Market 1, barriers to expansion are likely to be low within BTC's existing network coverage area. Barriers to expansion outside these areas are on the contrary high, with significant investment required to expand BTC's fixed networks.

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<sup>143</sup>Figure 27 includes data for all The Bahamas, URCA has seen no evidence to suggest that this trend would be different in Geographic Market 1 alone.

Barriers to expansion should not be a concern for Starlink's LEO satellite-based network. It has already deployed the necessary infrastructure to supply broadband services throughout the country and would only face barriers to expansion if it was to reach its full capacity.

### **Other factors considered**

In reaching this preliminary conclusion, URCA has also considered all the other factors outlined in its analytical framework. However, it concludes that these criteria are not relevant for, or do not impact the assessment of competition in these markets. URCA's reasoning for this is listed below:

- **Overall size of the undertaking.** This is concerned with any potential benefits and the sustainability of those benefits arising from the large size of the Licensee relative to its competitors. Both BTC and CBL are sizeable undertakings which have operations beyond retail fixed broadband services in The Bahamas. URCA is not aware of this creating market power for either of them in the market for retail fixed broadband services. Whilst still small in The Bahamas, Starlink has global operations and hence expertise. In any event, market players do not have to be of equal overall size for competition to be effective.
- **Experience in providing products to the market.** Both BTC and CBL sell similar retail fixed broadband services to the same customer segments. Both have a significant presence in the marketplace, are well established entities and have brand recognition amongst consumers. Against, whilst still small in The Bahamas, Starlink has global operations and hence expertise and experience in providing broadband services. In view of these considerations, URCA has no reason to believe that this criterion confers individual dominance on either of the two existing providers.
- **Highly developed distribution and sales network.** This criterion is concerned with the methods or channels used by the existing, licensed retail fixed broadband service providers to deliver their products and services to the Bahamian public. All Licensees operate their own, independent sales and distribution channels, which are both physical and online. Their own websites are a big part of the distribution and sales networks operated by each company. All three licensees are recognised brands. Whilst Starlink mostly relies on online marketing and sales, BTC and CBL rely on both online and physical sales throughout The Bahamas. URCA considers that BTC and CBL operate distribution and sales networks that are similarly effective in terms of reaching potential customers and/or serving existing customers. In general, URCA is of the preliminary view that none of the licensees is in an advantageous position relative to the other based on this criterion.
- **Access to finance.** URCA appreciates that whether a Licensee can access financial resources (i.e., capital markets and internal cash flow) on a scale and terms more favourable than others may represent a barrier to entry as well as a competitive advantage. It is not apparent to URCA that BTC, CBL or Starlink can access financial resources on a scale and terms more favourable than the other. While BTC is affiliated with a major multinational communications group, CBL is a publicly traded company on The Bahamas International Securities Exchange with the Government owning half of it. Starlink is a globally operating provider which is publicly listed. URCA's review of this criterion does not warrant a finding of single dominance in Geographic Market 1.

- **Technological advantage or superiority.** While BTC offers fixed broadband access to both residential and business customers via its xDSL and GPON-based fibre (FTTx) networks, CBL offers fixed broadband access via its HFC and FTTH networks.
  - *In Geographic Market 1*, both of the existing providers offer almost equivalent network service quality and sell similar products and services to the same segment of customers. URCA thus is currently not aware that either Licensee holds a technological advantage or superiority which provides it with a degree of market power over the other.
  - *In Geographic Market 2*, BTC and Starlink are relying on different technologies to serve their customers. Starlink's LEO satellite technology allows it to serve customers throughout The Bahamas. Therefore, BTC does not hold a technological advantage or superiority which provides it with a degree of market power over the other.

### 5.2.1.1 Preliminary Conclusion on Single Dominance

Having analysed the relevant criteria set out above, URCA preliminarily finds that CBL is dominant in Geographic Market 1 and BTC in Geographic Market 2.

In arriving at this preliminary position, URCA has reviewed all other criteria listed in sub-section 3.3.2 (Table 5) of this document.<sup>144</sup> However, as explained above, URCA concluded that most of these criteria are not relevant for or have no bearing on the conclusion of whether any of the Licensees are singly dominant in these retail markets.

Considering the analysis set out above in relation to single dominance, URCA does not further investigate the potential presence of joint dominance in these retail markets.

#### **Consultation Question 4 - Dominance Assessment in Retail Fixed Broadband Markets**

**Do you agree with URCA's preliminary conclusion from its single dominance assessment in the retail fixed broadband service markets? If not, please set out your alternative views and provide evidence to substantiate your position.**

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<sup>144</sup>Except for network effects, which URCA does not consider to be relevant in the provisioning of fixed broadband services (i.e., they are only relevant to call or messaging services where end users benefit from a larger number of other end users being on that same network).



## 6. Retail pay TV Services

This Section sets out URCA's preliminary assessment of pay TV services in The Bahamas, in terms of the relevant market definitions and competition assessments within each relevant market (i.e., the first and second stage of a market review process discussed in Section 3.2). As part of this, URCA sets out its preliminary views and consultation questions.

### 6.1. Market Review Stage 1- Market Definition

As part of the 2014 Market Review, URCA defined a single market for pay TV services provided over cable TV and terrestrial networks, irrespective of whether this service was offered on a standalone basis or as part of a multi-product bundle. The market was defined as national in scope.

Below URCA evaluates if the 2014 market definition remains appropriate, considering the key market developments described in Section 3.2.

URCA has structured the remainder of this section in the following way:

- Product Market Definition (Section 6.1.1);
- Geographic Market Definition (Section 6.1.2); and
- Preliminary Conclusion on Product and Geographic Markets (Section 6.1.3).

#### 6.1.1 Product Market Definition

In The Bahamas, pay TV services are currently offered via cable (HFC), FTTx (IPTV), satellite (DTH) and internet streaming platforms.<sup>145</sup>

End users can purchase a (post-paid) subscription to a pre-defined set of TV channels with several different subscription packages available. These monthly subscriptions are available on a standalone basis and as part of multi-product bundles, including fixed voice and/or fixed broadband services.

Licenseses offer a range of supplementary services, in terms of:

- TV channel packages<sup>146</sup> providing end users access to additional movie, sports, or international TV channels; and
- Pay-per-view and video on demand services, which allow customers to view and pay for individual TV content and/or to catch-up on TV programs.

Apart from access technology, pay TV services may further be differentiated by:

- Tariff plans, such as standalone pay TV plans and multi-product bundled offerings including pay TV services, jointly with other retail services, such as fixed broadband and/or fixed voice.
- Customer segments, i.e., retail pay TV services offered to residential and business customers.

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<sup>145</sup>Internet streaming platforms are pay TV services which users can access via the internet.

<sup>146</sup>BTC's TV channel offerings are detailed in its webpage. <https://www.btcbahamas.com/tv/channel-lineup>. CBL's TV channel packages are detailed in its webpage. <https://www.rev.bs/tv>

Like VoIP services discussed in Section 4.1 above, internet-based TV services can be “managed” streaming/IPTV services and “unmanaged” streaming services.

- With unmanaged streaming services (akin to “unmanaged” VoIP services), there is a full separation between the global content provider (commonly not a Licensee) and the licensed network operator. Consequently, end users will commonly be required to purchase internet access separately. These services are accessed via a software application or webpage and often require separate user accounts and subscription payments.
- In contrast, IPTV services (akin to “managed” VoIP services) are offered by licensed network operators seeking to offer a similar experience to end users as with traditional pay TV services. They are commonly inclusive of the internet connectivity required and, in The Bahamas, they are always offered as part of multi-product bundles (i.e., IPTV services are currently not offered on a standalone basis).

Given the above, there are several considerations to be made when defining the relevant market and assessing the competitive dynamics of the market for pay TV services. As explained in Section 3.3, a good starting point for any market definition exercise is the product scope of the market definition determined in the previous market review, to then assess whether the product scope needs to change given the recent market developments. Therefore, URCA conducts this analysis by starting with the product scope of the market defined in 2014 as the focal product: pay TV services for residential and business users delivered through a cable network and sold on a standalone basis or as part of a bundle.

URCA then applies the SSNIP test to determine whether this forms a product market on its own, should be widened to include any effective substitutes or narrowed to exclude any services that are no longer substitutes. In doing so, URCA addresses the following considerations:

- The extent to which standalone pay TV services and multi-product bundles that include pay TV services are in the same product market.
- Whether IPTV services are a substitute for (cable-based) pay TV services and hence should be included in the same market.
- Whether satellite TV services should be included in the same product market.
- Whether OTTs and other internet streaming services belong to the same product market.
- Whether service offerings for residential and business customers form part of the same relevant product markets.

Following the approach set out in Section 3.3, URCA considers each of these issues in turn below.

#### **6.1.1.1 Are standalone pay TV and bundles including pay TV services in the same product market?**

As part of the previous market review in 2014, URCA defined a single product market for cable-based pay TV services, irrespective of whether these services were offered on a standalone basis or as part of multi-product bundles. In the context of this market review, URCA has assessed whether this conclusion remains valid considering the latest trends in the market.

### Demand-side substitution

CBL continues to be the only provider of cable-based pay TV services. As in the previous market review, CBL offers both standalone pay TV services and multi-product plans that include pay TV services.<sup>147</sup>

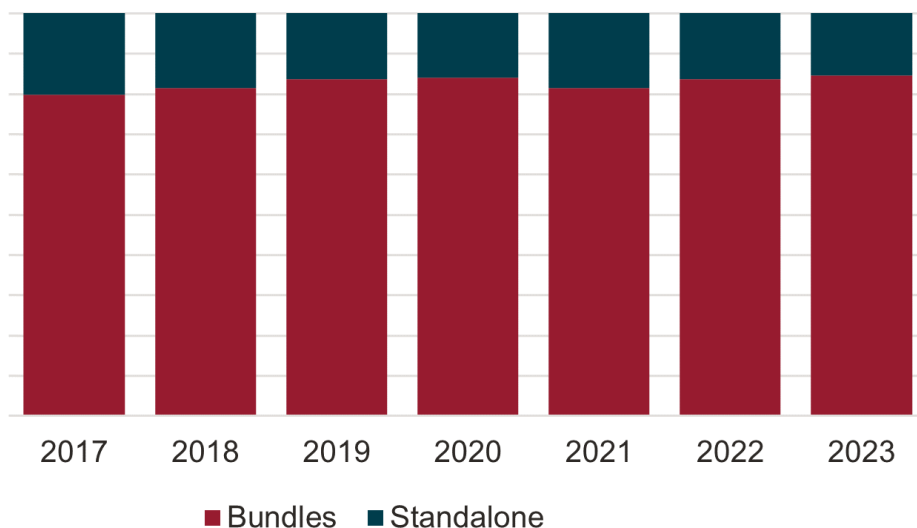
### Product Characteristics

In relation to product characteristics, pay TV services sold on a standalone basis or as part of a multi-product bundle offer the same functionalities in terms of access to TV content. As shown in Table 17 below, CBL gives the option to customers to access the same pay TV packages either on a standalone basis or through a multi-product bundle. As such, an end user seeking HFC-based pay TV services can meet his/her demand based on either a standalone or multi-product bundle pay TV tariff plan. However, there is a non-trivial price differential between standalone pay TV services and bundles including additional services, as discussed further below, which is likely to constrain demand-side substitutability.

### Take-up and availability

As mentioned in Section 3.2, the most common form of accessing pay TV services in The Bahamas is through multi-product bundled offers. The share of customers that access cable-based pay TV through bundles has increased slightly since 2017, from [● Confidential] of total cable-based pay TV subscriptions in 2017 to [● Confidential] in 2022, as observed in Figure 30.

Click or tap here to enter text. **Figure 30: Cable-based pay TV customers, Standalone and bundles including pay TV services, 2018-2023**



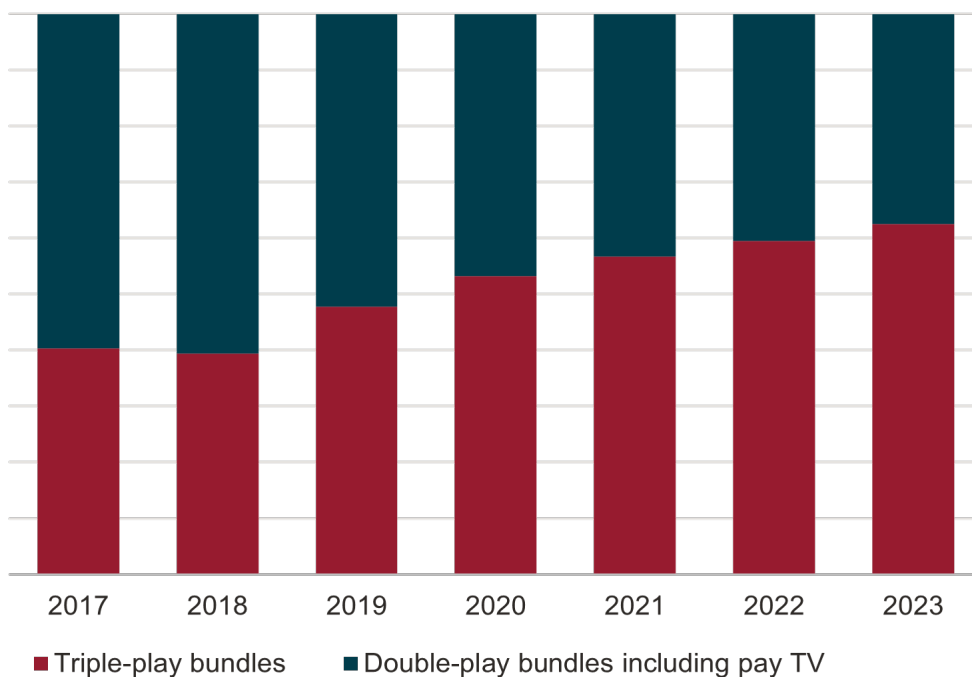
Source: CBL’s quantitative data submission

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

<sup>147</sup> <https://www.rev.bs/tv/>

As described in sub-section 5.1.1.1, there is a growing trend to multi-product bundles. Within this, there has been a clear trend towards triple-play bundles (including fixed voice, fixed broadband and pay TV). In 2022, triple-play subscriptions represented [● Confidential] of CBL's bundle subscriptions with pay TV. Take-up of double-play bundles with pay TV has been in decline since 2017 (CAGR -7%).<sup>148</sup> Within double-play bundles, those including pay TV and fixed broadband represent the majority of cable-based TV connections [● Confidential] in 2022), with the share of bundles including fixed voice and pay TV services in total double-play bundles falling significantly since 2017 (CAGR [● Confidential]).

**Figure 31: Subscribers to multi-product bundles with pay TV, 2018-2023**



Source: Operators’ quantitative data submission

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

URCA’s Retail Customer Survey also supports this trend where 19% of the respondents mentioned that they have a double-play plan that includes fixed broadband and pay TV services. Only 6% of the respondents answered that they have a double-play bundle that include fixed voice and pay TV services.

<sup>148</sup>Due to data availability, Figure 31 includes all multi-product bundles including pay TV services, provided via both HFC and IPTV. However, the inclusion of IPTV is unlikely to distort the overall picture as IPTV subscribers represent only 5% of subscribers to multi-product bundles including pay TV services.

### Relative Prices

Table 17 below compares the monthly subscription prices of residential cable-based pay TV services sold as part of a multi-product bundle or on a standalone basis.

**Table 17: CBL’s cable-based standalone and multi-product bundles including pay TV services, selected offerings**

Tariff plan	TV content/channels	Other Services included	Monthly Price (BSD\$, excl. VAT)
Prime Local	6 TV channels	n/a	\$10.00
RETVPrime	69 TV channels	n/a	\$38.00
RETVPro	98 TV channels	n/a	\$48.00
2P- YOUR REV BUNDLE	RETVPrime channels) (69 TV	REVTALKPrime local calls) (Free	\$52.99
2P- YOUR REV BUNDLE	RETVPrime TV channels) (69	REVNETPrime Mbps) (30	\$77.99
2P- YOUR REV BUNDLE	RETVPro channels) (96 TV	REVTALKPrime local calls) (Free	\$62.99
2P- YOUR REV BUNDLE	RETVPro channels) (96 TV	REVNETPrime Mbps) (30	\$87.99
3P- YOUR REV BUNDLE	RETVPrime TV channels) (69	REVNETPrime Mbps download speed) (30 REVTALKPrime local calls) (Free	\$92.98

Source: Operators’ websites, accessed February 2024 and CBL’s application to launch DTH services.

Table 18 below focuses on the price differentials from bundling standalone cable-based pay TV services (i.e., RETV Prime) with additional services, including fixed voice and fixed broadband services. From this, URCA observes the following:

- The price for triple-play bundles is higher than for double-play bundles, and these are higher than for standalone pay TV services. But both Licensees commonly offer discounts for subscribing to a multi-product bundle, relative to purchasing the underlying services on a standalone basis. Therefore, any end user who values all three services can do so most economically by subscribing to a triple-play bundle, as this will be cheaper than subscribing to the three services separately.
- Due to existing price differentials, it is unlikely that end users that do not benefit from the incremental services in a multi-product bundle switch to a double-play bundle that includes fixed broadband and pay TV services, in the event of a SSNIP in the standalone pay TV service. If at all, these end users might be more inclined to switch to a bundle that includes fixed voice

services, but this is still unlikely unless they value both fixed voice and pay TV services. This conclusion is due to the following reasons:

- There is a small price differential between standalone pay TV services and fixed voice offerings purchased separately, and double-play bundles including both services. For example, CBL provides its “REVTVPrime” standalone plan at \$38 per month, whilst also offering the possibility to combine this plan with “REVTALKPrime”, for a total of \$53 per month. If one was to purchase standalone pay TV services and standalone fixed voice separately, the total monthly expense would amount to \$55. Customers switching to this double-play bundle would save \$2 per month (i.e., 4%) compared to buying them separately. Therefore, those customers who value both pay TV and fixed voice services would have an incentive to switch to a double-play bundle including both services. Meanwhile, the increase in price from buying this double-play bundle instead of the standalone TV plan is significant (i.e. \$15 per month or 39%) as shown in Table 18. As a result, those end users who do not value fixed voice services will not have an incentive to make use of this bundle.
- Price differentials are larger between standalone pay TV plans and multi-product bundles including fixed broadband. A customer purchasing CBL’s “RevTVPrime” and “REVNETPrime” (the cheapest standalone fixed broadband plan) separately, would pay \$9.51 more per month than contracting the equivalent pay TV plus fixed broadband double-play bundle. However, switching from standalone pay TV to a double-play bundle with fixed broadband with the same advertised download speed would mean a 105% (\$25 per month) price increase. Finally, triple-play bundles start at \$93 per month, implying a 145% (\$40 per month) increase over the standalone pay TV plan.

**Table 18: Price differential from adding additional services to CBL's REVTVPrime pay TV plan**

Tariff plan	TV content / channels	Other Services included	Monthly Price (BSD\$, excl. VAT)	Price Differential (in relative terms)
REVTVPrime	69 TV channels	n/a	\$38.00	-
2P- YOUR REV BUNDLE	REVTVPrime (69 TV channels)	REVTALKPrime (Free local calls)	\$52.99	39%
2P- YOUR REV BUNDLE	REVTVPrime (69 TV channels)	REVNETPrime (30 Mbps)	\$77.99	105%
3P- YOUR REV BUNDLE	REVTVPrime (69 TV channels)	REVNETPrime (30 Mbps) REVTALKPrime (Free local calls)	\$92.98	145%

Source: CBL’s website, accessed February 2024

Given the evidence on relative pricing presented above, URCA considers it is unlikely that, purely based on relative prices, a large proportion of standalone cable-based pay TV customers would switch

to multi-product bundles including pay TV in case of a SSNIP in standalone pay TV services. This is because customers of standalone pay TV services might not value the other services offered within the multi-product bundles.<sup>149</sup> Therefore, they would not benefit from switching to a bundle in which the price differential with respect to their original standalone pay TV plan is non-trivial.

### **Switching behaviour**

End users who value more than one fixed service are likely to choose a multi-product bundle. This is because of the positive impact on monthly spending from subscribing to these services bundled instead of individually, as presented above.

The URCA Retail Customer Survey gives evidence to support this, as 82% of the respondents subscribed to multi-product bundles<sup>150</sup> stated that they had not considered switching to standalone service offerings. End users' reasons for not subscribing to different electronic communications services separately are summarised in Figure 9 in Section 4.1.1.2. Most multi-product bundle customers have not considered switching to a standalone service as they are satisfied with their bundled plan (44%),<sup>151</sup> prefer to purchase services from one provider (26%), and/or the bundled plan is cheaper than acquiring each of the services separately (23%).

This same survey provides evidence of current subscribers to CBL's standalone pay TV services. Considering this subset of respondents only, when asked what they would do if CBL charged more for their standalone pay TV plan, 33% of these respondents claim they would do nothing, and the second most popular answer being cancelling their current pay TV plan (29%). Out of those customers who answered they would do nothing in case of an increase in price, 81% said the reason is they would be content paying more for their standalone pay TV plan. CBL customers of standalone pay TV plans were also asked about the main advantages of their plan compared to Internet-based streaming platforms. The most popular answers were availability of local content/channels, quality of the TV content/channels offered and reliability, in this order.<sup>152</sup> When asked about disadvantages, the most popular answers, in decreasing order, were quality of the TV content/channels offered, availability of

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<sup>149</sup> URCA does not hold information on standalone pay TV customers that may also purchase other standalone services. However, based on the information available to URCA, URCA considers it reasonable to assume that standalone pay TV users do not value the other services offered in the multi-product bundles (as otherwise these customers would have purchased a bundle instead of the standalone pay TV service given that these are the least cost and most convenient way of obtaining multiple fixed services). However, URCA acknowledges that the operators might have evidence to better understand whether these standalone users are potentially subscribed to other fixed services. URCA invites the operators to submit evidence that could help URCA reconfirm this assumption and, if necessary, reconsider URCA's position.

<sup>150</sup>The survey results do not differentiate between cable-based or IPTV bundles. Still, the combined data is expected to be representative, given that only 15% of all multi-product bundles, including pay TV services are provided via IPTV.

<sup>151</sup>Within this sub-group, the main reason for their satisfaction is that their current bundled tariff plan is cheaper than buying the services separately.

<sup>152</sup>Survey participants were asked to list their top 3 advantages (and disadvantages). To respect this rank, URCA constructed a score that accounts not only for the number of participants that repeated an answer but also for the position of this answer in their individual ranks. Quantitative interpretation of this ranking becomes more convoluted, so the analysis above is limited to qualitative statements (popularity of each answer)

local content/channels and price (Internet-based streaming services are cheaper than CBL's pay TV services).

Based on the demand-side considerations described above, URCA considers that multi-product bundles that include pay TV services do not form part of the same product market as standalone pay TV services.

