

Notice of Ex Parte Communications

In the matter of the Regulatory Authority Act 2011 (the “RAA”), and in accordance with section 73(4)(a) of the RAA, NOTICE IS HEREBY GIVEN that the following party has engaged the Regulatory Authority of Bermuda (the “RA”) in ex parte communications in connection with the Public Consultation document on the Radiofrequency 5G Safety (the “Consultation Document”) published on the 23rd October 2020 (the “Consultation Date”).

Since the Consultation Date, the RA has entered into the following ex parte communications with Eugene Dean (“Mr. Dean”) of Greenrock, a Bermuda based registered charity (“Greenrock”):

Description of ex parte communication from Mr. Dean with RA Chief Executive Denton Williams (“Mr. Williams”) and RA Director, Communications and Stakeholder Engagement, Charmaine Burgess (“Mrs. Burgess”).

- Mr. Dean asked various questions in the course of the discussion. Mr. Dean’s first question was what inspired the RA to put the moratorium on 5G in place and to have the public consultation on 5G. Mr. Williams explained that this process started over a year ago due to knowledge of concerns from the public related to spectrum and knowledge of technological advances internationally which we knew may percolate to Bermuda eventually, in addition to concerns raised by the public during the recent ICOL licensing consultation process. Mr. Williams explained that the RA knew that the public would want to know what does this all mean and expressed the fact that the RA does not take the public for granted. Mr. Williams explained that in addition to the Public Consultation Document which requires written submissions, the RA also wanted to have a public information gathering session in order to facilitate improving transparency and broaden our typical intake by allowing verbal input .
- Mr. Williams went on to explain that the RA sees itself as a critical part of protecting the public, whilst still being mindful of the RA’s remit and mandate. Mr. Williams then summarized that due to all of the above stated reasons the RA decided to implement a moratorium through an emergency general determination which can only legally last for 6 months unless the Minister allows an extension. Mr. Williams noted that this makes it illegal for anyone to deploy 5G unless the RA explicitly permits it. Mr. Williams said the RA wanted to ensure that we had had the conversation and the public had an opportunity for provide their input before anything moved forward. Mr. Williams went on to explain that based on the internal skillset it was determined that in order to have a very good interpretation of the information we are being presented, we should have the advisory panel. Mr. Williams expressed that he certainly did not want to create an environment which was anti-human or out of control and that he had the best interest of Bermuda in mind and that it was his hope that through this process it could assist in building the publics confidence in the RA.
- Mr. Williams stated that the RA intends to have an education campaign on this topic however that we did not want to prejudice the process before doing so, so that people could bring their own original thoughts to the RA untainted. Mr. Williams explained that the advisory panel was free to pull from whatever resources they needed to to help them develop their recommendation. He explained that their recommendation is not binding on the RA’s Board of Commissioners who will make the ultimate decision.

- Mr. Dean stated that he thinks transparency is crucial as in the absence of transparency people may make assumptions. Mr. Dean stated that his