### **Supply-side substitution**

URCA considers that there is supply-side substitution between cable-based standalone pay TV services and multi-product bundles that include cable-based pay TV (i.e., double-play bundles including fixed voice or fixed broadband and triple-play bundles). In the event of a SSNIP in standalone pay TV services, providers of multi-product bundles including cable-based pay TV services could start offering standalone pay TV services in a relatively short period of time and without incurring large additional costs.<sup>153</sup> This is supported by the fact that the only player currently active in the provision of standalone pay TV services, CBL, is the same as in the multi-product space, as it is the only provider with an HFC network to provide cable-based pay TV services.

### **Preliminary conclusion**

URCA preliminarily concludes that due to a lack of demand-side substitutability, cable-based pay TV services offered on a standalone basis and multi-product bundles that include cable-based pay TV should form part of separate markets.<sup>154</sup> That is, the market for pay TV services should be limited to cable-based pay TV services sold on a standalone basis only. Cable-based pay TV services sold as part of multi-product bundles will form part of a separate market, discussed further below in Section 7.

Further, URCA notes that CBL is the only provider actively marketing standalone pay TV services in The Bahamas. URCA considers it unlikely that more service providers (including BTC) will start offering standalone pay TV services going forward. This is because of the decreasing demand for standalone pay TV services.

URCA notes that, despite the overall decline in demand, standalone pay TV customers represent a non-trivial share of overall pay TV customers. This share of customers faces a decreasing range of options and offers (i.e., they depend on CBL's retail offerings to which currently [● confidential] of total standalone pay TV customers are subscribed to). Therefore, in this context, having a market for cable-based standalone pay TV services (separate from multi-product bundles) serves as a tool for consumer protection. For the remainder of the section, URCA will only focus its analysis on standalone pay TV services.

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<sup>153</sup>As these providers already offer pay TV services as part of their multi-product bundle offerings, there is no incremental investment needed beyond potential marketing expenditures.

<sup>154</sup> As stated in the context of other sections, URCA is focussing on demand-side substitutability in line with international best practice.



### **6.1.1.2 Are IPTV and cable-based pay TV services in the same product market?**

In the 2014 Market Review, URCA was not able to verify the potential substitutability of IPTV service offerings due to the nascent status of this service in The Bahamas at the time. Therefore, URCA determined that IPTV did not form part of the same product market as pay TV services. In this Section, URCA analyses whether it remains appropriate to exclude IPTV services from the (standalone) pay TV service market (and URCA will assess the same for multi-product bundles including pay TV in Section 7).

In The Bahamas, only CBL actively provides standalone pay TV services to end users within its HFC network coverage area and via satellite technology.<sup>155</sup> BTC provides IPTV services as part of multi-product bundles. BTC also has a small number of standalone pay TV customers, which represents less than 1% of the total subscriptions in this market, but only offers standalone pay TV services in special circumstances.<sup>156</sup> Given this, URCA considers BTC is not an active player in the market for standalone pay TV services.

#### **Demand-side substitution**

In The Bahamas, both operators advertise their pay TV offerings without explicitly mentioning the type of technology through which the service is provided. CBL sells its pay TV services provided via IPTV separately, under AlivFibr brand. In the remainder of this sub-section URCA analyses if demand-side substitution between IPTV and cable-based TV exists.

#### **Product Characteristics**

In terms of product characteristics, cable TV and IPTV content offerings are similar. Either technology offer access to a wide variety of TV channels (including local, international, and premium/sports channel), plus some add-on options for additional channels/content. BTC and CBL have similar tariff offerings for IPTV bundles, both in terms of channels and pricing as shown below in Table 19.

As previously explained, neither BTC nor CBL actively sell standalone IPTV services. As such, URCA considers a key difference in these services is the need for a broadband connection to use IPTV services. This is likely to reduce the willingness to switch from a standalone cable TV plan to an IPTV offering if a standalone pay TV customer does not have (or value) internet access. Currently, in The Bahamas, customers cannot subscribe to pay TV services provided via IPTV unless they also subscribe to fixed broadband from the same provider (this is not a technical constraint, but a commercial decision by BTC and CBL). Therefore, switching to another pay TV provider offering the service via IPTV would also be a constraint if the user values another fixed broadband provider, since the internet connection would need to be purchased from the same pay TV provider.

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<sup>155</sup>CBL also provides pay TV services via IPTV, but not on a standalone basis, only as part of triple-play multi-product bundles marketed under AlivFibr.

<sup>156</sup> According to BTC, it does not offer standalone pay TV services. The reason it has a few standalone pay TV customers is that some customers which had double-play bundles including pay TV and fixed broadband chose to unsubscribe from the second service and were allowed to keep their pay TV services.

**Table 19: Selected multi-product bundles incl. pay TV accessed via IPTV**

Provider (Access network)	Tariff plan	TV content / channels	Other Services included	Monthly Price (BSD\$, excl. VAT)
CBL (IPTV)	AlivFibr Infinite 200	141 IPTV Channels 24 Radio Channels 50 Stingray Music Channels ESPN Play HBO Max	200 Mbps download speed Unlimited Domestic and International Calls	\$109
	AlivFibr Infinite 500	171 IPTV Channels 24 Radio Channels 50 Stingray Music Channels ESPN Play HBO Max	500 Mbps download speed Unlimited Domestic and International Calls	\$119
	AlivFibr Infinite 1000	171 IPTV Channels 24 Radio Channels 50 Stingray Music Channels ESPN Play HBO Max	1000 Mbps download speed Unlimited Domestic and International Calls	\$169
BTC (IPTV)	2P- Fiber & TV	TV Max (164 channels)	300 Mbps download speed	\$84.99 <sup>157</sup>
	3P- Fiber, Talk, & TV 300Mbps	TV Max (164 channels)	300 Mbps download speed Talk 24/7 Unlimited	\$99.99
	3P- Fiber, Talk & TV 1Gbps	Watch all (208 channels)	1 Gbps download speed Talk 24/7 Unlimited	\$159.00

Source: Operators’ websites, accessed February 2024.

**Relative pricing**

For the reasons set out above, relative prices are likely to limit demand-side substitutability between cable-based standalone pay TV and IPTV services. When comparing any of the IPTV plans (which are always multi-product bundles) with standalone cable TV plans, the difference in price is considerable, as presented on Table 19 above. While the cheapest bundle including IPTV (BTC’s 2P- Fiber & TV) comes at \$84.99, the most expensive standalone pay TV plan (CBL’s REVTVPro) is only \$48.00. Therefore, switching from the latter to an IPTV provided pay TV plan would imply a 77% increase in

<sup>157</sup> BTC currently offers a three month promotion on this plan for BSD\$42.50.

price (\$36.99). Unless standalone pay TV customers also value the additional services provided in a bundle, a customer of cable-based standalone pay TV is unlikely to switch to a multi-product bundle including IPTV in the event of a SSNIP, assuming prices are currently at competitive levels.

Therefore, URCA considers that in the event of a SSNIP in standalone pay TV services, those customers located in the areas covered by both networks (HFC and FTTx) are unlikely to switch from their standalone pay TV to an IPTV bundle.

### **Take-up and availability**

Cable-based pay TV and IPTV rely on different access technologies: HFC in the case of cable-based pay TV and FTTx for IPTV. Therefore, take-up is clearly dependent on network coverage. Switching between standalone cable-based pay TV plans and bundles including IPTV is limited to those geographic areas where both HFC and FTTx networks are available. Therefore, it is only feasible in those areas where BTC's FTTH and CBL's HFC coverage overlap.<sup>158</sup> While BTC is extending its FTTH network coverage, CBL is replacing its HFC network with FTTH. Hence going forward the geographic areas where IPTV is available is expected to increase.

In line with the expansion of FTTH network coverage, the take-up of standalone TV services is declining in The Bahamas, whilst that of IPTV services is on the rise. Over the last five years, the share of cable-based pay TV subscribers has decreased (-2% CAGR), while IPTV subscribers have increased (8% CAGR).<sup>159</sup> However, this is likely to have limited impact on the demand-side substitutability of these two services, as IPTV services are not offered on a standalone basis in The Bahamas. The resulting differences in relative prices, as introduced above, is the main constraint for any switching from standalone pay TV to IPTV.

### **Switching behaviour**

URCA does not hold any information on customer switching behaviour between pay TV customers on different access technologies. The first limitation for switching is availability; since FTTH is not as widely available as HFC, those customers outside the area where both networks overlap (i.e., where BTC has HFC coverage and CBL has FTTH coverage) will not be able to consider switching.

URCA expects that end users are indifferent between the access technology employed by their pay TV provider, assuming both Licensees have coverage in their area. However, as mentioned above, IPTV is not offered on a standalone basis in The Bahamas and the price difference between standalone cable-based plans and multi-product bundles provided via IPTV is significant enough to inhibit switching for those customers who do not value additional services.

### **Supply-side substitution**

From a supply-side perspective, an operator offering IPTV services cannot easily offer cable-based pay TV services (and vice-versa) as both are commonly delivered via different network technologies. Given the time and resource requirements to deploy a FTTx (or HFC) network, this is unlikely to happen in

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<sup>158</sup> CBL provides both cable-based TV and IPTV, but these two networks never overlap, by design.

<sup>159</sup> Although its share remains low. In 2022, 13% of all pay TV subscribers (including standalone plans and multi-product bundles) used IPTV.

case of a SSNIP in cable-based standalone pay TV services (or IPTV services), especially as HFC is a legacy technology.

For providers that currently offer multi-product bundles including IPTV services (such as BTC and CBL), supply-side substitution is technically feasible. Hence whilst BTC and CBL currently do not offer standalone IPTV services, URCA notes that this is a commercial decision by BTC and CBL (rather than a technical constraint)<sup>160</sup> and thus should not drive URCA's product market definition.

### **Preliminary conclusion**

Based on its analysis and the market developments, URCA preliminarily concludes that IPTV services should form part of the same product market as cable-based standalone pay TV services, despite both services being delivered via different technologies.

Currently, IPTV services in The Bahamas are only provided as part of multi-product bundles and this has an impact on relative prices, limiting demand-side substitution. However, URCA recognizes that IPTV not being offered on a standalone basis is a commercial decision from BTC and CBL. If either Licensee were to allow customers to subscribe to their IPTV services while relying on the fixed broadband of another Licensee, the standalone IPTV plan could be offered at a price lower than the prices observed for bundles including IPTV and this would increase demand-side substitutability. If a provider were to launch a standalone IPTV plan, it should be considered within this market. Therefore, URCA considers that the commercial decision not to provide IPTV on a standalone basis should not drive its product market definition and instead URCA maintains a technology neutral approach.

#### **6.1.1.3 Are satellite-based pay TV services in the same product market as standalone pay TV services?**

In this sub-section, URCA assesses the potential substitutability between standalone pay TV services offered via cable (HFC) and satellite TV (DTH) services. URCA has started from its previous findings in the 2014 Market Review. At the time, due to prevailing price differences between pay TV services and satellite TV services offered by alternative providers (CBL was not offering satellite TV services at that time), these services were not found to be in the same product market.

#### **Demand-side substitution**

As stated in Section 3.2, CBL provides standalone pay TV services via its HFC network and via satellite technology. However, CBL does not currently offer these services in the same geographic areas, with CBL's satellite TV services only being available in the islands outside of its HFC network coverage area. CBL relies on agreements with third parties to deliver DTH pay TV services in areas where currently it cannot offer pay TV services with other technologies.

URCA is not aware of any satellite TV service providers in The Bahamas other than CBL.

#### **Take-up and availability**

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<sup>160</sup>URCA notes that some IPTV providers elsewhere which also compete in the fixed broadband market allow users to subscribe to their IPTV services on a standalone basis and rely on another internet provider. See, for example, see Movistar+ in Spain (<https://www.movistar.es/tv/movistar-plus/>)

URCA notes that availability of CBL’s satellite-based pay TV services is defined by its own HFC network coverage. By design, there is no overlap between CBL’s DTH and its own HFC coverage, as CBL relies on DTH to extend its pay TV service coverage to those areas where it is unable to provide cable TV, i.e., currently all islands other than New Providence, Grand Bahama, Abaco and Eleuthera.

In 2022, satellite TV subscribers in The Bahamas constituted 3.6% of all pay TV users in The Bahamas (including both residential and business subscribers, either on a standalone basis or as part of multi-product bundles). Pay TV providers do not disclose the access technology for residential and business subscribers separately. Nevertheless, to complete the analysis of the take-up for residential subscribers, URCA can rely on its Retail Customer Survey. This evidence suggests that only a small share of Bahamian households currently subscribe to satellite TV services (i.e., 7% of all respondents to URCA’s recent Retail Customer Survey with a pay TV subscription stated that they use satellite TV services).

**Product Characteristics**

In terms of product characteristics, as presented below in Table 20, CBL offers different tariffs for satellite access and cable access, differing both in terms of channels and pricing. While CBL’s satellite TV plans seem to be cheaper when comparing plans with limited TV content (\$10.00 for Prime Local vs DTH Bronze which is free of charge), HFC-based TV plans have more complete TV content if one is willing to pay a higher price (69 channels with REVTVPPrime vs 38 channels with DTH Silver).

In the event of a SSNIP in pay TV services, switching between pay TV services provided via cable or satellite is currently not possible, since there are no geographic areas with joint service coverage. BTC does not offer standalone pay TV services, while CBL offers these via HFC and satellite technology, but the fact that its satellite TV services is only offered in those geographic areas where CBL has no HFC network coverage implies there will be no switching options to other standalone pay TV plans for customers that can access satellite pay TV services in The Bahamas (and vice versa). URCA notes that this is a commercial decision by CBL (rather than a technical constraint) and thus does not drive URCA’s product market decision.

**Table 20: CBL Standalone pay TV offerings provided via HFC or satellite (DTH)**

Tariff plan	TV content / channels	Access network	Monthly Price (BSD\$, excl. VAT)
Prime Local	6 TV channels	Cable (HFC)	\$10.00
REVTVPPrime	69 TV channels	Cable (HFC)	\$38.00
REVTVPPro	98 TV channels	Cable (HFC)	\$48.00
DTH Bronze	10 TV Channels	Satellite (DTH)	Free of charge (to residential customers) \$20.00 (to commercial customers)
DTH Silver	38 TV channels	Satellite (DTH)	\$30.00 (to residential customers) \$60.00 (to commercial customers)
DTH Premium (add-on to Silver plan)	Premium bolt-ons HBO (and FOX)	Satellite (DTH)	\$17.99 (and \$13.99 respectively) to residential customers only

Source: Operators’ websites, accessed February 2024 and CBL’s application to launch DTH services.

### **Relative pricing**

Relative prices could limit demand-side substitutability between cable-based pay TV and satellite-based pay TV services. However, in The Bahamas, this is unlikely to be the case. As discussed in the context of Table 20 above, both services are offered on similar price and non-price terms.

However, as discussed in the context of the product characteristics above, as both services are currently not available in the same geographic areas, demand-side substitution is practically not possible.

### **Supply-side substitution**

From a supply-side perspective, a company offering satellite TV cannot easily offer HFC-based pay TV services in the event of an SSNIP in the price of the HFC-based pay TV service. This is because both services are delivered over separate network infrastructure and technologies. Further, it is extremely costly and time intensive to deploy a HFC network and currently there is no regulated access to existing fixed networks in The Bahamas, which could alleviate the need for pay TV providers to deploy their own networks. Given the requisite time and investment needs, URCA considers it highly unlikely that, following a SSNIP in standalone pay TV services, a satellite TV provider would deploy a HFC network and start offering standalone pay TV services.

### **Preliminary conclusion**

Despite the lack of demand-side substitutability due to a lack of geographic overlap between CBL's satellite-based and HFC-based pay TV services, and both services not being supply-side substitutes since being delivered via different technologies, URCA notes that from a practical point of view there is no need to define separate product markets for both services. This is because the treatment of satellite TV services does not affect URCA's preliminary conclusions on dominance of CBL in pay TV services (set out in Section 6.2 below). Satellite TV subscribers only represent a small share of all pay TV subscriptions and most importantly, CBL is the only licensed satellite TV provider in The Bahamas, whilst commanding a very high market share of standalone pay TV services. Given this, URCA preliminarily concludes that satellite TV services are in the same product market as standalone TV services delivered via HFC networks.

#### **6.1.1.4 Are internet-based streaming services in the same product market as standalone pay TV services?**

Since the last Market Review in 2014, there has been a widespread take-up of OTT applications. From communication purposes to internet-based streaming services, there has been a proliferation of new platforms which customers have become familiar with. These services are accessed via a software application or webpage and often require separate user accounts and subscription payments.

As recognised earlier on in Section 6.1, internet-based streaming services differ to the managed IPTV services offered by BTC and CBL, as the OTT provider does not offer the broadband connection required for the service, which needs to be purchased separately. With unmanaged streaming services (akin to "unmanaged" VoIP services) there is a full separation between the global content provider (commonly not a Licensee) and the licensed network operator.

Below, URCA evaluates whether the market for standalone pay TV services should be widened to include internet-based streaming services.

### **Demand-side substitution**

The recent widespread availability of internet access has facilitated the spread of OTT applications and internet streaming platforms. Internet streaming services allow end users to have access to both, live TV content, such as news and live sports coverage, and recorded content, such as movies or documentaries. Pay TV providers like BTC and CBL also include video on demand and other add-ons as part of their service offerings, which allow the users to record live TV and access recorded content akin to those offered in the streaming platforms.

### **Take-up and usage**

Internet streaming services are available to any end user with a broadband connection. Meanwhile, standalone pay TV services can be accessed via HFC or satellite technology. Since the 2014 Market Review, both Licensees have expanded their pay TV offerings and reach (as explained in Section 3.2), and there is an increasing adoption of OTT applications and streaming platforms in The Bahamas. As such, both services are widely available to end users in The Bahamas.

This is also reflected in URCA's Retail Customer Survey where 58% of respondents stated an awareness of internet based streaming services (close to the 60% awareness of CBL pay TV services). URCA notes that availability is slightly lower than awareness of them, with 46% of respondents claiming internet based streaming services are available to their household, compared to 3% in 2014.<sup>161</sup> In terms of actual take-up, the Retail Customer Survey reveals 77% of the participants use an internet based streaming service, out of which Netflix is currently the most popular. Whilst take-up of streaming services is high, this does not necessarily mean that standalone pay TV subscribers use these services. Given the need for an internet connection, as explained above, OTT take-up may be concentrated in other end user groups, i.e., subscribers of multi-product bundles.

### **Product Characteristics**

There are similarities between pay TV services and internet-based streaming services. Both services offer access to TV and media content based on a monthly subscription fee. The day-to-day user experience is also expected to be similar when using pay TV services or internet-based streaming services. Once set up is completed, users only need to turn on their Smart TV or console and select the content from the provided menu, irrespectively of choosing to watch live content or video on demand.

However, there are also significant differences between both services.

- Like IPTV, to use streaming services, end users must have reliable internet access and the user may also need to install an OTT software/application (app) on their computer or smart TV, which in turn enables them to access the content available on the streaming platform once

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<sup>161</sup>This is in line with current credit card penetration in The Bahamas (40%) which is another requirement to subscribe to internet streaming services. Source: [Central Bank of The Bahamas \(2021\) The Bahamas Consumer Payments Survey 2020](#)

they have purchased a monthly subscription or paid for the access to an specific movie, etc. However, internet streaming services differ from the standalone pay TV services offered by CBL, as the OTT provider does not offer the broadband connection required for the service. Instead, this needs to be purchased separately. This may become a significant limitation for customers accessing pay TV services on a standalone basis if they do not also have a fixed broadband connection.<sup>162</sup> Therefore, this restriction may reduce their willingness to switch to streaming services in case of a SSNIP in their standalone pay TV service.

The need for an internet connection is likely to significantly reduce the demand-side substitutability of internet streaming for standalone pay TV customers, as these users may not have and/or value internet connectivity and because of the incremental price of internet access services.

- Further, the media content offered on both services differs. Most internet streaming services offer a wide catalogue of on demand content, but limited linear TV, while standalone pay TV services offer both linear TV and on demand content. These platforms also differ in the share of local and international content, with traditional pay TV services featuring a more extensive coverage of local content, while streaming services focus on international content, particularly in countries which do not represent a critical share of these streaming services customer base or produce a high volume of local content, as is the case in The Bahamas.

The impact of the difference in media content on demand-substitutability is less clear. URCA has not seen evidence to suggest that this would necessarily limit end users' willingness to switch between both services.

### **Relative Prices**

As in the case of OTT applications described in Section 4.1.1.4, relative prices can limit or facilitate demand-side substitutability between pay TV services and internet-based streaming services.

For an end user to access internet-based applications, they need to subscribe to a streaming service subscription package. Table 21 below sets out a number of internet streaming packages available, representing the least costly monthly subscription packages from the five most popular providers. The monthly subscription charges alone are significantly lower than those for standalone pay TV services, set out in Table 20 above, where CBL's cheapest standalone pay TV plan is RevTVPrime (\$38.00). Internet-based streaming subscription charges assume that the end user already has access to an Internet connection. However, standalone pay TV users are unlikely to have a broadband connection already or necessarily exhibit a willingness to pay for internet connectivity, as explained previously in this sub-section. Obtaining a fixed broadband connection to access internet streaming services would add at least \$33.99<sup>163</sup> per month (see Table 12 in Section 5.1.1.1.1) to the monthly cost, which raises the total costs above those for standalone pay TV services.

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<sup>162</sup> Given the large share of bundled customers, over 80% of total pay TV customers, it seems unlikely that many customers purchase broadband and pay TV services separately, on a standalone basis.

<sup>163</sup> URCA notes that there is a cheaper broadband plan available, BTC's Basic 8 Mbps (\$30.99). However, this plan only includes an 8Mbps download speed and the recommended download speed for internet streaming services is at least 10Mbps.



Therefore, it is unlikely that users of standalone pay TV would switch, in sufficient numbers, to OTT apps in the event of a SSNIP in their standalone pay TV plan.

**Table 21: Tariff plans of internet streaming services**

Provider	Tariff Plan	Product Characteristic	Monthly Price (BSD\$, excl. VAT)
Netflix	Basic Plan	<ul style="list-style-type: none"> <li>Unlimited ad-free movies, TV shows, and mobile games</li> <li>Watch on 1 supported device at a time</li> <li>Watch in HD</li> <li>Download on 1 supported device at a time</li> </ul>	\$8.99
Apple TV	Apple Tv+	<ul style="list-style-type: none"> <li>Includes a 7-days free trial</li> <li>All Apple Originals</li> </ul>	\$7.99
Disney+	Monthly subscription plan	Titles from Disney, Pixar, Marvel, Star Wars and National Geographic	\$7.00
HBO Max	Monthly Plan	All HBO Max content with Ads	\$9.99
Amazon Prime video	Prime Video monthly	<ul style="list-style-type: none"> <li>Includes a 30-days free trial</li> <li>All Prime Video contents</li> </ul>	\$4.99

Source: Internet streaming providers' websites accessed in February 2024

### Supply-side substitution

URCA is of the preliminary view that there is no supply-side substitution between internet-based streaming services and standalone pay TV services in The Bahamas. This is due to the high barriers to entry to the pay TV market, in terms of the need to deploy fixed (cable or fibre) network infrastructure. It is extremely costly and time intensive to deploy a fixed HFC network and currently there is no regulated access to existing fixed networks in The Bahamas, which could alleviate the need for pay TV providers to deploy their own networks. It is also possible to supply pay TV services using a DTH network, reaching an agreement with a satellite provider, but URCA is currently not aware of any provider other than CBL having reached such agreement. Given the time, investment, and licence requirements, URCA considers it is unlikely that an OTT provider would enter the standalone pay TV service market, following a SSNIP in standalone pay TV services.

### Preliminary conclusion

URCA is of the preliminary view that internet-based streaming TV services are not in the same product market as standalone pay TV services. This is mostly due to the lack of supply-side substitution between both services. Also, URCA has to date not seen any evidence to suggest that there is demand-

side substitution between them given the need for a broadband connection to use internet-streaming services which standalone pay TV do not necessarily have access to.<sup>164</sup>

### **6.1.1.5 Are retail pay TV services for residential and business customers in the same product market as standalone pay TV services?**

As part of the product market definition exercise, it is also important to assess the need to define separate markets for residential and business customers.

Within its 2014 market review, URCA defined a single market for both businesses and residential pay TV services given the limited available evidence at the time and existence of supply-side substitutability. In this Section, URCA considers whether the boundaries of the standalone pay TV market remain appropriate, or if it should be separated into two distinct markets for residential and business customers. CBL currently provides separate standalone pay TV services to residential and business customers (i.e., REVTV Business). These business products are targeted at small and medium sized business, such as bars, shops, restaurants, and hotels.

#### **Demand-side substitution**

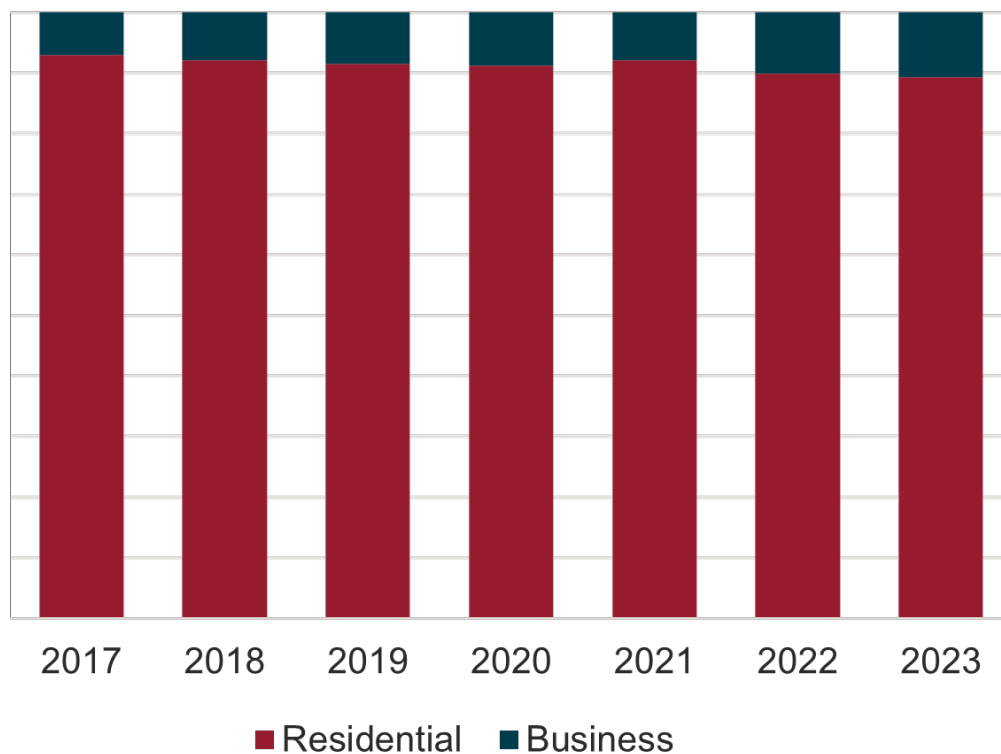
In terms of take up, in 2023, 89% of standalone pay TV subscriptions in The Bahamas were residential. This share has been relatively stable over the past six years.

Residential pay TV subscriptions have followed a decreasing trend between 2017 and 2022 (CAGR - 8%). Still, as shown in Figure 32, the share of residential connections has been largely stable, always above 90% with a slight increase in 2021, potentially due to the introduction of DTH satellite pay TV which covered new remote areas, an increase in demand for pay TV services during lockdown from Covid-19 pandemic or recovery from Hurricane Dorian.

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<sup>164</sup>As mentioned above, URCA invites Licensees and other interested parties to submit, as part of their consultation responses, any evidence that would support a need to reconsider URCA's current assumption that standalone pay TV users do not value and therefore subscribe to other retail fixed telecommunication services (in particular fixed broadband services).

**Figure 32: Standalone pay TV subscriptions, by customer segment, 2017-2023**



Source: Operators’ quantitative data submissions

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

CBL’s plans targeted at small/medium sized businesses are presented in Table 22 below. From these, URCA concludes:

- CBL provides standalone pay TV services to both residential and business customers (SME), but it only provides pay TV services to business customers on a standalone basis via satellite (DTH).
- Business offerings are differentiated from residential plans only on price terms. The two standalone pay TV plans that CBL offers to businesses are the Bronze and Silver plans. DTH Bronze is free of charge for residential customers while commercial clients have to pay a \$20.00 monthly fee. In the case of DTH Silver Plan, the cost for residential users is \$30.00, while its \$60.00 for non-residential users. Furthermore, residential users can include some add-ons to the Silver plan that commercial customers cannot, due to limitations with TV content distribution rights.
- CBL charging residential and commercial client’s different prices for the same services may limit the possibility of demand-side substitution in response to a SSNIP in the price of residential products (and vice-versa).

**Table 22: CBL's pay TV bundles offering for small/medium companies**

Tariff plan	Type of customer	Type of plan	TV content / channels	Other services included	Monthly price (BSD\$, excl. VAT)
DTH Bronze	Business	Standalone	10 channels	-	\$20.00
DTH Silver	Business	Standalone	38 channels	Add-ons: HBO and FOX for \$17.99 and \$13.99 respectively	\$60.00

Source: CBL’s application to launch DTH services with date of 24th of September 2020.

URCA recognises that some of the service offerings to residential and small/medium businesses differ in certain aspects linked to their terms and conditions and additional services included as part of plans. Non-residential offerings usually include a wider range of features such as, amongst others, RevTV media ads and 24/7 digital helpdesk. These additional services are commonly reflected in higher prices. However, these differences might not prevent small businesses, which might not have the same needs as large corporate end users, to switch to residential pay TV plans. Indeed, CBL’s qualitative submission report that *“services taken tend to be more tailored to large corporates/government, where the SME segment is served with more standardised services”*.

**Switching evidence**

URCA currently does not hold any information on customer switching behaviour for these services. In the absence of switching data, it is not clear if demand-side substitutability exists. It could be argued that the features of the two types of products are not distinctive enough to inhibit switching should there be a price increase, especially for small businesses.

However, business customers may struggle to obtain residential contracts because providers have visibility of whether the customer is a business or a residential subscriber when installing the pay TV connection. There is further a legal restriction on content rights, which are commonly more expensive for business customers wishing to show the content to third parties (i.e., their customers), relative to residential customers.

The ability for both Licensees to maintain a different price for both customer segments indicates that demand-side substitutability is limited.

**Supply-side substitution**

To URCA’s understanding there is no significant difference between a network designed to carry pay TV services provided to business end users (SMEs especially) and a network designed to carry these services to residential users, as both customer groups are based in similar locations. There is also no requirement for a provider to have separate licences to offer residential and business services.

URCA notes that there are a few differences between the retail marketing and customer service activities used for the residential customer segment and those deployed for business. Business users are likely to be offered greater levels of technical support, such as dedicated customer service representatives or specific marketing or retail distribution channels.

Whilst a hypothetical provider of business standalone pay TV services may incur additional costs compared to providing residential services (for example, to ensure higher quality of service and invest in better customer support), this is unlikely to create a sufficient barrier to supply-side substitution to mean that business and residential pay TV services should form separate product markets. This is because it should be possible for a hypothetical provider of residential pay TV services to replicate such a network (through for example, the provision of call centres and customer relationship managers) within the timeframe considered in this market review (12-24 months).

### **Further considerations**

The competitive dynamics for standalone pay TV services provided to residential and business customers are similar. This means that defining a separate market for both customer segments would unlikely lead to a different outcome in any dominance assessment within these markets.

### **Preliminary conclusion**

In summary, given the assessment set out above, URCA preliminarily concludes that there is a single market for standalone pay TV services, covering both residential and business customers.

## **6.1.1.6 Preliminary Conclusions on Product Market Definition**

Based on its assessment set out in the sub-sections above, URCA preliminarily concludes that there is a single market for retail standalone pay TV services, irrespective of the underlying technology used to deliver them and covering pay TV services offered to both residential and business customers. The market for multi-product bundles that include pay TV is discussed in detail in Section 7.

## **6.1.2 Geographic Market Definition**

The relevant geographic market considers the degree to which demand and/or supply-side substitutes for retail pay TV services vary by geography. In the absence of any such evidence on sub-national differences in product substitutability, the relevant geographic market should be defined as national. Therefore, the focus of this sub-section is to assess whether defining a single geographic market for the retail pay TV service market is appropriate or whether there is a need to define sub-national markets for this product market.

The starting point for URCA's assessment is its previous market review in 2014 where the market for retail pay TV services was defined as areas where CBL has coverage, which is effectively a national market. URCA has then assessed whether there has been any significant change in the markets since the last market review which would require changing its position on these services. When doing so, URCA has come to the preliminary conclusion that a national geographic market remains relevant for these services. This is based on considering both demand-side and supply-side factors, as explained in Section 4.1.2 above. URCA concluded the following:

- **Demand factors.** URCA has not seen any evidence that the nature of demand for retail pay TV services varies significantly at a sub-national level. This is even though demand for these

services is local in nature (i.e., a subscriber cannot move to another island in reaction to a SSNIP on their pay TV subscription). URCA is also not aware of any observable differences in the characteristics of pay TV customers in different geographic areas, such as preference for use of specific TV packages, which could affect the geographic scope of the demand for standalone pay TV services.

- **Supply factors.** CBL provides retail standalone pay TV services in The Bahamas within its HFC and DTH coverage areas. As previously explained, CBL makes DTH pay TV services available only on islands outside of its HFC coverage areas. Therefore, there is no geographic overlap between the two services. Although this could support the need for separate geographical markets, both DTH and HFC-provided pay TV form part of the same product market and given the similarity in the competitive dynamics across different islands (i.e., CBL being the sole provider of standalone pay TV services in both), with no past evidence of customers diverting orders to suppliers in other areas or a difference in basic demand characteristics, URCA sees no reason for defining sub-national markets. Given CBL’s prevailing market share, there would be no difference if one considered more geographically disaggregated markets in terms of dominance findings. Moreover, all pay TV licences are national in scope, and URCA continues to support national coverage. As such, there are currently no regulatory or legal barriers to provide standalone pay TV services under the same terms and conditions across The Bahamas.

As such, URCA has come to the preliminary view that the geographic reach of the relevant product should not be narrower than the area in which CBL has facilities to provide pay TV services.

URCA recognizes that there could be other factors and information accessible to existing and potential Licensees that may have a bearing on the boundaries of the relevant geographic market. URCA notes and accepts its obligation to consult with interested parties on matters of public significance. As such, URCA reiterates its desire to receive written submissions from interested parties on all aspects of this Preliminary Determination for URCA’s review and consideration.

### 6.1.3 Preliminary Conclusions on the Market Definition for Retail pay TV Services

Based on its assessment set out above, URCA preliminarily concludes that there is a single national market for standalone pay TV services, across all the relevant customers segments (i.e., both residential and business customers). This includes pay TV services provided over CBL’s HFC network and CBL’s satellite TV services.

The full scope of this market is set out in the table below.

**Table 23: List of services included in the pay TV service market**

Product Scope	Customer Segments	Geographic Scope
Standalone pay TV services delivered by HFC and satellite (DTH) technology.	Non-residential/residential tariff offerings	Single, national market

It should again be noted that multi-product bundles including pay TV services, and internet streaming services do not form part of this market.

**Consultation Question 5 – Market definition for Retail pay TV services**

**Do you agree with URCA’s proposed definition of the market for retail pay TV services in The Bahamas? If not, why?**

## **6.2. Market Review Stage 2- Dominance Assessment**

In this Section, URCA assesses the evolution of competition in the market for retail pay TV services, as defined in Section 6.1 above, with a view to determine whether either single or joint dominance exists in this market.

In line with the dominance assessment of standalone fixed voice services and fixed broadband services presented in Section 4.2 and Section 5.2, URCA again begins this dominance assessment by considering whether, on their own, either BTC or CBL is likely to enjoy a dominant position in the defined market. Only if URCA determines that the structural conditions in the market are not supportive of single dominance, will URCA investigate the possible existence of joint dominance.

As set out in Section 6.1, BTC is not an active competitor in this market as it only provides standalone pay TV services to those subscribers who previously had a double-play bundle with pay TV services and fixed broadband and chose to unsubscribe from the latter. As BTC is not offering standalone pay TV services in The Bahamas, CBL is the only provider in this market.

### **6.2.1 Assessment of Single Dominance**

In sub-section 3.3.2 (Table 5) of this document, URCA sets out the elements URCA will consider when assessing whether either Licensee enjoys a position of single firm dominance in the retail standalone pay TV services market. Further, as noted in URCA’s SMP Methodology document, as a starting point URCA will review the relevant market shares to decide whether it could be appropriate to apply a presumption of dominance in case a Licensee’s market share exceeds the 40% thresholds stated in the SMP Guidelines.

**Provisionally, URCA concludes that CBL remains dominant in the retail standalone pay TV services market.**

#### **Current and historic market outcomes**

##### **Market Structure and Market Share Trends**

The *market structure* criterion is concerned with whether the market structure is likely to give rise to single firm dominance in the retail pay TV market. Standalone retail pay TV services are currently

supplied exclusively by CBL.<sup>165</sup> There has been no market entry or exit recently. As such, URCA there infers single dominance by CBL based on this criterion.

Since CBL is the only provider in this market, **market shares** become irrelevant in this assessment, thus URCA does not analyse market share trends in more detail. CBL's implied market share is and has been close to 100% over the period 2017 to 2022, even when accounting for BTC's existing standalone pay TV customers.

### **Countervailing Bargaining Power ('CBP')**

As discussed in Section 4.2, CBP relates to the relative strength of a pay TV service customer in negotiations with their pay TV provider. If present, CBP could limit the ability of CBL to set prices for their standalone pay TV services above the competitive level and hence to behave independently of buyers and ultimately of consumers.

In line with its assessment of this criterion in the context of retail fixed voice services (Section 4.2) and retail fixed broadband services (Section 5.2), URCA considers the standalone pay TV service market to be characterized by limited, if any, CBP. This particularly holds for residential and small business customers who commonly purchase mass-market products, with no one customer individually constituting a large part of either Licensees' output or cost base.

Large corporate customers are more likely to be in a stronger position to counteract the bargaining power of providers by negotiating discounts and other favourable terms when they contract for services. However, it is not clear that large enterprises have demand for standalone pay TV services.

Still, the ability of a large enterprise to exercise buyer power by negotiating on price or non-price terms is not the same as the exercise of CBP. While that buyer may benefit by way of volume discounts, its exercise of buyer power does not deter the pay TV provider from increasing prices in general. For a specific business customer to have CBP, this customer's share must represent a significant share of the service provider's total revenues for these services.

For the above reasons, URCA is of the preliminary view that CBP is not present in this retail market.

### **Absence of potential competition**

As discussed in Section 4.2, this criterion relates to whether operators that are not in the market today can contribute to increased competitive dynamics within the 12-24 months' timeframe of this review.

URCA has evaluated whether there is any prospect of effective competition emerging in this market within the current review period. CBL has been the dominant provider in this market for several years and its market share (in terms of both subscribers and revenues) has remained above [● Confidential] from 2017 to 2022.

When considering potential pay TV providers entering the market, URCA recognises that the entrance of Starlink (discussed in Section 3.2) to the fixed broadband services market could allow Starlink to also launch IPTV services in The Bahamas. Nevertheless, this would require Starlink to obtain a license

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<sup>165</sup>BTC provides some customers in the particular circumstances described, but it does not actively market standalone IPTV offerings and these services are not available to end users.



and acquire content rights to launch pay TV services. More importantly, Starlink only offers broadband services in The Bahamas. It currently does not offer other electronic communications services including IPTV.

In the market for standalone pay TV services, there is currently no regulated wholesale service that potential entrants could use to overcome the high barriers of entry from setting up their own network. Therefore, access would need to be based on commercial negotiations. URCA is not aware of any such arrangements currently being in place.

As Figure 30 shows, the market for standalone pay TV services in The Bahamas is declining. As a result, this market is unlikely to attract new competitors, especially given the high entry costs discussed above. This includes BTC, which is already providing pay TV services as part of multi-product bundles.

Therefore, URCA is of the preliminary view that the standalone pay TV service market is not tending to competition, and it is unlikely that competition will emerge to a sufficient extent in this market, within the 12-24 months' timeframe considered, to limit any market power CBL has.

**Based on its review of the overall market characteristics and recent market outcomes, URCA is of the preliminary view that these point to CBL being dominant in the market for standalone retail pay TV services. However, URCA now assesses the remaining relevant factors.**

### **Characteristics of service providers**

#### **Control over infrastructure that is not easily duplicated**

The control of infrastructure not easily duplicated can make it feasible for a Licensee to behave independently of other Licensees and consumers in the specific circumstances introduced in Section 4.2.

There are two different ways in which customers in The Bahamas can access standalone pay TV services: Cable TV and satellite (DTH) TV. CBL self-supplies its wholesale inputs required to provide retail pay TV services and has its own retail distribution channels/networks, infrastructures which are hard to replicate. CBL offers standalone pay TV access via its HFC network and satellite (DTH).<sup>166</sup>

Given the high barriers to entry in terms of the financial and non-financial costs of deploying the relevant infrastructure for supplying cable or satellite TV services (with no regulated wholesale access that potential entrants could use to overcome such barriers), URCA considers this criterion supports CBL's current and continued dominance in this market.

**Based on its review of these characteristics, URCA remains of the preliminary view that CBL is in a dominant position in the market for retail standalone pay TV services.**

### **Market outlook or prospect of competition**

#### **Barriers to entry**

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<sup>166</sup>CBL is not the owner of the network used to provide satellite pay TV services. Instead, it has a deal with a satellite provider. Other providers could also reach a similar contractual agreement, but URCA is not aware of any other potential competitor having reached a commercial agreement with any satellite provider.

As discussed in Section 4.2, barriers to entry may take the form of legal and regulatory factors that constrain market entry in The Bahamas. In general, retail pay TV service markets - similarly to the fixed voice and fixed broadband markets - are characterised by high and non-transitory barriers to entry due to high sunk costs and time requirements related to licensing, infrastructure deployment and the need to acquire content rights. This appears to also apply to the Bahamian market context, as discussed below.

The likely sunk costs relate to the costs of developing, building and establishing networks and infrastructure for retail pay TV services, in particular considering the sunk costs that CBL has already invested in its fixed network and its existing subscriber base. Indeed, anyone wishing to enter and supply retail pay TV services in The Bahamas would need to commit significant financial resources in order to deploy the necessary infrastructure to provide pay TV services to end users. Moreover, they would need to obtain a license to operate and the distribution rights for TV content.

In considering the impact of barriers to entry on this market, URCA has again considered two forms of possible entry to this retail market: either a new entrant deploys its own pay TV network infrastructure or, where available, gains access to the pay TV networks of existing operators.

Deploying alternative infrastructure to provide pay TV services to end users requires substantial capital investment. Given the existing end-to-end networks and the overall size of the Bahamian market, URCA considers the need to deploy alternative infrastructure to constitute a high barrier to entry in the market for pay TV services. Alternatively, a new entrant could offer pay TV services by gaining access to an existing network, such as CBL's cable network or reaching a similar commercial agreement to CBL's with a satellite provider. However, as wholesale access for pay TV services is currently not regulated in The Bahamas, the access would need to be based on commercial negotiations. URCA is not aware of any such arrangements currently being in place.

As already noted in the assessment of potential competition, BTC is already providing pay TV services as part of a bundle and as such owns the necessary infrastructure to provide pay TV services on a standalone basis, however there are commercial barriers as BTC would need to recover the broadband connection costs to provide pay TV services via IPTV to these clients.

URCA further understands that a significant barrier to the provisioning of pay TV services is the commercial negotiation of rights to provide TV content. Negotiating local and US network content are time consuming but should not be impossible for an alternative provider wishing to create a package comparable to CBL's packages. However, there may be greater barriers to obtaining premium sports and movie content due to the exclusivity of those rights.

Given the above, URCA is of the preliminary view that access to infrastructure and content constitute significant barriers to entry in the standalone pay TV services market. As a result, CBL's dominance position is not expected to be challenged within the timeframe of this market review (12-24 months).

### **Barriers to expansion**

Figure 31 (in Section 6.1.1.1.1) shows that the market for standalone pay TV services has shrunk to almost half over the period 2017 to 2022 (CAGR -11.7%). As a consequence, URCA does not expect demand for standalone pay TV services to grow in the foreseeable future (12-24 months). Moreover, the overall market for pay TV services (including both standalone pay TV and bundles) is experiencing

downward trends in penetration rates, as shown in Figure 1. This is likely to add further limitation on future growth in the market for standalone pay TV services.

URCA has seen no evidence to suggest that the existing Licensee participating in the market for standalone pay TV, CBL, is currently faced with capacity constraints within its existing networks. Neither is URCA aware of any current constraints in terms of international and domestic on-island and inter-island capacity. BTC is currently providing pay TV services as part of a bundle via IPTV, however, given the standing difference in network access, BTC would face significant barriers if it was to expand its access options to provide pay TV services also via cable or satellite, as CBL already does.

URCA believes that CBL thus enjoys a commanding advantage over potential competitors according to this criterion. The investment to deploy a network to offer standalone pay TV by cable or satellite is high and might not be cost-effective considering the penetration downward trend, as shown in data. Nevertheless, given the prevailing market structure in this geographic market, with CBL being the only market player, barriers to expansion become less relevant in assessing market dominance.

**As such, taking all the evidence above into account, URCA preliminarily concludes that it is unlikely that competition will emerge to a sufficient extent in this market over the 12-24 months' timeframe of this review, to limit any market power CBL has.**

#### **Other factors considered**

In reaching this preliminary conclusion, URCA has also considered all the other factors outlined in its analytical framework. However, it concludes that these criteria are not relevant for, or do not impact the assessment of competition in the market for standalone pay TV services. URCA's reasoning for this is listed below:

- **Economies of scale and/or scope.** As introduced in Section 4.2, economies of scale and/or scope are common features of communications markets.<sup>167</sup> Economies of scale and/or scope may constrain entry as well as provide an incumbent with an advantage over entrants.

In the retail market for standalone pay TV services, CBL owns and operates its own network to provide these services. While CBL offers cable-based pay TV services, IPTV services, and satellite TV services; it only provides on a standalone basis HFC-based and satellite-based pay TV. CBL had to undergo significant investments to extend its network and service coverage, this typically results in *economies of scale*. That is, the high fixed costs required to build a fixed network result in close to zero marginal costs until the operator fully utilizes the installed capacity. Moreover, until an alternative operator can attract high volumes of subscribers, average costs will be high and not competitive compared to the incumbent.

Similarly, CBL participates in activities that commonly give rise to *economies of scope* in this market such as customer care, marketing, sales and distribution, administration and shared

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<sup>167</sup>*Scale economies* exist when the average cost of connecting an additional customer to the network is lower than the previous customer connected. By contrast, *scope economies* occur when it is more cost effective for a firm to produce a wider range of goods or services in tandem than producing less of a variety or producing each good/service independently. Where a firm enjoys economies of scope, its long-run average and marginal cost decrease due to the joint production of goods and services.

infrastructure. Based on its preliminary assessment, URCA considers that CBL may benefit from economies of scope in retail standalone pay TV services (i.e., reducing the average cost of providing retail standalone pay TV services) by spreading joint and common costs amongst multiple retail markets and services. In particular, it also offers retail fixed voice services and fixed broadband services (as standalone and multi-product bundles with pay TV) in The Bahamas.

However, since CBL is the only provider in this market, having developed such a network and customer base is likely to result in high and non-transient barriers to entry into this market.

- **Barriers and switching costs.** This criterion relates to the factors or costs that restrain a customer's ability to switch from one standalone pay TV provider to another. In a market with effective competition, consumers should be able to switch easily between service providers. It appears to URCA that barriers to switching remain an issue in the standalone pay TV services market. The main and most obvious reason being that CBL is the only provider of standalone pay TV services, therefore customers have no switching options within this market.
- **Vertical integration or relationships.** In retail standalone pay TV services, vertical concerns may arise when an incumbent operator refuses to provide wholesale access to its network on reasonable terms as in the examples provided in Section 4.2. In the market for standalone pay TV services, CBL is a vertically integrated company and owns the only fixed network infrastructure to supply pay TV services via cable or satellite in The Bahamas. There is currently no alternative operator relying on wholesale access services from CBL to deliver pay TV services.
- **Innovation and diversity of plans.** CBL currently offers three standalone pay TV plans via cable (Prime Local, RevTVPrime and RevTVPro) and two via satellite (Bronze and Silver). As shown in Table 20, the only differentiation category is across number of channels included (and therefore obviously price). URCA is of the preliminary view that this retail market is not characterised by much innovation or diverse tariff plans. Still, once customers choose their plan, they can customize it with a range of 'add-ons' and pay-per-view services<sup>168</sup> (in the case of satellite plans, this is called Premium plan). Add-ons provide customers access to additional movie, sports, or international TV channels. Pay-per-view and video on demand services allow customers to view and pay for individual TV content and/or to catch up on TV programs.
- **Excessive pricing and profitability.** Given that CBL is subject to tariff approval requirements for its pay TV services, the analysis of pricing and profitability is not relevant in the assessment of dominance in this market.
- **Overall size of the undertaking.** This is concerned with any potential benefits and the sustainability of those benefits arising from the large size of the Licensee relative to its competitors. URCA recognizes that CBL is a sizeable undertaking which has operations beyond retail pay TV services in The Bahamas. Nevertheless, given the prevailing market structure, URCA considers that this criterion is not relevant to assess CBL's dominance in the market for standalone pay TV services.
- **Experience in providing products to the market.** As the situation currently stands, CBL is the only provider of retail pay TV services on a standalone basis. It is a well-established entity and

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<sup>168</sup> This does not apply to CBL's 'Prime Local' plan which is the only plan that does not allow for such 'add-ons'.

has brand recognition amongst consumers. URCA is of the view that given the prevailing market structure, this criterion is not relevant to define CBL's dominance.

- **Highly developed distribution and sales network.** This criterion is concerned with the methods or channels used by the existing, licensed retail pay TV service provider to deliver its products and services to the Bahamian public. CBL operates its own, independent sales and distribution channel, which is both physical and online. Its own website is a big part of the distribution and sales network. This is additional to the numerous physical sales outlets used by the company to deliver retail products and services to end users throughout The Bahamas. The well-established distribution and sales network owned by CBL is another criterion supporting its dominance position in this market.
- **Access to finance.** CBL is a publicly traded company on The Bahamas International Securities Exchange with the Government owning half of it. However, given the prevailing market structure, this criterion is not relevant to determining CBL's dominance.
- **Technological advantage or superiority.** CBL offers pay TV services to both residential and business customers via cable, satellite, and IPTV, but it only uses the first two technologies to provide pay TV services on a standalone basis. CBL is currently deploying new FTTH network to replace its HFC network. Nevertheless, in the market for standalone pay TV services, FTTH is not a network used (as it requires a broadband connection to provide pay TV services) and therefore, HFC and satellite (DTH) become the valuable networks. CBL is the only Licensee which has an agreement with a satellite provider which allows reaching more remote customers in a cost-efficient way. However, CBL is not the owner of these satellites and URCA is not aware of any barriers for other potential competitors to also negotiate a similar commercial agreement with a global satellite provider. Given this, URCA is of the preliminary view that this criterion further strengthens CBL's dominance in this market.

### 6.2.1.1 Preliminary Conclusion on Single Dominance

Having analysed the relevant criteria set out above, URCA preliminarily finds that CBL is dominant in the standalone pay TV service market as defined in Section 6.1 above.

In arriving at this preliminary position, URCA has reviewed all criteria listed in sub-section 3.3.2 (Table 5) of this document.<sup>169</sup>

In light of the analysis set out above in relation to single dominance, URCA does not further investigate the potential presence of joint dominance in these retail markets.

#### **Consultation Question 6 - Dominance Assessment in Retail pay TV Service Market**

**Do you agree with URCA's preliminary conclusion from its single dominance assessment in the retail pay TV service market? If not, please set out your alternative views and provide evidence to substantiate your position.**

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<sup>169</sup>Except for network effects, which URCA does not consider to be relevant in the provisioning of pay TV services (i.e., they are only relevant to call or messaging services where end users benefit from a larger number of other end users being on that same network).

## 7. Multi-product bundles

URCA's preliminary assessment of retail fixed voice, fixed broadband and pay TV services in the sections above resulted in the following market definitions:

- There is a single national market for retail standalone fixed voice services, across all relevant customers segments (Section 4.1).
- There are two geographic markets for retail standalone fixed broadband services, and multi-product bundles excluding pay TV (i.e., double-play bundles including fixed broadband and fixed voice services), across all relevant customers segments (Section 5.1).
- There is a single national market for standalone pay TV services, across all relevant customers segments (Section 6.1).

This Section sets out URCA's review of the remaining electronic communications services in The Bahamas that are subject to this review and which are not covered in the aforementioned markets: multi-product bundles that include pay TV services. These include double-play bundles with pay TV and fixed voice or fixed broadband services, and triple-play bundles including fixed voice, fixed broadband and pay TV services.<sup>170</sup> As in previous sections, URCA first defines the product and geographic market scope (Section 7.1), followed by a competition assessment in the defined market (Section 7.2). As part of this, URCA sets out its preliminary views and consultation questions.

### 7.1. Market Review Stage 1 – Market Definition

URCA has structured this section in the following way:

- Product Market Definition (Section 7.1.1)
- Geographic Market Definition (Section 7.1.2)
- Preliminary Conclusion on Product Markets (Section 7.1.3)

#### 7.1.1 Product Market Definition

In The Bahamas, both BTC and CBL offer multi-product bundles that include pay TV services. In particular, BTC offers double-play and triple-play bundles to residential customers, and bundles with broadband and mobile services to business customers.<sup>171</sup> CBL offers double-play and triple-play bundles with pay TV services to both residential and business customers.

In all these bundles, pay TV is provided either via cable or via IPTV technology. In Section 6.1.1.2, URCA preliminarily concluded that IPTV offerings form part of the same product market as standalone pay TV services. In line with Section 6.1.1.2, URCA maintains a technology neutral approach and thus starts this product market definition with double-play bundles including pay TV, irrespective of the technology used to deliver these bundles. In The Bahamas, BTC provides double-play and triple-play

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<sup>170</sup> Double-play bundles including fixed voice and fixed broadband services are out of the scope of this section, as these are covered in Section 5.1 above.

<sup>171</sup> <https://www.btcbahamas.com/fiber-other-plans>

bundles including pay TV via IPTV only. CBL offers IPTV triple-play bundles marketed under the “ALIVFibr” brand,<sup>172</sup> while also offering HFC-based bundles.

URCA conducts this analysis by starting with double-play bundles including pay TV and fixed broadband as the focal product (sold to residential customers). Then URCA applies the SSNIP test to determine whether these services should be considered as part of their own product market or should be widened to include any effective substitutes, including the other multi-product bundles including pay TV (i.e., double-play bundles including pay TV and fixed voice, and triple-play bundles including pay TV, fixed voice, and fixed broadband). In doing so, URCA addresses the following considerations:

- Whether there is a unique market for multi-product bundles that include pay TV services, or different markets depending on the combination of services.
- Whether Internet-based streaming services are part of the same product market.
- Whether service offerings for residential and business customers form part of the same relevant product market.

### **7.1.1.1 Is there a unique market for bundles, or different markets depending on the combination of services?**

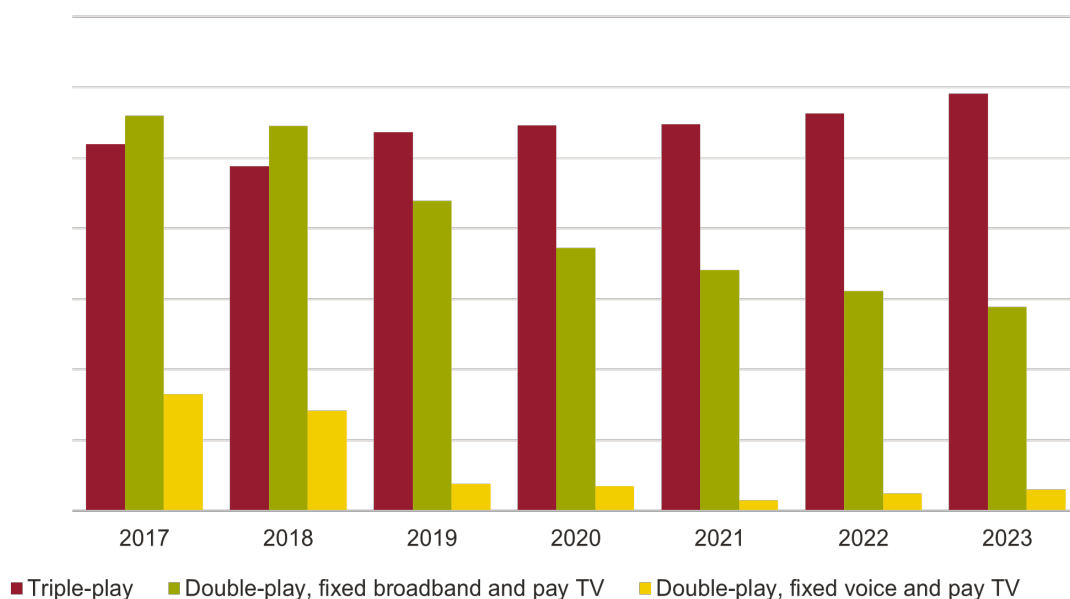
#### **Demand-side substitution**

As mentioned in Section 6.1, the most common form of accessing pay TV in The Bahamas is as part of multi-product bundled offers with other fixed services, although take up of pay TV services has been declining for both standalone and bundled offers since 2017. Figure 33 shows the distribution of multi-product bundled subscriptions that include pay TV services by type of bundle. Apart from double-play bundles with fixed broadband and fixed voice (covered in Section 5.1), the most bundled subscriptions are triple-play bundles. The volume of these has remained stable over the five-year period under review. On the contrary, double-play bundles including fixed broadband and pay TV have been declining in relevance over time, and fixed voice and pay TV bundles have almost disappeared from the market.

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<sup>172</sup> Only available in the communities of Adelaide Village and Coral Harbor.

**Figure 33: Multi-product bundled subscriptions including pay TV, 2017-2023**



Source: Operators’ quantitative submissions

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

End users that are subscribed to a multi-product bundle including pay TV services are likely to value at least another fixed service (fixed broadband, fixed voice, or both). According to URCA’s Retail Customer Survey, 78% of respondents subscribed to multi-product bundles including pay TV would not consider switching to separate services after a SSNIP in the bundle.

The prices of multi-product bundles including pay TV provided to residential customers, available on the Licensees’ websites, are presented in Table 24. Even though the price for triple-play bundles is slightly higher than for double-play bundles including pay TV, price differentials are currently small. In URCA’s view, this supports treating both type of bundles in the same market. For example, CBL provides its “REVNETPrestige + REVTVPrime” double-play bundle at \$137.00, whilst also offering the possibility to purchase its “MyREVPremium” triple-play bundle for \$144.99.

**Table 24: Selected multi-product residential bundles inc. pay TV**

Operator	Tariff plan	Type of plan	Advertised download speed	Minutes included	Other services included	Monthly price (BSD\$, excl. VAT)
BTC	Fiber & TV 300	Double-play, fixed broadband and pay TV	300 Mbps		TV Max (164 channels)	\$84.99 <sup>173</sup>
	Basic 50 Bundle	Triple-play	50 Mbps	Talk 300	TV Max (157 channels)	\$94.99
	Fiber, Talk 24/7 & TV 300	Triple-play	300 Mbps	Talk 24/7 unlimited	TV Max (164 channels)	\$99.99

<sup>173</sup> BTC currently offers a three month promotion at \$42.50 per month.



Operator	Tariff plan	Type of plan	Advertised download speed	Minutes included	Other services included	Monthly price (BSD\$, excl. VAT)
	Extreme 600	Triple-play	600 Mbps	Talk 24/7 unlimited	TV Max (164 channels)	\$139.99
	Fiber, Talk 24/7 & TV 1 Gb	Triple-play	1 Gbps	Talk 24/7 unlimited	Watch All (208 channels)	\$159.00
CBL	REVNETPrime + Prime Local	Double-play, fixed broadband and pay TV	30 Mbps		Prime Local (6 TV channels)	\$59.50
	REVNETPrime + REVTVPrime	Double-play, fixed broadband and pay TV	30 Mbps		REVTVPRIME (69 channels)	\$77.99
	REVNETPrime + REVTVPro	Double-play, fixed broadband and pay TV	30 Mbps		REVTVPRIME (98 channels)	\$87.99
	REVNETPro + Prime Local	Double-play, fixed broadband and pay TV	45 Mbps		Prime Local (6 TV channels)	\$81.50
	REVNETPro + REVTVPrime	Double-play, fixed broadband and pay TV	45 Mbps		REVTVPRIME (69 channels)	\$94.99
	REVNETPro + REVTVPro	Double-play, fixed broadband and pay TV	45 Mbps		REVTVPRIME (98 channels)	\$104.99
	REVNETPremium + REVTVPrime	Double-play, fixed broadband and pay TV	75 Mbps		REVTVPRIME (69 channels)	\$109.99
	REVNETPrestige+ REVTVPrime	Double-play, fixed broadband and pay TV	105 Mbps		REVTVPRIME (69 channels)	\$137.00
	REVNETPrime + Prime Local + REVTalk Prime	Triple-play	30 Mbps	Unlimited local minutes	Prime Local (6 TV channels)	\$64.98
	REVNETPrime + Prime Local + REVTalk Pro	Triple-play	30 Mbps	Unlimited local and 900 international minutes	Prime Local (6 TV channels)	\$69.99
	REVNETPrime + Prime Local + REVTalk Unlimited	Triple-play	30 Mbps	Unlimited local and international minutes	Prime Local (6 TV channels)	\$74.99
	MyREVPRIME	Triple-play	30 Mbps	Unlimited local minutes	REVTVPRIME (69 channels)	\$92.98
	REVNETPrime + REVTVPrime + REV TALK Unlimited	Triple-play	30 Mbps	Unlimited local and international minutes	REVTVPRIME (69 channels)	\$102.99
	MyREVPRO	Triple-play	75 Mbps	Unlimited local and 900 international minutes	REVTVPRO (98 channels)	\$124.99
	MyREVPREMIUM	Triple-play	100 Mbps	Unlimited local and international minutes	REVTVPRO (98 channels)	\$144.99

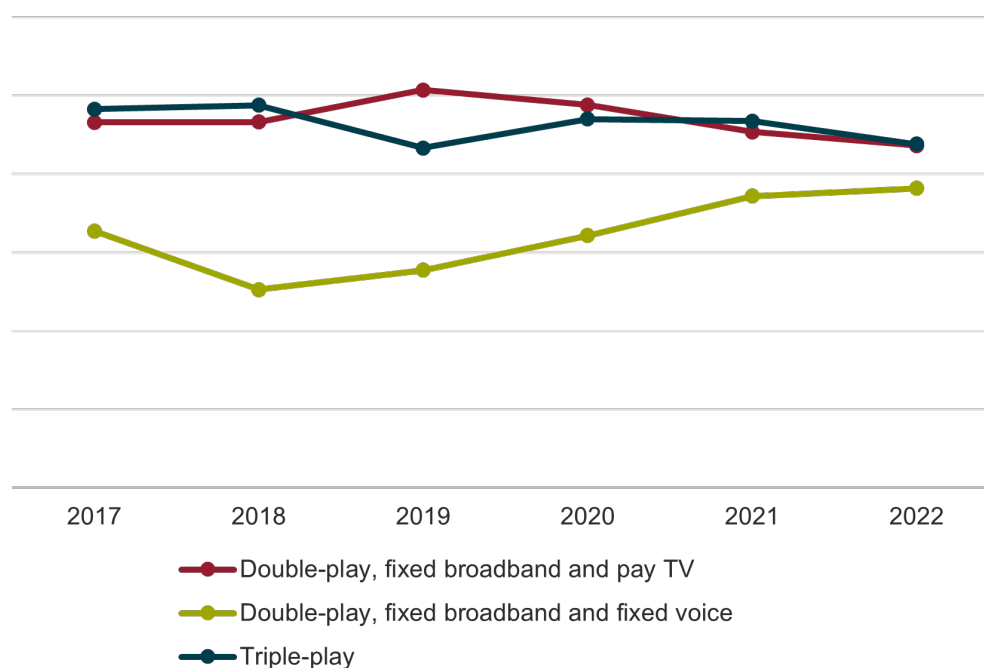
Operator	Tariff plan	Type of plan	Advertised download speed	Minutes included	Other services included	Monthly price (BSD\$, excl. VAT)
	MyREVPRESTIGE	Triple-play	150 Mbps	Unlimited local and international minutes	RETVPRO (98 channels)	\$172.00
	ALIV Fibr Infinite 200	Triple-play	200 Mbps	Unlimited local minutes	141 IPTV channels + 24 radio channels	\$109.00
	ALIV Fibr Infinite 500	Triple-play	500 Mbps	Unlimited local minutes	171 IPTV channels	\$119.00
	ALIV Fibr Infinite 1000	Triple-play	1 Gbps	Unlimited local minutes	171 IPTV channels	\$169.00

Source: Operators’ websites, accessed February 2024.

Note: Monthly prices do not include VAT. Includes plans for residential customers only.

As indicated in Section 3.2, ARPU is not a pure measure of price levels, but it provides an indication on the average expenditure of end users and the average revenues received by operators. The trends in ARPU show triple-play and double-play bundles including fixed broadband and pay TV have followed a relatively stable trend over the five-year period under review, with both services exhibiting similar ARPU. Between 2017 and 2022, the monthly revenue per user for double-play bundles including fixed broadband and pay TV decreased slightly from \$93.25 to \$87.29 per user. Similarly, ARPU in the case of triple-play bundles fell from \$96.56 to \$87.67 in the same period.

**Figure 34: Average Monthly ARPU (real terms) per type of bundle, 2017-2022**



Source: Operators’ quantitative submissions

Note: The data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

In light of the discussion above, URCA considers that based on relative prices, take-up and ARPU trends there is demand-side substitution between multi-product bundles including pay TV (i.e., double-play including fixed voice and pay TV, double-play including fixed broadband and pay TV, and triple-play including fixed voice, fixed broadband and pay TV).

### **Supply-side substitution**

URCA considers that there is supply-side substitution between multi-product bundles that include pay TV. For example, in the event of a SSNIP in the double-play bundle including pay TV and fixed broadband, providers of triple-play bundles or double-play bundles including pay TV and fixed voice could start offering double-play bundles including pay TV and fixed broadband, as fixed voice and fixed broadband are considered to be supply-substitutes in The Bahamas (as described in Section 4.1 and Section 5.1).<sup>174</sup> This is supported by the fact that players currently active in the provision of double-play bundles overlap with those offerings triple-play bundles.

### **Further considerations**

In addition to the demand-side and supply-side considerations described above, as set out in more detail in Section 7.2 below, the market structure and competitive dynamics for the provision of multi-product bundles including pay TV is sufficiently similar, regardless of the combination of services.

### **Preliminary conclusion**

In summary, given the assessment set out above, URCA preliminarily concludes that there is a single market for retail multi-product bundles including pay TV services, covering both double-play and triple-play bundles. URCA considers there is both demand-side and supply-side substitutability between these multi-product bundles. Furthermore, URCA notes that, from a practical point of view, there is no need to define separate product markets. This is because the competitive dynamics of multi-product bundles including pay TV are sufficiently similar, regardless of the combination of services, and the treatment of these does not affect URCA's preliminary conclusions on dominance of CBL in multi-product bundles including pay TV services (set out in Section 7.2 below).

#### **7.1.1.2 Are internet-based streaming services in the same product market as multi-product bundles including pay TV services?**

In the case of standalone pay TV services (sub-section 6.1.1.4), the need to have a fixed broadband connection – which needs to be purchased separately – to access streaming services was found to restrict the demand substitutability between these products. The resulting differences in relative pricing represented a significant limitation as users of standalone pay TV services might not value or have access to broadband connections.

However, when assessing multi-product bundles including pay TV, the incremental cost of streaming services is reduced as end users are already subscribed to broadband services (with their multi-

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<sup>174</sup> Due to the emergence of VoIP services, both fixed broadband and fixed voice can be delivered through similar infrastructure that shares common components.

product bundle).<sup>175</sup> Therefore, end users might have incentives to switch away from multi-product bundles to streaming services after a SSNIP in their multi-product bundles. Nevertheless, URCA considers that some features from pay TV services cannot be replicated by internet-based streaming services, and that there is evidence that suggests that these services are complements rather than substitutes.

Below, URCA assesses whether the market for multi-product bundles including pay TV services should be widened to include internet-based streaming services.

### **Demand-side substitution**

As in the case of fixed broadband or IPTV services, streaming services require a personal device, such as a personal computer, laptop, tablet or mobile phone to access and use the service. A customer already subscribed to a multi-product bundle has the means to also use streaming services (in terms of the Internet connectivity and personal device). Moreover, ALIV triple-play bundles promote access to OTT applications as part of their offering, although additional subscription fees apply to use these apps.

There are similarities between pay TV and streaming services, as both offer access to TV and media content based on a monthly subscription fee, and the day-to-day user experience is also similar. However, as indicated in sub-section 6.1.1.4, the media content offer on both services is different:

- While most internet-based streaming services offer a catalogue of on-demand content and limited linear TV, pay TV services offer both linear TV and abundant on demand content.
- The proportion of local and international content offered in the platforms differ as traditional pay TV services feature a more extensive coverage of local content, while streaming services focus on international content.

According to URCA's Retail Customer Survey, 67% of survey respondents subscribed to multi-product bundles indicated that they use their broadband connection for viewing or streaming videos and TV content using OTT applications. Moreover, 42% of survey respondents subscribed to pay TV services are also subscribed to internet streaming services. This suggests that multi-product bundles including pay TV and internet-based streaming services are valued jointly by many end users, who do not see them as substitutes.

End users that are subscribed to multi-product bundles including pay TV services are likely to value at least another fixed service (fixed broadband, fixed voice, or both) offered within their current multi-product bundle. Therefore, in the case of a SSNIP in the multi-product bundle, customers would need to purchase standalone fixed broadband services or a double-play bundle including fixed broadband and fixed voice services, plus separately internet-based streaming services.

Table 25 presents the current monthly prices of selected standalone and multi-product bundle offerings, available on the operator's websites as well as internet-based streaming monthly subscription fees. If an end user subscribed to a multi-product bundle including pay TV were to switch to separate standalone fixed broadband services in order to switch away from pay TV to streaming

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<sup>175</sup>The exception being multiproduct bundles including fixed voice and pay TV services; however, take-up of these services has declined significantly in recent years, as illustrated in Figure 38 above.

services, it would cost at least \$50.98 (combined price of Apple TV monthly subscription fee and BTC’s “Basic 50 Mbps” fixed broadband standalone plan) or \$65.98 if BTC’s “Basic Landline” fixed voice plan is included. These prices are considerably lower than the monthly subscription charges for the cheapest double-play (\$77.99) or triple play bundles including pay TV services (\$92.98). As such, purely based on relative prices, these services may be considered demand-side substitutes.

**Table 25: Selected residential offerings and internet-based streaming monthly subscriptions fees**

Operator	Tariff plan	Type of plan	Advertised download speed	Other services included	Monthly price (BSD\$, excl. VAT)
<b>Netflix</b>	Basic Plan	Internet-based streaming	n/a	<ul style="list-style-type: none"> <li>Unlimited ad-free movies, TV shows, and mobile games</li> <li>Watch on 1 supported device at a time</li> <li>Watch in HD</li> <li>Download on 1 supported device at a time</li> </ul>	\$8.99
<b>Apple TV</b>	Apple Tv+	Internet-based streaming	n/a	<ul style="list-style-type: none"> <li>Includes a 7-days free trial</li> <li>All Apple Originals</li> </ul>	\$7.99
<b>Disney+</b>	Monthly subscription plan	Internet-based streaming	n/a	<ul style="list-style-type: none"> <li>Titles from Disney, Pixar, Marvel, Star Wars and National Geographic</li> </ul>	\$7.00
<b>HBO Max</b>	Monthly Plan	Internet-based streaming	n/a	<ul style="list-style-type: none"> <li>All HBO Max content with Ads</li> </ul>	\$9.99
<b>Amazon Prime video</b>	Prime Video monthly	Internet-based streaming	n/a	<ul style="list-style-type: none"> <li>Includes a 30-days free trial</li> <li>All Prime Video contents</li> </ul>	\$4.99
<b>BTC</b>	Basic 50 + TV Max	Double-play	50 Mbps	TV Max (157 channels)	\$79.99
	Basic 50 Bundle	Triple-play	50 Mbps	TV Max (157 channels) Unlimited minutes	\$94.99
	Basic 50 Mbps	Standalone	50 Mbps	n/a	\$43.99
	Basic Landline	Standalone fixed voice	n/a	Unlimited calls to local landlines 100 minutes per month for calls to Bahamian mobile numbers	\$15.00
<b>CBL</b>	REVTVPrime + REVNETPrimer	Double-play	30 Mbps	69 TV channels	\$77.99
	MyREVPrime	Triple-play	30 Mbps	69 TV channels Unlimited minutes	\$92.98
	RevNetPrime	Standalone broadband	30 Mbps	n/a	\$49.50
	REVTALKPrime	Standalone fixed voice	n/a	Unlimited local calls Unlimited calls	\$16.99

Source: Operators’ websites, accessed February 2024.

Note: Monthly prices do not include VAT. Includes plans for residential customers only.

Within a recent submission to URCA, CBL shows a decrease in standalone pay TV and multi-product bundles including pay TV and notes an increase in subscribers to standalone broadband plans and

internet-based streaming services. According to CBL, these trends are driven by cord-cutting.<sup>176</sup> URCA acknowledges the historic take-up trends of these services but has no information to confirm whether these customers indeed switch from pay TV services to internet-based streaming services.<sup>177</sup>

URCA considers it unlikely that, on a forward-looking basis, many end users of multi-product bundles including pay TV would revert to standalone fixed broadband and fixed voice to switch to streaming services in the case of a SSNIP in the multi-product bundle including pay TV services. Internet-based streaming services have been available to Bahamian end-users for a while. As such, those end users that place less value on pay TV services (including the local content provided by them) may have decided to unsubscribe from their pay TV services. However, according to URCA's Retail Customer Survey, the end users that are currently subscribed to multi-product bundles including pay TV services value the pay TV services offered by Bahamian operators and therefore might consider streaming services as complements, rather than substitutes. Evidence from URCA's Retail Customer Survey supports this, as only 14% of survey respondents currently subscribed to multi-product bundles including pay TV services would rely entirely on internet-based streaming services as a response to a SSNIP in multi-product bundles including pay TV services.

In light of the demand-side considerations set out above, URCA preliminarily considers that internet-based streaming services should not be part of the same market as multi-product bundles including pay TV services. However, URCA also recognizes the possibility of internet-based streaming services having some impact on competition from outside the market.

### **Supply-side substitution**

As was the case when assessing the substitutability between standalone pay TV and internet-based streaming services (see Section 6.1.1.4 above), URCA considers that there is no supply-side substitution between internet-based streaming services and multi-product bundles including pay TV in The Bahamas. This is because there are high barriers to entry to the fixed market, in terms of the need to deploy fixed network infrastructure which is extremely costly and time intensive. Moreover, there is no regulated access to existing fixed networks in The Bahamas that could alleviate the need for streaming service providers to deploy their own networks. Given the time, investment, and licence requirements, URCA considers it is unlikely that an internet-based streaming provider would start offering multi-product bundles including pay TV services, following a SSNIP in multi-product bundles including pay TV.

### **Preliminary conclusion**

In summary, given the assessment of both demand-side and supply-side substitution set out above, URCA preliminarily concludes that internet-based streaming services do not form part of the market

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<sup>176</sup>Cord-cutting refers to the pattern of viewers, referred to as cord-cutters, cancelling their subscriptions to pay TV services available, dropping pay TV channels or reducing the number of hours of pay TV viewed in response to competition from rival media available over the Internet.

<sup>177</sup>Additionally, to those customers cancelling their pay TV plan and substituting this service with an internet-based streaming services, there may also be some pay TV customers who subscribe to streaming services whilst retaining a pay TV subscription but reduce their number of TV channels. Due to a lack of information, this phenomenon could not be analysed quantitatively by URCA.

for multi-product bundles including pay TV services, since there is limited demand-side and supply-side substitutability between these two services.

### 7.1.1.3 Are multi-product bundles including pay TV services for residential and business customers in the same product market?

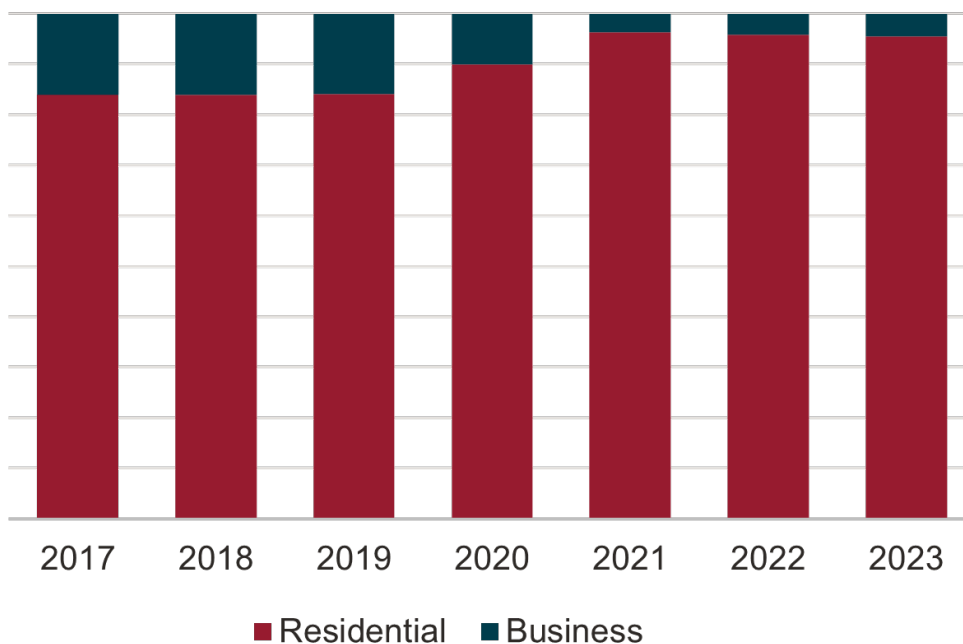
Determining the relevant product market requires an assessment of whether there is a need to define separate markets for residential and business customers. As part of the 2014 Market Review, URCA defined a single market for both business and residential pay TV services, regardless of whether these were offered on a standalone basis or as part of a multi-product bundle. This decision was based on the limited available evidence at the time and the existence of supply-side substitutability.

In sub-section 6.1.1.5, URCA preliminary concludes that this market definition remains appropriate for standalone pay TV services. In this Section, URCA assesses whether these market boundaries can also be applied to multi-product bundles including pay TV.

#### Demand-side substitution

In terms of take up, in 2023, 96% of all multi-product bundle subscriptions (including a pay TV product) in The Bahamas were residential. This share has been increasing over time. As presented in Figure 35, between 2017 and 2023, the share of business subscriptions experienced a large decline between 2019 and 2020, potentially due to the Covid-19 pandemic and the effects of Hurricane Dorian in the Bahamian economy.

Figure 35: Multi-product bundled subscriptions with pay TV, by customer segment, 2017-2023



Source: Operators’ quantitative submissions

Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

The offerings targeted at start-ups and small businesses available on the Licensees’ websites as well as equivalent residential offerings are presented in Table 26. From this, URCA concludes:

- In The Bahamas, both CBL and BTC offer multi-product bundles including pay TV to residential customers but only CBL provides these offerings to businesses. These are marketed under the “Business in a box” brand. This business product is offered as part of triple-play bundles and is only targeted at start-ups and small businesses.
- Both CBL and BTC offer equivalent residential offerings to CBL’s “Business in a box” packages with essentially similar characteristics. They both offer similar bandwidths ranges, unlimited data allowance, unlimited domestic calls, minutes allowance for international calls and access to a wide number of TV channels.
- Business offerings are relatively more expensive than residential plans, which may restrict demand-side substitutability in response of a SSNIP in the price of residential products. For example, CBL’s “Essential package + Business TV” is offered at \$228.00 while the most comparable residential plan is BTC’s “Basic 50 bundle” which costs \$94.99 less than half the price.

**Table 26: Selected residential and non-residential triple-play bundles including pay TV**

Operator	Tariff plan	Type of customer	Type of plan	Advertised download speed	Other services included	Monthly price (BSD\$, excl. VAT)
BTC	Basic 50 bundle	Residential	Triple play	50 Mbps	TV Max (157 channels) Free local calls, 300 international and LD minutes included	\$94.99
CBL	Essential package + Business TV	Business	Triple play	50 Mbps	Business TV (100 channels) Free domestic calls, international and LD minutes included (1 voice line)	\$228.00
	Executive package + Business TV	Business	Triple play	70 Mbps	Business TV (100 channels) Free domestic calls, international and LD minutes included (2 voice line)	\$300.00
	RETVPro + REVNETPro + REVtalkPrime	Residential	Triple play	45 Mbps	RETVPro (96 channels) Unlimited local minutes	\$119.98
	REVNETPremium + RETVPro + REVtalkPrime	Residential	Triple play	70 Mbps	RETVPro (96 channels) Unlimited local minutes	\$134.98

Source: Operators’ websites, accessed February 2024.

Note: Monthly prices do not include VAT. Includes plans for residential customers only.

URCA recognises that some of the service offerings to residential and start up/small businesses differ in certain aspects linked to their terms and conditions and additional services included as part of plans (e.g., static IP addresses, cloud storage, 24/7 digital helpdesk, media ads). These additional services are reflected in the higher prices of non-residential offerings compared to residential plans.



From URCA's point of view, there might be limited demand-side substitution between residential and non-residential multi-product bundles including pay TV services due to differences in administrative requirements and product characteristics. Nonetheless, in some circumstances, residential customers might access business products, and vice versa. This is, for example, particularly the case for home offices who could, in principle, switch to a residential service in the case of a SSNIP in the business plan they purchase.

However, the opposite can be challenging as there might be contractual barriers and to access offers targeted at businesses (e.g., business licence, VAT registration) which may, in part, restrict demand-side substitution from residential customers. Additionally, given current price differentials, it is unlikely that a residential user would seek to switch to a business plan, in the event of a SSNIP, assuming prices are currently at competitive levels. Instead, substitution in the other direction (from business to residential) may be more likely, particularly for home-based businesses.

Based on the demand-side considerations set out above, URCA considers that residential and business offerings should not be considered as part of the same market.

### **Supply-side substitution**

From a supply-side perspective, URCA considers that an operator offering multi-product bundles including pay TV services can easily provide the same bundles to small and medium sized businesses, and the underlying networks through which the services are carried is the same and both customers groups are based in similar locations. There is also no requirement for a provider to have separate licences to offer residential and business services.

URCA recognised that there are a few differences between the retail marketing and customer service activities used for the residential customer segment and those deployed for businesses. In particular, business users are likely to be offered greater levels of technical support, such as dedicated customer service representatives or specific marketing or retail distribution channels. Therefore, a hypothetical provider of multi-product bundles including pay TV services to business customers may incur additional costs compared to providing residential services. However, this is unlikely to create significant barriers to supply-side substitutions as it is still possible for residential providers to replicate the retail marketing channels and customer service activities offered by business providers within the timeframe considered this market review (12-24 months).

### **Preliminary conclusion**

In summary, given the assessment set out above, URCA considers the service offerings for these two customer segments to be sufficiently different to, in principle, justify separate product markets. However, URCA believes that the market structure and competitive dynamics for these customer segments are sufficiently similar in The Bahamas to reach the same conclusions in the SMP assessment for both services. Therefore, from a practical perspective, these customer segments can be considered jointly within a single product market.

As such, URCA preliminarily defines a single market for business and residential services.

#### 7.1.1.4 Preliminary Conclusions on Product Market Definition

Based on its assessment set out in the sub-sections above, URCA preliminarily concludes that there is a single market for retail multi-product bundles including pay TV services. This market includes pay TV services irrespective of underlying technology offered to both residential and business customers.

#### 7.1.2 Geographic Market Definition

In this Section, URCA assesses whether defining a single geographic market for the retail market of multi-product bundles including pay TV is appropriate or whether there is a need to define sub-national markets due to regional differences in the provision of this service.

The starting point for this assessment is the 2014 market review where URCA reached the following conclusions:

- A single market for retail fixed voice services was defined as the areas where BTC had coverage, which was effectively a national market.
- URCA defined two separate markets for retail fixed broadband services: a market for fixed broadband services where CBL was present (Geographic Market 1<sup>178</sup>) and a market for fixed broadband serviced where CBL was not present (Geographic Market 2<sup>179</sup>).
- A single market for retail pay TV services was defined as the areas where CBL had coverage, which was effectively a national market.

In the 2014 Market Review, these markets were defined irrespective of whether these services were offered on a standalone basis or as part of a multi-product bundle.

URCA has assessed whether there has been any significant change in these markets since the last market review which would require changing its position on the geographic scope of this product market. When doing so, URCA has come to the preliminary conclusion that a single geographic market should be defined for the market of multi-product bundles including pay TV. As described in Section 4.1.2, this is based on a review of the following demand and supply-side factors:

- **Demand factors:** URCA has not seen any evidence that the nature of demand for multi-product bundles including pay TV varies significantly at a sub-national level. This is even though demand for the products is local in nature. URCA is also not aware of any observable differences in the characteristics among customers of multi-product bundles including pay TV service in different geographic areas, which could affect the geographic scope of the demand for these services.
- **Supply factors:** Multi-product bundles including pay TV services are supplied at a similar price and product specifications across The Bahamas. BTC only provides pay TV services via IPTV, thus it only offers these bundles in those islands within its FTTH coverage area (mainly New Providence, Abaco, Grand Bahama and Eleuthera). Meanwhile, CBL offers multi-product bundles including pay TV services provided via cable and IPTV. Given the significant overlap in BTC's FTTH coverage and CBL's combined HFC and FTTH coverage,

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<sup>178</sup>New Providence, Abaco, Grand Bahama and Eleuthera.

<sup>179</sup>All remaining islands where BTC had deployed network infrastructure to offer fixed broadband services.

URCA sees merit in adopting a single geographic market.<sup>180,181</sup> Given the similarity in the demand and supply-side factors in the geographic areas where multi-product services are available, URCA preliminary concludes there to be no need to define sub-national geographic markets for multi-product bundles including pay TV.

Given the analysis presented above, URCA has come to the preliminary view that the market for multi-product bundles including pay TV should be defined at the national level.

URCA recognizes that there could be other factors and information accessible to existing and potential Licensees that may have a bearing on the boundaries of the relevant geographic market. URCA notes and accepts its obligation to consult with interested parties on matters of public significance. As such, URCA reiterates its desire to receive written submissions from interested parties on all aspects of this Preliminary Determination for URCA’s review and consideration.

### 7.1.3 Preliminary Conclusions on the Market for multi-product bundles including pay TV

Based on its assessment set out above, URCA preliminary concludes that there is a single national market for multi-product bundles including pay TV (i.e., double-play including fixed voice and pay TV, double-play including fixed broadband and pay TV, and triple-play including fixed voice, fixed broadband and pay TV), across all the relevant customers segments (i.e., both residential and business customers).

The full scope of this market is set out in the table below:

**Table 27: List of services included in the fixed broadband market**

Product Scope	Customer Segments	Geographic Scope
Multi-product bundles including pay TV services (i.e., currently this includes double-play bundles including fixed broadband and pay TV, double-play bundles including fixed voice and pay TV, and triple-play bundles including fixed broadband, fixed voice and pay TV) <sup>182</sup>	Non-residential and residential tariff offerings	Single, national market

<sup>180</sup>URCA considers sub-national markets would have only been required under the following scenarios: If BTC had significant and non-transitory FTTH coverage outside of the areas covered by CBL’s HFC and FTTH network. Or if CBL had significant and non-transitory service coverage outside BTC’s FTTH coverage. As far as URCA is aware, neither of these scenarios are applicable to date in The Bahamas.

<sup>181</sup>URCA notes that this preliminary decision differs to its preliminary decision to define sub-national geographic markets for fixed broadband services. This is a result of BTC having a national coverage of fixed broadband services (including in geographic areas where CBL does not offer fixed broadband services), whereas this is not the case for multi-product bundled services including pay TV (which are only offered via HFC and FTTH).

<sup>182</sup> This includes pay TV services provided over HFC, satellite and IPTV.

**Consultation Question 5 – Market definition for Retail Multi-product Bundles including pay TV**

**Do you agree with URCA’s proposed definition of the market for multi-product bundles including pay TV service in The Bahamas? If not, why?**

## **7.2. Market Review Stage 2 – Dominance Assessment**

In this Section, URCA assesses the evolution of competition in the market for multi-product bundles including pay TV, as defined in Section 7.1 above, with a view to determine whether either single or joint dominance exists in this market.

In line with the dominance assessment of other fixed electronic communications services presented in Section 4.2, Section 5.2 and Section 6.2, URCA again begins this market dominance assessment by considering whether, on their own, either BTC or CBL is likely to enjoy a dominant position in the defined market. Only if URCA determines that the structural conditions in the market are not supportive of single dominance will URCA investigate the possible existence of joint dominance.

### **7.2.1 Assessment of Single Dominance**

In sub-section 3.3.2 (Table 5) of this document, URCA sets out the elements that it will consider when assessing whether either a Licensee enjoys a position of single firm dominance in the market for multiproduct bundles including pay TV. Further, as noted in URCA’s SMP Methodology document, as a starting point, URCA will review the relevant market shares to decide whether it could be appropriate to apply a presumption of dominance, in case a Licensee’s market share exceeds the 40% thresholds stated in the SMP Guidelines.

Provisionally, URCA concludes that CBL is dominant in the market for these multi-product bundles. This is explained below.

#### **Current and historic market outcomes**

##### **Market Structure and Market Share Trends**

The **market structure** criterion is concerned with whether the market structure is likely to give rise to single firm dominance in the market for multi-product bundles including pay TV services. Multi-product bundles<sup>183</sup> including pay TV services are currently supplied by both BTC and CBL. There has been no market entry or exit recently.

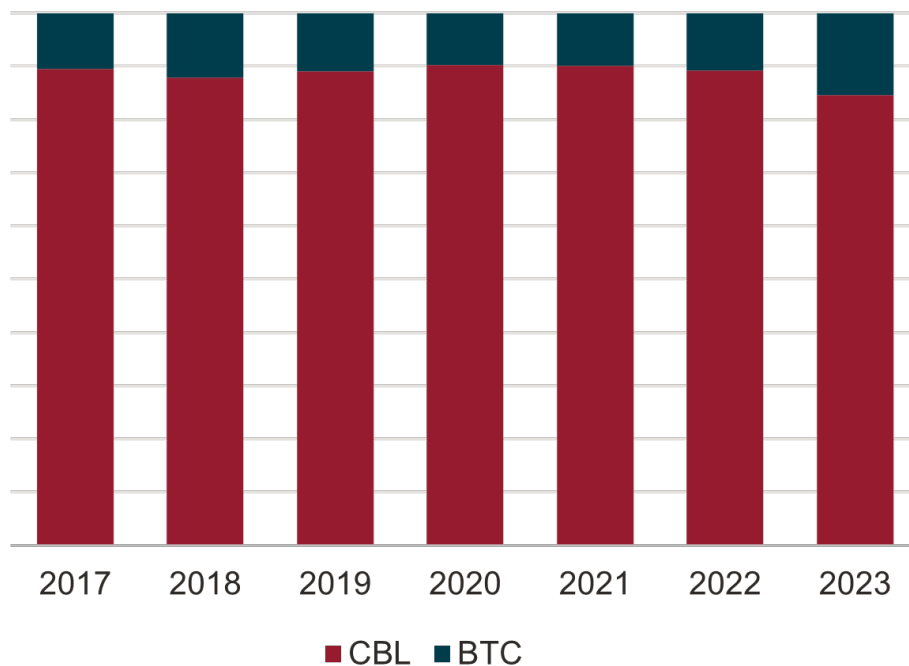
In 2023, CBL’s market share in terms of number of subscribers stands at 85%. Such a market structure is highly unlikely to be compatible with a competitive market. As such, URCA there infers, based on this criterion, that CBL is likely to enjoy (on its own) a dominant position in this market.

**Market share trends** provide an indication of how competitive a market is and measure the outcome of the competitive process. As discussed in Section 4.2, these can be indicative of obstacles to effective competition in the past.

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<sup>183</sup> These include triple play bundles with pay TV, fixed broadband and fixed voice, and double play bundles, both with pay TV and fixed broadband, and with pay TV and fixed voice)

**Figure 36: Market shares in number of subscribers for multi-product bundles including pay TV, 2017-2023**



Source: Operators’ quantitative data submissions

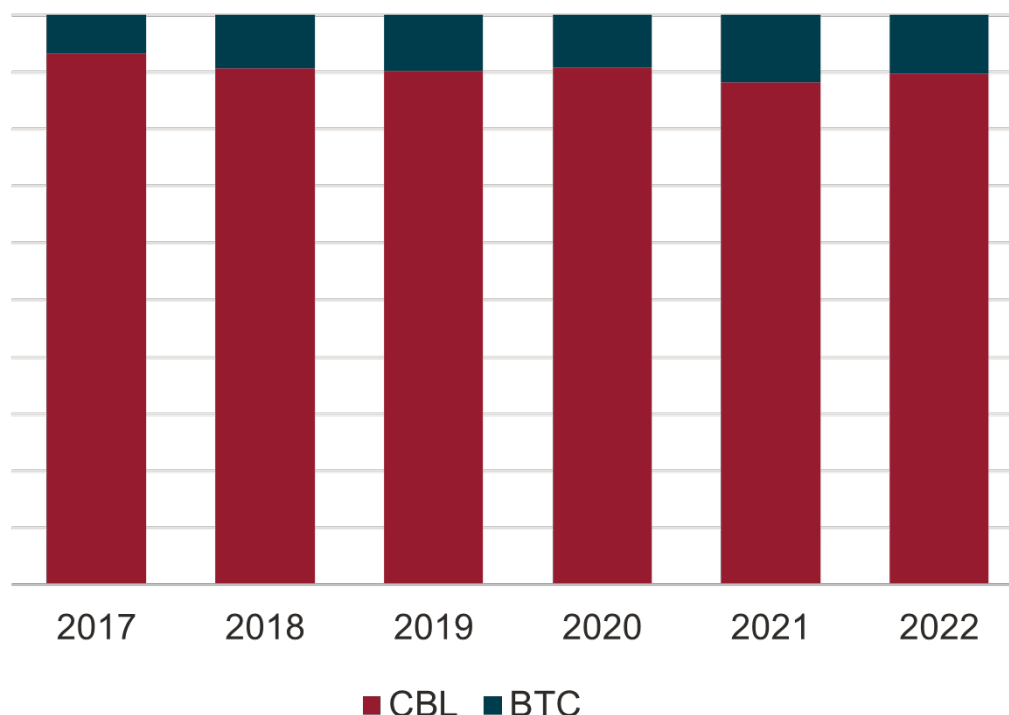
Note: 2023 figures are based on data for Q2 2023, the latest operators’ quantitative submissions available at the time of preparing the Preliminary Determination.

Figure 36 above presents BTC’s and CBL’s share of subscribers to multi-product bundles including pay TV over the period 2017 to 2022. The analysis of recent market share trends suggests that there have been no changes in competitive dynamics since 2017. CBL’s market share remains significantly above the 40% threshold at which a presumption of SMP is made.<sup>184</sup>

Revenue market shares are consistent with the subscriber-based market shares set out above. Again, CBL is significantly above the 40% threshold, with its market share fluctuating closely around [Confidential].

<sup>184</sup> The Comms Act does not specify a market share threshold for dominance. However, within its framework for SMP assessment (ECS 20/2011), URCA established a presumption of dominance where an operator has a market share more than 40%.

**Figure 37 Revenue market shares for multi-product bundles including pay TV, 2017-2022**



Source: Operators' quantitative submissions

Note: Data to derive values for 2023 was not available at the time of preparing the Preliminary Determination.

### Economies of scale and/or scope

As introduced in Section 4.2, economies of scale and/or scope may constrain entry as well as provide an incumbent with an advantage over entrants.<sup>185</sup>

In the market for multi-product bundles including pay TV services, CBL and BTC own and operate different networks to provide these services. BTC only provides pay TV services via FTTH access, therefore all its multi-product bundles including pay TV services are only available in the geographic areas covered by its FTTH network.<sup>186</sup> Meanwhile, CBL provides access to pay TV services via cable (HFC), satellite (DTH) and IPTV (FTTH). Therefore, CBL has different coverage for the different bundles. While their double-play bundle featuring pay TV and fixed voice services has effectively national coverage; the double-play bundle including pay TV and broadband, and similarly the triple-play bundle is only offered in the main four islands where CBL has FTTH coverage.<sup>187</sup> Regardless of the differences

<sup>185</sup>Scale economies exist when the average cost of connecting an additional customer to the network is lower than the previous customer connected. By contrast, scope economies occur when it is more cost effective for a firm to produce a wider range of goods or services in tandem than producing less of a variety or producing each good/service independently. Where a firm enjoys economies of scope, its long-run average and marginal cost decrease due to the joint production of goods and services.

<sup>186</sup>New Providence, Grand Bahama, Abaco, and limited areas in Exuma, San Salvador, Rum Cay, Aklins, Crooked Island and Long Island

<sup>187</sup>New Providence, Grand Bahama, Abaco and Eleuthera

in their networks, both Licensees had to undergo significant investments to extend their respective service coverage. This typically results in **economies of scale**. That is, the high fixed costs required to build a fixed network result in close to zero marginal costs until the operator fully utilizes the installed capacity. Moreover, until an alternative operator can attract high volumes of subscribers, average costs will be high and not competitive compared to the incumbent.

Similarly, both Licensees participate in activities that commonly give rise to **economies of scope** in this market such as customer care, marketing, sales and distribution, administration, and shared infrastructure.

Based on its preliminary assessment, URCA considers that both BTC and CBL may benefit from economies of scope in the market for multi-product bundles including pay TV services (i.e., reducing the average cost of providing fixed broadband, voice and pay TV services) by spreading joint and common costs amongst multiple retail markets and services. Both BTC and CBL also offer retail fixed voice services and fixed broadband services as standalone and bundled products in The Bahamas.<sup>188</sup>

Whilst both Licensees benefit from economies of scale and scope, it is not clear to URCA that this results in a relative advantage for either of them. However, it is likely to result in high and non-transient barriers to entry into this market.

### **Countervailing Bargaining Power ('CBP')**

As discussed in Section 4.2, CBP relates to the relative strength of a customer of a multi-product bundles in negotiations with their service provider. If present, CBP could limit the ability of CBL or BTC to set prices for their multi-product bundles above the competitive level and hence to behave independently of buyers and ultimately of consumers.

In line with its assessment of this criterion in the context of retail fixed voice services (Section 4.2), retail fixed broadband services (Section 5.2) and retail pay TV services (Section 6.2), URCA considers the market for multi-product bundles to be characterized by limited, if any, CBP. This particularly holds for residential and small business customers who commonly purchase mass-market products, with no one customer individually constituting a large part of either Licensees' output or cost base.

Large corporate customers instead, are more likely to be in a stronger position to counteract the bargaining power of providers by negotiating discounts and other favourable terms.

Still, the ability of a large enterprise to exercise buyer power by negotiating on price or non-price terms is not the same as the exercise of CBP. While that buyer may benefit by way of volume discounts, its exercise of buyer power does not deter the pay TV provider from increasing prices in general. For a specific business customer to have CBP, this customer's share must represent a significant share of the service provider's total revenues for these services.

In aims of quantifying the role that CBP may play in this market, URCA has assessed the share of BTC's and CBL's revenues pooled by top clients of each company in this market. CBL did not provide information on the revenue shares of individual customers within the Top-10 customers. However, BTC's Top-10 customers add up to less than [● Confidential] of their total revenues in this market. In the case of CBL, URCA only had access to the revenues earned from the Top-10 customers as a share

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<sup>188</sup>CBL also provides standalone pay TV services, but BTC does not as previously explained in Section 6.1

of total revenues from business customers in this market,<sup>189</sup> and these add up to [● Confidential]. When looking at this share, it is important to consider that CBL's business subscribers represented 4% of CBL's customer base in this market. Given this, URCA considers it is unlikely for any of these clients to exercise CBP given the combined Top-10 share.

For the above reasons, URCA is of the preliminary view that CBP is not present in this retail market.

### **Barriers and switching costs**

This criterion relates to the factors or costs that restrain a customer's ability to switch from one multi-product bundles provider to another. In a market with effective competition, consumers should be able to switch easily between service providers. It appears to URCA that barriers to switching remain an issue in the market for multi-product bundles including pay TV.

Multi-product bundles are exclusively offered on a post-paid basis which reduces the ability for end users to switch their plan or provider, compared to a market characterised by prepaid services (such as the retail mobile services market in The Bahamas). Switching may be more challenging for larger businesses. The bidding and contracting process can take longer and, therefore, delay the switching process. Moreover, given the particular service requirements of large businesses, multi-product bundles may be tailored and more complex in nature.

When asked what action they would take if their provider started charging more for their multi-product bundle including pay TV services, 29% of respondents answered they would do nothing, just pay the specific increase, and continue as normal. After mentioning they would do nothing, when asked for the underlying reason, 12% of the participants considered that there were high barriers to entry or they were not aware of alternative offerings, both of which imply a limitation to switching. Out of all participants who are currently subscribed to multi-product bundles including pay TV, only 20% claimed they would switch to another multi-product bundle from another fixed service provider. Further 78% of the relevant survey participants have not considered switching from their multi-product bundle to separate services within the last six months.

Considering the above discussion, switching seems to be a pending issue in the market for multi-product bundles including pay TV, suggesting that the market is not tending to competition, and CBL is expected to retain their market share in the 12-24 months' timeframe of this review.

### **Absence of potential competition**

As discussed in Section 4.2, this criterion relates to whether operators that are not in the market today can contribute to increased competitive dynamics within the 12-24 months' timeframe of this review.

When considering potential providers of multi-product bundles, URCA recognises that the entrance of Starlink (discussed in Section 3.2) to the fixed broadband services market, could have an impact on the market for multi-product bundles. Nevertheless, for Starlink to enter the market for multi-product bundles including pay TV services, it would have to launch IPTV services in The Bahamas, which is not to be expected, as discussed in Section 5.2 above.

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<sup>189</sup> Instead of residential and business revenues combined as in the case of BTC.



Entering the market for multi-product bundles including pay TV services would require overcoming larger barriers to entry than those considered in previous Sections 4.2, 5.2 and 6.2. The reason being that there is no current provider of fixed voice, fixed broadband or pay TV services on a standalone basis other than BTC and CBL. Therefore, if any other company was to enter the market for multi-product bundles including pay TV, they would have to start providing not only pay TV services, but also fixed voice or fixed broadband. Furthermore, as previously introduced in Sections 4.2 and 6.2, there is currently no regulated wholesale service that potential entrants could use to overcome the high barriers of entry from setting up their own network to provide fixed voice or pay TV services. There are two forms of regulated wholesale broadband services available as explained in Section 5.2, although their take-up is limited. Access would need to be based on commercial negotiations and URCA is not aware of any such arrangements currently being in place for the provision of any of these three services.

Therefore, URCA is of the preliminary view that the market for multi-product bundles including pay TV services is not tending to competition and it is unlikely that competition will emerge to a sufficient extent in this market, within the 12-24 months' timeframe considered, to limit any market power CBL has.

**Based on its review of the overall market characteristics and recent market outcomes, URCA is of the preliminary view that these point to CBL being dominant in the market for multi-product bundles including pay TV services. However, URCA now assesses the remaining relevant factors.**

### **Characteristics of service providers**

#### **Control over infrastructure that is not easily duplicated**

The control of infrastructure not easily duplicated can make it feasible for a Licensee to behave independently of other Licensees and consumers in the specific circumstances introduced in Section 4.2.

Multi-product bundles considered in this market can combine up to three different services, fixed voice, broadband and pay TV services. Since the infrastructure used to provide these services, either on a standalone basis or as part of a bundle is the same (with the exception of FTTH networks which are used to provide IPTV as part of a bundle but not on a standalone basis), it is necessary to review the infrastructure that BTC and CBL control respectively and which was already described in previous Sections 4.2, 5.2 and 6.2.

Since all bundles covered in this section include pay TV services, these multi-product bundles are only available in those areas where BTC or CBL have FTTH or HFC coverage. Therefore, the competitive advantage previously found for BTC in Section 4.2, from CBL only providing fixed voice services in the main four islands, is negligible in this market as BTC does not provide multi-product bundles including pay TV services outside of the area covered by CBL's fixed voice network. Similarly, in Section 5.2, BTC was found to be dominant in Geographic Market 2 (as defined in Section 5.1), because CBL is not providing fixed broadband services in this geographic market. But this competitive advantage is also irrelevant in this market as the geographic area where CBL does not provide fixed broadband services is outside of the geographic coverage of the market for multi-product bundles including pay TV services. Finally, the assessment in Section 6.2 concluded this criterion supported CBL's dominance from being the only Licensee with the necessary network technology to supply standalone TV

services.<sup>190</sup> Both BTC and CBL are still deploying their fibre networks, which puts CBL in an advantageous position given its fibre network is complemented by its extensive cable network for the provision of pay TV services included in these multi-product bundles.

Considering the previous assessments that were carried out for these infrastructures in the context of standalone products, the fact that pay TV services are included in all multi-product bundles considered in this market<sup>191</sup> and that double-play bundles with fixed voice and pay TV services are the least popular (as Figure 36 shows), URCA is of the view that this criterion provides CBL with a competitive advantage over BTC and it is likely to remain for the next 12-24 months.

### **Vertical integration or relationships**

Vertical concerns may arise when an incumbent operator refuses to provide wholesale access to its network on reasonable terms as in the examples provided in Section 4.2. In the market for multi-product bundles including pay TV services, both BTC and CBL are vertically integrated companies as they both own the network, they use to provide fixed voice, broadband and pay TV services.<sup>192</sup> Except for fixed call termination services, neither of them depends on wholesale inputs from the other to deliver retail fixed voice, fixed broadband or pay TV services. Accordingly, both Licensees are similarly positioned to leverage their market position into downstream (retail) or upstream (wholesale) markets.

**Based on its review of these characteristics, URCA remains of the preliminary view that CBL is in a dominant position in the market for multi-product bundles including pay TV services.**

### **Market outlook or prospect of competition**

#### **Barriers to entry**

As discussed in Section 4.2, barriers to entry may take the form of legal and regulatory factors that constrain market entry in The Bahamas. In general, all fixed voice, fixed broadband and pay TV services retail markets are characterised by high and non-transitory barriers to entry due to high sunk costs and time requirements related to licensing, infrastructure deployment and the need to acquire content rights. As previously discussed in Sections 4.2, 5.2 and 6.2, this appears to also apply to the market for multi-product bundles.

Indeed, in the market for multi-product bundles including pay TV services, one can only expect barriers to entry to be larger than in the three other markets studied in this review, as new entrants would need to start providing not one, but two new services to be able to bundle their services.

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<sup>190</sup>As discussed in Section 6, whilst BTC is also technically capable of providing standalone IPTV services, it currently does not offer standalone IPTV services (and CBL neither) as these services require the customer to also have a broadband connection.

<sup>191</sup> Recall these include: Triple-play bundles (with pay TV, fixed voice and fixed broadband) and two types of double-play bundles (either with pay TV and fixed voice or with pay TV and fixed broadband)

<sup>192</sup> CBL provides access to pay TV services via cable, satellite and IPTV. CBL is not the owner of the whole network used to provide satellite pay TV services. Instead, it has a deal with a satellite provider.

The likely sunk costs relate to the large costs of developing, building and establishing networks and infrastructure to provide any of these three services, in particular considering the investments that BTC and CBL have already carried out in their fixed networks and their existing subscriber base.

Nevertheless, there are ways in which new entrants could reduce the impact of these barriers to entry. If a company which is not providing any of these three services in The Bahamas was aiming to enter the market for multi-product bundles including pay TV, it could just deploy one single network that adapts to more than one service. They could exploit the fact that both pay TV and broadband services can be provided by the same fibre network if they chose to provide pay TV via IPTV deploying the necessary infrastructure to build an FTTH network or accessing the network of existing operators in regulated terms. As reviewed in Section 5.2, in The Bahamas, there are currently two forms of regulated wholesale broadband services available, BRO and WDIA. Similarly, this new competitor could rely on Starlink's alternative technology with LEO satellites. In any case, anyone wishing to enter this market would need to commit significant financial resources, also to acquire distribution rights for TV content and other regulatory requirements such as obtaining a license to operate.

Given the above, URCA is of the preliminary view that access to infrastructure and content constitute significant barriers to entry in the market for multi-product bundles including pay TV services. As a result, CBL's dominance position is expected to remain within the timeframe of this market review (12-24 months).

### **Barriers to expansion**

Active competition is often greater where there are lower barriers to growth and expansion, as described in Section 5.2. As previously described, this market is characterized by large barriers to entry. The higher the barriers to entry, the more significant barriers to expansion will be in assessing potential competition, as higher entry barriers largely limit competition to existing market participants.

As far as URCA is aware, barriers to expansion are likely to be low in this retail market (in terms of serving more customers within the existing network coverage areas). URCA has seen no evidence to suggest that the existing Licensees are currently faced with capacity constraints within their existing networks. Neither is URCA aware of any current constraints in terms of international and domestic on-island and inter-island capacity.

Since there are only two Licensees in this market, it is worth considering the specific barriers to expansion that each of them may face. BTC only offers multi-product bundles including pay TV services in the regions covered by its FTTH network, as it only provides pay TV services via IPTV. Meanwhile, CBL has different coverage for the bundles included in this market. CBL can provide multi-product bundles including pay TV services in the four main islands where it has deployed the necessary network to provide fixed voice and broadband services.<sup>193</sup>

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<sup>193</sup> CBL's coverage for pay TV services is effectively nationwide from the combination of cable, satellite and IPTV networks. Therefore, if there are geographic limitations to provide any bundle with pay TV services, these will always arise from the other service's coverage. CBL does not provide multiproduct bundles including pay TV services via satellite. Nevertheless, CBL's satellite coverage is only on those areas not covered by FTTH or HFC, thus the previous arguments still hold if we only consider CBL's pay TV coverage from combining cable and IPTV.

Despite holding similar geographic coverage, BTC would face significant barriers if it were to expand its access options to provide pay TV services also via cable or satellite, as CBL already does. Further to the prevailing difference in network access, BTC also has a limited number of pay TV customers.

### **Innovation and diversity of plans**

This market is characterized by a wide range of plans, particularly for residential customers. CBL enables customers to create their own combinations of voice, broadband and pay TV services, offering up to 72 possible combinations of multi-product bundles including pay TV services. For non-residential, variety is limited plans, with BTC and CBL only offering three and two plans respectively. However, it's worth noting that larger enterprises have the option to design tailored plans to meet their specific needs.

Table 24, in Section 7.1.1.1.1, sets out the main residential multi-product bundles including pay TV services, available on the operators' websites. In the context of multi-product bundles, there is a range of dimensions where such tariff plans may differ: minutes included, download speed, TV channels, add-ons, etc. Bundles are ideally conceived to allow users customize their plan to their own taste, similarly to what larger enterprises do. URCA's Retail Customer Survey finds that 78% of subscribers to multi-product bundles including pay TV services would not consider switching to standalone services, which appears to show a significant degree of consumer satisfaction with bundling, either from satisfaction with the current plan (44% of respondents which do not consider switching), the advantages of buying all services from a single provider (25%) or from the better prices when subscribing to these services as a bundle instead of separate services (19%).

**As such, taking all the evidence above into account, URCA preliminarily concludes that it is unlikely that competition will emerge to a sufficient extent in this market over the 12-24 months' timeframe of this review, to limit any market power CBL has.**

### **Other factors considered**

In reaching this preliminary conclusion, URCA has also considered all the other factors outlined in its analytical framework. However, it concludes that these criteria are not relevant for, or do not impact the assessment of competition in the market for multi-product bundles including pay TV services. URCA's reasoning for this is listed below:

- **Excessive pricing and profitability.** The analysis of pricing and profitability is not relevant in the assessment of dominance in this market considering both BTC and CBL are required to obtain URCA's approval when introducing or changing the prices of bundles of price-regulated services.
- **Network Effects.** These appear when a product gains value as more people consume it. As such, a service provider may gain a competitive advantage when due to its larger customer base, all other things being equal, more customers are attracted to its network, relative to that of a smaller competitor. This effect may be further facilitated by the larger provider offering price and non-price terms that incentivize customers to join its network (such as lower on-net calling prices or higher on-net monthly call allowances). Whilst the significant differences in market shares would allow CBL to benefit from network effects, it is less clear that this is the case. As reflected in their current retail tariffs, neither of the two Licensees offer any benefits profiting from network effects, e.g. differentiating between on-net and off-

net calls. Therefore, URCA is of the view that none of the two Licensees holds a comparative advantage over the other based on this criterion.

- **Technological advantage or superiority.** Despite the current differences between BTC's and CBL's networks, both Licensees are deploying similar technologies, thus not resulting in any significant technological advantage to either of them. For the provision of fixed voice services, BTC operates with fixed network (PTSN), while CBL's fixed voice services are VoIP. For the provision of fixed broadband services, BTC supplies customers via its xDSL and GPON-based fibre (FTTx) networks, CBL offers fixed broadband access via its HFC and FTTH networks. Finally, CBL offers pay TV services via cable, satellite and IPTV, whereas BTC offers IPTV services. Similarly to DSL and copper networks, CBL has started to replace its HFC network with FTTx. Hence, IPTV via FTTx is the 'superior' technology which both Licensees are currently deploying. CBL is not the owner of the satellites it uses to provide DTH pay TV services and URCA is not aware of any barriers for BTC to also negotiate a similar commercial agreement with a global satellite provider.

Despite the different technologies used, both of the existing providers offer almost equivalent network quality for all of these three services. Given the above, URCA is of the preliminary view that none of the two Licensees holds a technological advantage or superiority based on this criterion.

Finally, the evaluation of the following criteria: Overall size of the undertaking, experience in providing products to the market, highly developed distribution and sales network, and access to finance, relies on arguments that were already set out in previous dominance assessment sections and are therefore not repeated here again.

#### **Preliminary Conclusion on Single Dominance**

Having analysed the relevant criteria set out above, URCA preliminarily finds that CBL is dominant in the market for multi-product bundles including pay TV services as defined in Section 7.1 above.

In arriving at this preliminary position, URCA has reviewed all criteria listed in sub-section 3.3.2 (Table 5) of this document. However, as explained above, URCA concluded that most of these criteria are not relevant for or have no bearing on the conclusion of whether any of the Licensees are singly dominant in these retail markets.

In light of the analysis set out above in relation to single dominance, URCA does not further investigate the potential presence of joint dominance in these retail markets.

#### **Consultation Question 7 - Dominance Assessment in Retail Multi-product Bundles including pay TV Services Market**

**Do you agree with URCA's preliminary conclusion from its single dominance assessment in the retail multi-product bundles including pay TV service market? If not, please set out your alternative views and provide evidence to substantiate your position.**

## **8. Ex-ante Regulatory Remedies for Retail Fixed Services Market**

In this Section, URCA reviews possible remedies that it considers appropriate in the light of the dominance findings contained in this Preliminary Determination.

The overall objective of ex-ante regulation is to mimic the outcome of competitive markets in those markets in which competition has not yet emerged and to put regulatory remedies in place where there is for a high risk that SMP operators would otherwise abuse their market position (“market failures”). As such, in Section 8.2.1 below, URCA identifies for each of the markets considered in Sections 4 to 7, the specific competition concerns to be addressed and the potential consumer harm which may result absent any ex-ante regulatory intervention. In this same Section, URCA then sets out its review of the regulatory options available to address these market failures, followed by an overview of the proposed SMP obligations in each market considered within this review (Section 8.2.2).

URCA’s approach to ex-ante regulation of electronic communications services must involve a consideration of proportionality. That is, since the overall Bahamian market is small and ex-ante regulation can be costly, URCA must consider whether the benefits of introducing any regulations outweigh the costs of setting and enforcing those regulations. However, URCA also has a responsibility to ensure that competition in electronic communications markets is effective and delivers good outcomes for end users and the economy overall.

In all the markets considered within this Preliminary Determination, there is already ex-ante regulation in place. Therefore, as part of this review, URCA has assessed whether these regulatory remedies should remain unchanged, require updates or be, removed.

Prior to identifying the specific competition concerns in each market and the regulatory options to address them, URCA briefly confirms the need for ex-ante regulation in the context of the markets under consideration.

### **8.1. The need for ex-ante regulation**

As discussed in Section 3.3.3, when assessing the need for ex-ante regulation in a given market, URCA applies the principles underlying the three criteria test. This states that ex-ante obligations can be necessary if the relevant market is found to have the following three characteristics:

- Significant and non-transitory barriers to entry and expansion;
- No emerging competition; and
- Ex-post competition law is unlikely to be sufficient to resolve any abuses of a dominant position.

Whilst the three criteria test provides a helpful framework to ensure that ex-ante remedies are targeted, URCA notes that, in practice, the first two criteria are covered in the competition assessment. In particular, as set out in the relevant competitive assessment sections (i.e., Sections 4.2, 5.2, 6.2 and 7.2 above), all relevant markets under consideration within this review are characterized by high barriers to entry. Further, when assessing the competition dynamics within each of the relevant markets, URCA has considered both, the current level of competition and any expected changes to the level of competition within that market in the foreseeable future (12-24 months). Given

this, in URCA's view, once a Licensee has been found to have SMP, the three criteria test primarily requires an assessment on whether ex-post competition law would be sufficient to resolve any abuses.

When considering the question of **sufficiency of ex-post competition law**, it is important to understand the nature of the market and products in question. Electronic communications services are provided through electronic communications networks, all of which require substantial investment. In general, the local access infrastructure is considered the most difficult component for potential competitors to replicate. Therefore, if an SMP operator of services based on the local access infrastructure was to abuse its market power in the provision of these services, it could cause long-term damage to the prospect of competitive provision of the services as well as short-term damage to consumers, businesses and the overall Bahamian economy through imposition of anti-competitive trading conditions. Thus, URCA finds ex-post competition law to be insufficient to address the competition concerns that exist in all the markets under consideration in this Market Review. This is because ex post regulation can only remedy an abuse after it has taken place. The process of identifying potentially abusive behaviour, verifying whether it constitutes an abuse and then remedying the abuse is a time and resource intensive exercise. This may lead to considerable harm to those who have been affected by the abusive behaviour. In the context of retail markets, due to the fragmented customer base, there is a further heightened possibility that any abusive behaviour (such as excessive pricing) is not detected or reported. As such, URCA is of the view that it is important to prevent any abusive behaviour by SMP operators from taking place in the first instance.

Given the above, URCA preliminarily concludes that the relevant retail markets for standalone fixed voice services, fixed broadband services, standalone pay TV services and multi-product bundles including pay TV are susceptible to *ex-ante* regulation. In other words, absent *ex-ante* regulation, the market failures identified will result in an abuse of dominance by the SMP operators identified in each of these markets, thereby limiting the development of competitive markets, with negative effects on competitors and ultimately consumers.

## **8.2. Expected Competition Problems and Consumer Harm**

The key objective of any *ex-ante* obligation is to remedy the particular market failures that occur in each market, in absence of any *ex-ante* intervention, in order to prevent any SMP operator from abusing its market power to the detriment of consumers and the Bahamian economy more widely. In the below, URCA identifies the specific market failures that could arise within the context of the retail electronic communications services considered as part of this market review.

### **8.2.1 Market Failures and Potential Abuse of Market Power and Regulatory Options to Address them**

URCA is concerned with the ability of SMP operators to abuse their position of dominance to the detriment of consumers. In all the markets considered in this market review, URCA has preliminarily found an SMP operator which has exclusivity or a very strong market position and is therefore not subject to constraints arising from competition or potential new market entries. In these circumstances, an SMP operator may have an incentive to engage in behaviours that exploit its position of market power by either extracting economic rent directly from consumers or by aiming to harm or prevent competition from emerging within the market, either by making it more difficult for

existing alternative operators to compete fairly, using predatory pricing or margin squeezes, and/or by preventing any potential new operators to enter the market.

Below, URCA sets out the specific competition concerns or market failures that could arise in the relevant markets considered in this Preliminary Determination and

identifies the common ex-ante regulatory remedies that can be imposed to address them. In presenting these, URCA notes that it is not necessary to demonstrate, before imposing remedies, that behaviours such as those listed have occurred. Rather, it is sufficient to show only that such behaviours could be likely to occur, absent intervention.

**Table 28: Market failures and common ex-ante regulatory remedies – Retail service markets**

Market failures	Definition / Description	Possible ex-ante remedies <sup>194</sup>
<b>Excessive pricing</b>	Occurs when the SMP operator is able to earn greater profits than would otherwise be possible in a competitive market. URCA holds that charging a price which is excessive because it has no reasonable relation to the economic value of the product supplied would be an abuse.	<ul style="list-style-type: none"> <li>• Retail price regulation (including, for example, tariff approval or notification requirements, or price caps)</li> <li>• Publication of information</li> <li>• Accounting separation</li> </ul>
<b>Predatory pricing</b>	This competitive concern relates to below cost pricing of a retail service by SMP operators, deliberately incurring short-term losses or foregoing profits in the short term to foreclose a competitor (or potential competitor), with a view to strengthening or maintaining its market power, thereby causing consumer harm. SMP operators conduct predatory pricing with the intention of raising prices in future to recoup any initial losses incurred.	Same as those for excessive pricing
<b>Margin squeeze</b>	Refers to a situation where the SMP operator has control over an essential wholesale product required to deliver a retail service and then either (i) increases the wholesale price or (ii) lowers the retail price such that an efficient alternative retail provider cannot compete with the SMP operator (i.e., there is an insufficient margin between the retail and wholesale prices charged by the SMP operator).  However, margin squeeze concerns are commonly dealt with in upstream wholesale markets.	<ul style="list-style-type: none"> <li>• Replicability test</li> <li>• Accounting separation</li> </ul>
<b>Undue discrimination</b>	<u>Price discrimination</u> : When equivalent products are provided to different customers on different price terms without a sound economic justification; or where different customers are charged the same price even though the costs of supplying the products vary.  <u>Non-price discrimination</u> : When different customers are offered different terms and conditions on the product or service, without any objective justification, or the same terms and conditions on differently priced products.	<ul style="list-style-type: none"> <li>• Non-discrimination obligations</li> <li>• Publication of information</li> <li>• Tariff approval</li> </ul>
<b>Undue Bundling</b>	Concerns arise when a SMP operator bundles products together to leverage market power into another market where the operator is not dominant. This may occur when, for example, the price charged for the bundle, or for the	<ul style="list-style-type: none"> <li>• Replicability test for bundles</li> <li>• Tariff approval</li> <li>• Accounting separation</li> </ul>

<sup>194</sup> The list shown below is not meant to be exhaustive. URCA may impose other relevant market specific remedies where needed, as described in the sections below.



Market failures	Definition / Description	Possible ex-ante remedies <sup>194</sup>
	<p>combination of services, is lower than the combined cost of providing it, or when the implied price of one product in the bundle is below the incremental cost of supplying that product. SMP operators conducting this behaviour aim at driving competition out of a relevant market.</p> <p>Alternatively, it is also considered under the category of undue bundling when an essential input/product is bundled with a second product such that an access seeker/end user is forced to buy both.</p>	
<b>Anti-competitive customer lock-in</b>	<p>Ability to prevent retail customers from switching by means of longer-term contracts, undue discounts or technological barriers that raise switching costs. This may occur when, for example, unfair terms and conditions lock in a customer to purchase a given input or output for an unduly long time period.</p> <p>Effectively, unduly long contracts raise barriers to switching for customers, which cannot benefit from potentially better tariffs, and barriers to expansion for alternative operators and new entrants, which can't compete effectively for captive customers of the SMP operator.<sup>195</sup></p>	<ul style="list-style-type: none"> <li>• Non-discrimination obligations</li> <li>• Publication of information</li> <li>• Tariff approval</li> <li>• Contract length limits</li> </ul>

URCA considers the above market failures may affect the retail fixed services markets considered in this market review. Below, URCA analyses which of these market failures are relevant for each of the markets consider in this market review and then proposes ex-ante remedies for each market.

Table 29 sets out URCA’s preliminary findings on the main market failures identified in each of the markets, which are then discussed in detail in Section 8.2.2. In summary:

- In the **market for (standalone) retail fixed voice services**, URCA’s main concern is the risk that BTC, as the SMP operator, increases the prices of its standalone fixed voice plans in a way that would result in affordability concerns for those customers who only want this service (i.e., do not value fixed broadband or pay TV services).
- In the **market for retail fixed broadband services**, there are concerns around excessive pricing and anti-competitive customer lock-in.<sup>196</sup> This product market is divided in two geographic markets.
  - In Geographic Market 1, CBL as the SMP operator has been able to consistently charge higher prices than its competitor(s). The concern for anti-competitive customer lock-

<sup>195</sup> For further details see URCA’s Competition Guidelines (ECS COMP. 7 - Abuse of a dominant position), accessible on URCA’s website.

<sup>196</sup> There is further a possible risk of margin squeeze in this market as BTC and CBL are vertically integrated, and some other licenced operators (OLOs) rely on the access to BTC and CBL networks. However, this is a market failure that takes place at the wholesale level and has been addressed in URCA’s wholesale broadband market review:<https://www.urbahamas.bs/wp-content/uploads/2020/09/Review-of-Wholesale-Broadband-Services.pdf>

- in arises from the notable lack of awareness among customers regarding alternative providers.
  - In Geographic Market 2, BTC is the SMP operator and URCA is concerned about BTC’s ability to price excessively in absence of ex-ante regulation.
- In the **market for (standalone) retail pay TV services**, CBL is currently the only provider offering pay TV on a standalone basis. Therefore, as in the market for standalone retail fixed voice services, URCA’s main concern is that customers who want to consume this service on a standalone basis may be threatened by excessive pricing.
- In the **market for multi-product bundles** URCA is concerned about CBL’s ability to price excessively in absence of ex-ante regulation. Similarly to the market for retail fixed broadband services, this market is also subject to anti-competitive customer lock-in from the lack of awareness among customers regarding alternative providers.

**Table 29: Key anti-competitive concerns relevant for each retail market**

Product market	Excessive pricing	Predatory pricing	Margin squeeze	Undue bundling	Undue price discrimination	Anti-competitive customer lock-in
Retail Fixed Voice Services	YES	NO	NO	NO	NO	NO
Retail Fixed Broadband Services	YES	NO	YES <sup>197</sup>	NO	NO	YES
Retail pay TV services	YES	NO	NO	NO	NO	NO
Multi-product bundles	YES	NO	NO	NO	NO	YES

## 8.2.2 Proposed ex-ante Remedies

### 8.2.2.1 Retail fixed voice services

In the last market review in 2014, URCA identified as the key anti-competitive practices in this market excessive pricing, predatory pricing, margin squeeze, undue bundling and undue price discrimination. To address these concerns, URCA imposed a number of ex-ante regulatory remedies at the time. This

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<sup>197</sup> As stated above, the margin squeeze concerns are addressed by means of ex-ante regulation in the wholesale broadband access market.

included restrictions on BTC's on-net vs off-net pricing and price cap regulation for all fixed voice services, including both standalone plans and bundles, as the 2014 market definition did not differentiate between standalone plans and bundles. The first remedy was introduced to tackle undue price discrimination and the latter to address excessive pricing and ensure replicability. Retail price caps were never implemented. Therefore, the Retail Pricing Rules (RPR) which was introduced as part of the 2009/10 SMP Assessment, remained in place for retail fixed voice services. The RPR require SMP operators to seek pre-approval from URCA for any new or amended price regulated retail tariffs or for withdrawn any of these services (with the SMP operator's application containing supporting evidence that the proposed changes are not anti-competitive).

Under the current product market scope and market environment, URCA considers several of the previous concerns not to be relevant any more to this market. In particular, predatory pricing is no longer a concern, given the small and declining nature of this market and BTC's dominant position [● Confidential] market share in terms of subscribers), as a result of which URCA considers there to be no prospect of market entry. Margin squeeze is also no concern in this market since there are no regulated wholesale services nor access seekers. Undue bundling is no longer a concern in this market as the new market definition includes only standalone fixed voice services. Additionally, there are no longer on-net /off-net price differentials in the Bahamian market for fixed voice services, thus undue price discrimination is not a concern and the on-net/off-net pricing remedy becomes redundant.

At the moment, the main competition concern in this retail market is BTC's ability to raise its retail prices to an extent that would result in affordability concerns for these services. Currently, BTC is subject to tariff approval requirements and it has not applied for price increases of standalone fixed voice services under the RPR in recent years. Nevertheless, in absence of any ex-ante controls, BTC could increase its retail prices for these services going forward. Given current price levels and end users willingness (and ability) to pay for these services, URCA is not necessarily concerned about excessive pricing as traditionally known (i.e., BTC increasing its prices for standalone fixed voice services that would result in BTC earning excessive profits on these services); however, URCA is concerned about the continued affordability of these services to end users, especially as they face a decreasing range of options.

URCA recognises that the market for standalone fixed voice services is a declining market with an increasing number of end users purchasing fixed voice services as part of bundled plans rather than on a standalone basis. However, URCA considers that it is important to ensure that those customers who continue to purchase standalone fixed voice services receive adequate protection from, without limitation, excessive price increases, particularly as these customers are likely to belong to vulnerable social groups, sensitive to price increases. There are currently no alternative, similarly priced services available to meet their needs.<sup>198</sup>

Common remedies to address excessive pricing concerns are retail price caps and rules-based tariff approval requirements. Whilst both are effective measures, they result in a non-trivial regulatory burden, in terms of setting up the price cap and/or submitting tariff approval applications. In

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<sup>198</sup>No alternative provider is currently offering fixed voice services on a standalone basis and the closest alternative to standalone fixed voice plans offered by BTC would be double play bundles including fixed voice and broadband services, but the retail price of double play bundles with similar fixed voice allowances is significantly more expensive than standalone plans and these customers may not value additional services, as previously discussed in Section 4.1.

recognition of the small (and declining) size of the market and the limited number of pricing applications received, URCA considers neither of them to represent the most proportionate remedy. As such, URCA is of the view that the current tariff approval requirements can be removed and replaced with a more targeted set of remedies.

As set out above, the key regulatory focus in this market is to prevent undue price increases, especially on entry level products and ensure these standalone fixed voice services remain available to end users on similar terms and conditions as they currently are - all of this without creating undue regulatory burden or restricting pricing flexibility, innovation and diversity of plans.

URCA is of the view that these objectives can best be achieved based on the following regulatory obligations:

- Obligation for BTC to continue offering current standalone fixed voice tariff plans to residential and business customers. Whilst removing the tariff pre-approval requirement, URCA will maintain a requirement for BTC to notify any changes to any of the relevant retail tariff plans to URCA, including the price and non-price terms and current take-up of these plans. This requirement will allow URCA to monitor BTC's compliance with the obligation to provide current standalone plans (this is a symmetric requirement on all Licensees which is further discussed in Section 8.2.2.5).
- Entry-level standalone fixed voice plans (i.e., currently "Basic Landline" and "Business Voice Starter" for residential and business customers respectively) may only increase below or in line with last year's inflation, or 5% a year in case inflation exceeds 5% during that year.<sup>199</sup> Any such price increases require BTC to submit a pricing application to URCA, demonstrating compliance with the upper limits on these price changes and obtaining URCA's pre-approval before they are implemented.<sup>200</sup>

Going forward, URCA will closely monitor the effectiveness of these ex-ante regulations and the general developments in this market. This is to ensure that the new set of ex-ante obligations achieve their objectives, as set out above. If not, URCA will consider imposing stricter ex-ante obligations on BTC's retail fixed voice services.

### **Preliminary Conclusion**

Given the above, URCA has preliminarily determined that BTC shall be required:

- to continue offering their current standalone fixed voice tariff plans to residential and business customers;

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<sup>199</sup> The names of entry-level standalone tariff plans stated in this document reflect the current tariff offerings by Licensees. However, the obligations imposed on SMP Licensees apply to all relevant services in the market where the Licensees is found to be dominant, irrespective of possible changes in the tariff plans or names thereof. This principle applies to any obligation set out in this document.

<sup>200</sup> URCA notes that that the proposed annual cap on allowable price increases is in line with those implemented elsewhere in the region. See, for example: <https://staging.ectel.int/wp-content/uploads/2022/02/RPRR-Guidelines.pdf>

- not increase prices of entry-level standalone fixed voice plans over last year's inflation, or 5% a year in case inflation exceeds 5% during that year; and
- submit to URCA, on annual basis, all its standalone fixed voice tariffs (including the price and non-price terms and current take-up of these services).

**Consultation question 8 – Proposed SMP remedies for retail fixed telephony services**

**Do you agree with URCA's proposed SMP remedies for retail fixed telephony services? If not, why?**

### 8.2.2.2 Retail fixed broadband services

In the previous market review in 2014<sup>201</sup>, URCA identified excessive pricing, predatory pricing, and undue bundling of broadband and pay TV services as the key anti-competitive practices in this market. To address these concerns, URCA imposed a number of ex-ante regulatory remedies on CBL and BTC at the time.

- To prevent excessive pricing, CBL's retail fixed broadband services were made subject to a retail price cap in Geographic Market 1.<sup>202</sup> To constrain BTC's pricing behaviour in Geographic Market 2, BTC was required to offer national uniform retail broadband prices.
- At the time, URCA considered there was no need for further ex-ante regulation to prevent predatory pricing. The risk of BTC engaging in predatory pricing was considered to be limited, given that most of its customers were located in Geographic Market 1 where it had no SMP. And given the uniform pricing obligation, if BTC were to deter entry on Geographic Market 2, it would have to offer below cost pricing at a national level. URCA considered any likely costs associated with such behaviour to outweigh the potential benefits to BTC and therefore, the possibility of BTC resorting to predatory pricing was dismissed. In the case of CBL, the only likely competition in Geographic Market 1 was BTC and since BTC was also well placed to engage in price competition, URCA concluded that CBL would be unlikely to adopt a predatory strategy.
- The last concern identified in 2014 was undue bundling. To prevent this practice, URCA decided to retain the SMP obligation on both operators that any new bundles including retail fixed broadband services could only be launched if these could be replicated by other providers. Further, CBL was required to provide standalone retail broadband tariff plans.

In this Preliminary Determination, the market for retail broadband services is defined differently from the 2014 market review, as bundles including fixed broadband and pay TV services no longer form part of this market. Consequently, undue bundling is not a concern anymore as the only bundles

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<sup>201</sup> In the 2014 Market Review, URCA already concluded there were two separate geographic markets as defined in this Market Review.

<sup>202</sup> The retail price cap regulation was never implemented.

considered are those combining fixed broadband with fixed voice services, and BTC can replicate CBL's bundles in Geographic Market 1<sup>203</sup>. Likewise, predatory pricing is again not a concern. For example, URCA is aware that no price reductions occurred in either geographic market around the time when Starlink was awarded a licence or launching its services<sup>204</sup>.

As set out in Section 8.2.1 above, the main competition concerns in this retail market are currently excessive pricing and anti-competitive customer lock-in. Similarly to the market for fixed voice services, URCA considers the current remedies imposed to address excessive pricing a disproportionate regulatory burden (see Section 8.2.2.1) and sees merit in adopting a more targeted set of remedies. Therefore, to prevent excessive pricing, URCA will impose the following remedies, in the same fashion to those proposed for the fixed voice services market:

- Obligation for CBL in Geographic Market 1 (and to BTC in Geographic Market 2) to continue offering current standalone fixed broadband plans and bundles combining fixed voice and fixed broadband to residential and business customers. Instead of the current tariff pre-approval requirement, URCA will maintain a requirement for CBL to notify any changes to any of the relevant retail tariff plans to URCA, including the price and non-price terms and current take-up of these plans. This requirement will allow URCA to monitor CBL's compliance with the obligation to provide current standalone plans (this is a symmetric requirement on all Licensees which is further discussed in Section 8.2.2.5).
- Entry-level standalone fixed broadband plans (i.e., currently BTC's "Basic 8Mbps" (xDSL or HFC) and "Fiber Internet 300Mbps" (FTTx) for residential customers and "Internet 30" for business customers; and CBL's "RevNetPrime 30Mbps" for residential customers) may only increase below or in line with last year's inflation, or 5% a year in case inflation exceeds 5% during that year. Any such price increases require the SMP operator to submit a pricing application to URCA, demonstrating compliance with the upper limits on these price changes and obtaining URCA's pre-approval before they are implemented.<sup>205</sup>
- To avoid excessive pricing in Geographic Market 2, URCA will uphold the SMP obligation of national uniform pricing on BTC's retail broadband services.

Going forward, URCA will closely monitor the effectiveness of these ex-ante regulations and the general developments in this market. This is to ensure that the new set of ex-ante obligations achieve their objectives, as set out above. If not, URCA will consider the need for imposing stricter ex-ante obligations.

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<sup>203</sup>From the definition of Undue Bundling: "Concerns arise when a SMP operator bundles products together to leverage market power into another market where the operator is not dominant." Therefore, undue bundling is not a concern in Geographic Market 2, since BTC is the SMP operator of fixed broadband services in this area and the SMP operator of fixed voice services.

<sup>204</sup> Starlink was awarded the licence to operate in February 2023.

<sup>205</sup> As mentioned in the context of other markets, the names of entry-level standalone tariff plans stated in this document reflect the current tariff offerings by Licensees. However, the obligations imposed on SMP Licensees apply to all relevant services in the market where the Licensees are found to be dominant, irrespective of possible changes in the tariff plans or names thereof.

Finally, to prevent anti-competitive customer lock-in, URCA sees a need to impose a combination of regulatory measures that seek to address any prevailing barriers to consumer switching. However, before finalising these measures, URCA will conduct further analysis into end users actual switching behaviour, and any perceived barriers to switching (see Section 8.2.2.5). This is to inform the relevant regulatory measures, targeted at specific issues identified by URCA.

### **Preliminary Conclusion**

Given the above URCA has preliminarily determined that:

- CBL (in Geographic Market 1) and BTC (in Geographic Market 2) will be subject to an obligation to continue offering their current standalone fixed broadband plans and bundles including fixed voice and fixed broadband.
- Both SMP operators shall not increase prices of entry-level standalone fixed broadband plans over last year's inflation, or 5% a year in case inflation exceeds 5% during that year.
- BTC is required to continue applying a national uniform pricing policy for these retail services.
- Both SMP operators shall submit to URCA, on annual basis, all their current standalone fixed broadband plans and bundles including fixed voice and fixed broadband (including the price and non-price terms and current take-up of these services).

#### **Consultation question 9 – Proposed SMP remedies for retail fixed broadband services**

**Do you agree with URCA's proposed SMP remedies for retail fixed broadband services? If not, why?**

### **8.2.2.3 Retail pay TV services**

In the previous market review in 2014, URCA identified excessive pricing, predatory pricing, and undue bundling of pay TV and fixed broadband services as the key anti-competitive practices in this market. In this last review, URCA decided to replace the rules-based price regulation (RPR) by a retail price cap to address its prevailing concerns around excessive pricing. However, these were never implemented and CBL is currently still subject to the RPR. To prevent undue bundling, URCA imposed a bundle replicability requirement on CBL,<sup>206</sup> with replicability being assessed in line with requirements set out in the RPR.

In this Preliminary Determination, the market for retail pay TV services is defined differently from the 2014 market review, as bundles including pay TV services no longer form part of this market. Consequently, undue bundling is not a concern anymore. Likewise, predatory pricing is no longer a concern, from having two well established operators and no prospect of further market entry. BTC was the main potential entrant to this market, but it chose to only provide pay TV services via IPTV

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<sup>206</sup> This obligation applies to bundles which include at least one retail service for which CBL has SMP

(launched in 2015) and these are always served as part of a bundle. Therefore, URCA concluded in Section 6.1.1.2 that BTC is not a competitor in this market, since the product market was defined as pay TV services provided on a standalone basis. Providing pay TV services via IPTV on a standalone basis is technically feasible, but BTC decided against it for commercial reasons.

As set out in Section 8.2.1 above, the main competition concern in this retail market is excessive pricing. With CBL as the only operator providing pay TV services on a standalone basis, URCA's main concern is the SMP operator exceeding fair price levels. URCA considers that it is important to ensure that those customers who continue to purchase standalone pay TV services receive adequate protection from, without limitation, excessive price increases. There are currently no alternative, similarly priced services available to meet their needs<sup>207</sup> and URCA is committed to ensuring consumer protection. Still, similarly to the market for fixed voice services, URCA considers the current remedies imposed to address excessive pricing result in a disproportionate regulatory burden (see Section 8.2.2.1) and sees merit in adopting a more targeted set of remedies.

Common ex-ante remedies are retail price caps and rules-based tariff approval requirements. Whilst both are effective measures to address excessive pricing concerns, they result in a non-trivial regulatory burden, in terms of setting up the price cap and/or submitting tariff approval applications. In recognition of the declining size of the market (due to the general transition to bundles including pay TV services and general cord-cutting with users shifting to standalone broadband to access internet-based streaming services) and the limited number of retail pricing applications received, URCA considers neither of them to represent the most proportionate remedy.

Instead, URCA considers that the current tariff approval requirements can be removed and replaced with a more targeted set of remedies, with a focus placed on the specific concerns identified. Notably, ensuring all standalone pay TV customers can obtain these services under similar terms and conditions as they currently do, and protecting vulnerable customers (by limiting the annual, allowable price increases for entry-level products).

URCA is again of the view that these objectives can best be achieved by imposing similar ex-ante obligations, as proposed for the other retail service markets considered in this market review. In particular:

- Obligation for CBL to continue offering current standalone pay TV tariff plans to residential and business customers. The current tariff pre-approval requirement will be replaced by a requirement for BTC to notify any changes to any of the relevant retail tariff plans to URCA, including the price and non-price terms and current take-up of these plans. This requirement will allow URCA to monitor BTC's compliance with the obligation to provide current standalone plans (this is a symmetric requirement on all Licensees which is further discussed in Section 8.2.2.5).
- Entry-level standalone pay TV plans (i.e., currently "Prime Local"<sup>208</sup> and "RETVV Prime" for residential and "DTH Bronze" for business customers) may only increase below or in line with

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<sup>207</sup>No alternative provider is currently offering pay TV services on a standalone basis and the closest alternative to standalone pay TV services offered by CBL would be double play bundles including fixed voice or broadband on top of pay TV services, but the retail price of double play bundles with similar pay TV content is significantly higher than those of standalone pay TV plans, as previously discussed in Section 6.1.1.1.

<sup>208</sup>CBL's "Prime Local" is the standalone pay TV plan provided under the Universal Service Obligation.



last year's inflation, or 5% a year in case inflation exceeds 5% during that year. Any such price increases require CBL to submit a pricing application to URCA, demonstrating compliance with the upper limits on these price changes and obtaining URCA's pre-approval before they are implemented. CBL's obligation to inform of all tariff updates will allow URCA to compare the tariffs before and after the update, ensuring price increases fall below the lower of either last year's inflation or a 5% limit.<sup>209</sup>

Going forward, URCA will closely monitor the effectiveness of these ex-ante regulations and the general developments in this market. This is to ensure that the new set of ex-ante obligations achieve their objectives, as set out above. If not, URCA will consider the need for imposing stricter ex-ante obligations.

### **Preliminary Conclusion**

Given the above, URCA has preliminarily determined that CBL shall be required:

- to continue offering their current standalone pay TV tariff plans to residential and business customers;
- not increase prices of entry-level standalone pay TV plans over last year's inflation, or 5% a year in case inflation exceeds 5% during that year; and
- submit to URCA, on annual basis, all its standalone pay TV tariffs (including the price and non-price terms and current take-up of these services).

### **Consultation question 10 – Proposed SMP remedies for retail pay TV services**

**Do you agree with URCA's proposed SMP remedies for retail pay TV services? If not, why?**

#### **8.2.2.4 Multi-product bundles**

The remedies that currently apply to multi-product bundles that include pay TV services are inherited from the different markets defined in the previous market review. In the three relevant markets, URCA identified as a key anti-competitive practice (among other concerns mentioned in the previous sub-sections) undue bundling.

URCA is of the view that there is no need for any specific ex-ante remedy to tackle undue bundling in this market (as BTC can replicate CBL's multi-product bundles). Likewise, as there is limited prospect of market entry and both CBL (the SMP operator in this market) and BTC are well-established operators, it is unlikely that one would exit the market if the other were to engage in below cost pricing. Therefore, predatory pricing is not a concern in this market.

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<sup>209</sup> As mentioned in the context of other markets, the names of entry-level standalone tariff plans stated in this document reflect the current tariff offerings by Licensees. However, the obligations imposed on SMP Licensees apply to all relevant services in the market where the Licensees are found to be dominant, irrespective of possible changes in the tariff plans or names thereof.

At the moment, the main competition concerns in this retail market are anti-competitive customer lock-in and CBL's ability to raise its retail prices above those observed in a competitive market and to an extent that would result in affordability concerns for these services. Currently, CBL is subject to tariff pre-approval requirements from the previous market review. CBL has not applied for price increases under the RPR in recent years<sup>210</sup>; still, in absence of any ex-ante remedies, CBL could increase its retail prices going forward. Given current price levels and end users willingness (and ability) to pay for these services, URCA is not necessarily concerned about excessive pricing in the traditional sense (i.e., CBL increasing its prices for multi-product bundles including pay TV that would result in CBL earning excessive profits on these services); however, URCA is concerned about the continued affordability of these services to end users.

As explained in Section 8.2.2.1, common remedies are retail price caps and rules-based tariff approval requirements, but these entail a non-trivial regulatory burden, in terms of setting up the price cap and/or the need to prepare and submit detailed applications for any proposed amendments to the retail tariffs. URCA considers neither of them to represent the most proportionate remedy in this market going forward. This is because, when evaluating the remedies that should be imposed on the multi-product bundles market, URCA is mindful of the remedies imposed on the other three product markets, which covered the services that are contained in these bundles on a standalone basis, will have an indirect impact on this market. In particular, the obligation to continue offering current standalone plans for fixed voice services, fixed broadband services and pay TV services together with the proposed regulation on price increases of entry-level plans is expected to limit CBL's ability to increase prices of multi-product bundles. This is due to the combined price of subscribing on a standalone basis to the different services included in a multi-product bundle acting as an implicit upper-bound for the price of the bundle (i.e., if CBL applied an abusive price increase to their multi-product bundles, customers could always choose to subscribe to the different services on a standalone basis and price increases of these services on a standalone basis are limited from the remedies in the previous markets).

Finally, to prevent anti-competitive customer lock-in, URCA sees a need to impose a regulatory measures that seek to address any prevailing barriers to consumer switching. However, before finalising these measures, URCA will conduct further analysis into end users actual switching behaviour, and any perceived barriers to switching (see Section 8.2.2.5). This is to inform the relevant regulatory measures, targeted at specific issues identified by URCA.

### **Preliminary Conclusion**

URCA is of the preliminary view that the regulation imposed on the other three markets, and particularly the remedies imposed on CBL on the fixed broadband market (Geographic Market 1) and pay TV services market is sufficient to limit CBL's ability to unduly increase its prices of multi-product bundles.

#### **Consultation question 11 – Proposed SMP remedies for multi-product bundles**

**Do you agree with URCA's proposal not to impose specific SMP remedies on CBL for multi-product bundles? If not, why?**

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<sup>210</sup> CBL has not applied for headline price increases in recent years, but the effective price in terms of number of channels has fluctuated.

### 8.2.2.5 Overarching ex-ante remedies

Additionally, to the market-specific remedies set out in the previous sub-section, there are some remedies that need to be imposed on SMP operators across all markets. Both BTC and CBL are active, and found to be dominant, in more than one of the retail markets considered under this market review. Therefore, URCA identifies the need for a set of overarching ex-ante remedies applicable to all markets in which each of the SMP operators is participating. These remedies represent existing remedies which are mostly concerned with transparency and reducing information asymmetries between the SMP operators, URCA and end users.

- Accounting Separation (AS) was imposed on BTC and CBL as a regulatory obligation to all SMP products in 2010 and maintained as part of the 2014 market review. Both operators are obliged to develop separated accounts in accordance with URCA's Accounting Separation Guidelines. URCA considers this obligation shall continue to apply to reduce information asymmetries between SMP operators and URCA and to facilitate URCA's decision-making processes.
- Obligation to notify URCA about modifications to any retail tariff plans. Whilst removing the tariff pre-approval requirements governed by the RPR, SMP operators (and all other Licensees) need to continue notifying URCA about any amendments, introductions or withdrawals of their retail tariff plans (In light of the new remedies imposed by URCA in the markets for fixed voice services, fixed broadband services and pay TV services set out above, tariff withdrawals are only permitted for multi-product bundles). This obligation requires a notification of changes of all relevant retail tariff plans to URCA, including the price and non-price terms and current take-up of these plans. This obligation is necessary for URCA to monitor price developments and compliance with the ex-ante remedies imposed on SMP operators. By enhancing transparency, URCA expects to reduce information asymmetries between the SMP operators and URCA.
- Publication requirement. This is an obligation for SMP operators to publish the necessary information to ensure that customers and competitors have access to the relevant information when making their choices. SMP operators are required to publish all retail tariffs on their websites in a clear and transparent manner. This requirement is aimed at helping end users to have a better understanding of the range of tariff plans available to them, and the price and non-price terms of each tariff plan offered by BTC and CBL, thus facilitating their ability to compare retail tariff plans.

As part of its current review, URCA has noticed that the fulfilment of this obligation is not fully in line with the expectations to facilitate transparency in this market. Whilst both SMP operators currently publish retail tariff plan information on their websites, this is not always clear and transparent. Some tariffs seem more accessible than others on the operators' websites.<sup>211</sup>

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<sup>211</sup> For example, when URCA checked both operators' websites:

- CBL's tariff plans for business customers were not consistently available online.

URCA reminds both SMP operators about the requirement to publish all their tariffs (including both residential and business offerings) and make them easily accessible online. Furthermore, URCA will review this obligation and the information that operators should provide after conducting additional research into potential barriers to consumer switching (see below).

For the avoidance of doubt, BTC and CBL shall also comply with the non-market specific SMP obligations specified in section 40(4) of the Comms Act, Conditions 34 and 35 of the IOLs and specific SMP obligations on retail services, accounting separation and cost accounting as set out in the current and also any future determinations, decisions, and regulations issued by URCA, and which will remain in place until such time as determined by URCA.

Further and as discussed in Section 8.2.2.2 above, **URCA will also conduct additional research into potential barriers to consumer switching in retail fixed electronic communications services.** In the four different markets considered in this market review, URCA has found that barriers to switching remain an issue limiting competition. The Retail Customer Survey conducted by URCA (which was not specifically targeting barriers to switching) provides evidence to motivate further research into this matter. In particular, when customers were asked why they would not switch their provider in case of a SSNIP in their fixed services, one of the most popular answers was "Due to high barriers to switching service provider".<sup>212</sup> Moreover, this survey revealed some users were unaware of alternative providers, which can be a significant limitation to switching. There are also examples of regulatory actions taken in specific markets aimed to reduce barriers to switching, which have not fully succeeded. In particular, in the market for fixed voice services, fixed number portability was introduced in 2013, but has since then been infrequent as Table 4 shows.

While consumer switching remains an issue, market power is expected to remain in the markets covered under this review. Therefore, URCA is considering the potential further regulatory measures aimed at increasing transparency and reducing information asymmetries between SMP operators and end users.

However, before coming to a view on what specific measures to potentially impose, URCA will further investigate whether there are prevailing barriers to consumer switching and then conclude on the most valuable information that should be provided to consumers to facilitate their choices of retail tariff plans. To inform this, URCA will initially conduct a survey targeting end customers to gather insights on their switching behaviour and any potential perceived barriers to switching. This survey aims to address questions such as what the one-off costs from switching are or what contract terms do customers agree to.

### **Preliminary Conclusion**

Given the above, URCA is of the preliminary view that there is a need to impose a set of overarching ex-ante remedies on both BTC and CBL (most of which are already in place):

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- BTC's standalone broadband plans (Fiber Internet 300 Mbps and 1 Gbps) and CBL's DTH TV plans were not easily accessible.
  - BTC's standalone fixed voice tariff plans for residential customers were only accessible via a small icon positioned in the top right corner, rather than where its other residential fixed service plans are presented.
  - Further, CBL's decision to publish its ALIVFibre and REVON tariff plans on separate websites does not facilitate end users' review of tariff plans.

<sup>212</sup> This applied to all of fixed voice, fixed broadband and pay TV services.

- Both SMP operators are required to develop separated accounts in accordance with URCA's Accounting Separation Guidelines and submit these to URCA on an annual basis.
- SMP operators (and all other Licensees) are required to notifying URCA about any amendments, introductions or withdrawals<sup>213</sup> of their retail tariff plans. This obligation requires a notification of changes of all relevant retail tariff plans to URCA, including the price and non-price terms and current take-up of these plans.
- Publication requirement to ensure that end users have access to all tariff plans currently available to them and the price and non-price terms of each tariff plan offered by BTC and CBL, thus facilitating end users' ability to compare retail tariff plans and select the most appropriate tariff for them. SMP operators are required to publish all tariff plans on their websites, offered to residential and business customers.

Further, for the avoidance of doubt, BTC's and CBL's current set of standard SMP obligations, their SMP obligations on wholesale services<sup>214</sup> and the non-discrimination requirements as set out in their operating licences will further remain in place.

**Consultation question 12 – Proposed non-market specific SMP remedies**

**Do you agree with URCA's proposed non-market specific SMP? If not, why?**

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<sup>213</sup> In light of the new remedies imposed by URCA in the markets for fixed voice services, fixed broadband services and pay TV services, withdrawal of tariff plans are only permitted for multi-product bundles. This obligation requires a notification of changes of all relevant retail tariff plans to URCA, including the price and non-price terms and current take-up of these plans. This obligation is necessary for URCA to monitor price developments and compliance with the ex-ante remedies imposed on SMP operators.

<sup>214</sup> For further details, please refer to ECS 11/2010 and ECS 13/2013.

## 9. Conclusions and Next Steps

Within the previous Sections, URCA has set its preliminary position on the status of competition and any resulting requirements for ex-ante regulation in the markets for retail fixed electronic communications services in The Bahamas, namely: retail fixed voice, retail fixed broadband, retail pay TV and multi-product bundles including pay TV services. These are summarized again in Section 9.1 below. In this Preliminary Determination, URCA is seeking comments on its provisional assessment and findings on the competitive dynamics and the resulting need for ex-ante regulation in these markets.

URCA invites interested parties to comment on its preliminary position by responding to the consultation questions set out in this Preliminary Determination. Upon consideration of written responses, URCA will publish a Final Determination on the results of the consultation along with the next steps.

### 9.1. Main findings

Below, URCA provides a summary of its preliminary position on its assessment of key retail electronic communications services in The Bahamas.

**Table 30: Summary of URCA’s preliminary position**

Service	Market definition	SMP findings	Proposed ex-ante remedies
<b>Retail fixed voice services</b>	<p><u>Product market</u></p> <p>Standalone fixed access, local, domestic, and international call services, across all relevant customers segments (i.e., both residential and business customers), irrespective of the underlying technology used to deliver these services. This currently includes PSTN technology and VoIP via FTTx or HFC networks.</p> <p><u>Geographic market</u></p> <p>National market</p>	BTC has SMP	<ul style="list-style-type: none"> <li>• BTC to continue offering current standalone fixed voice tariff plans.</li> <li>• BTC shall not increase prices of entry-level standalone fixed voice plans over last year’s inflation, or 5% a year in case inflation exceeds 5% during that year.</li> </ul>
<b>Retail fixed broadband services</b>	<p><u>Product market</u></p> <p>Retail standalone fixed broadband services and multi-product bundles that do not feature pay TV (double-play bundles with fixed voice and fixed broadband). Includes products offered across all bandwidths irrespective of underlying technology and fixed broadband offered to both residential and business customers.</p> <p><u>Geographic market</u></p> <ul style="list-style-type: none"> <li>• Geographic Market 1 -The islands where both CBL and BTC are</li> </ul>	<ul style="list-style-type: none"> <li>• CBL has SMP in Geographic Market 1</li> <li>• BTC has SMP in Geographic Market 2</li> </ul>	<ul style="list-style-type: none"> <li>• CBL (in GM1) and BTC (in GM2) to continue offering current standalone fixed broadband plans and bundles including fixed voice and fixed broadband services.</li> <li>• Both SMP operators shall not increase prices of entry-level standalone fixed broadband plans over last year’s inflation, or 5% a year in case inflation exceeds 5% during that year.</li> </ul>

	<p>offering broadband services (i.e., New Providence, Abaco, Grand Bahama and Eleuthera).</p> <ul style="list-style-type: none"> <li>• Geographic Market 2 - All remaining islands where CBL has not deployed network infrastructure to offer fixed broadband services</li> </ul>		<ul style="list-style-type: none"> <li>• BTC is required to offer geographic uniform prices for retail broadband services.</li> </ul>
<p><b>Retail pay TV services</b></p>	<p><b><u>Product market</u></b></p> <p>Retail standalone pay TV services provided over a cable network (HFC) or satellite (DTH), offered to both residential and business customers.</p> <p><b><u>Geographic market</u></b></p> <p>National market</p>	<p>CBL has SMP</p>	<ul style="list-style-type: none"> <li>• CBL to continue offering current standalone pay TV tariff plans.</li> <li>• CBL shall not increase prices of entry-level standalone pay TV plans over last year's inflation, or 5% a year in case inflation exceeds 5% during that year</li> </ul>
<p><b>Multi-product bundles including pay TV services</b></p>	<p><b><u>Product market</u></b></p> <p>Retail multi-product bundles including pay TV services provided via cable (HFC), satellite (DTH) or IPTV, offered to both residential and business customers.</p> <p><b><u>Geographic market</u></b></p> <p>National market</p>	<p>CBL has SMP</p>	<p>No market-specific remedy required, given the remedies imposed in the other markets covered in this market review.</p>

### Overarching (non-market specific) remedies on both SMP operators

Further to the market-specific remedies set out above, both BTC and CBL are subject to the following, non-market specific remedies:

- Requirement to develop separated accounts in accordance with URCA's Accounting Separation Guidelines.
- Requirement to submit to URCA a notification of any changes in an existing or new retail tariff plan, set out, at the minimum, the price and non-price terms of the tariff plan and the current/expected take-up of the plan.
- Requirement to publish all tariffs on their websites and make them accessible.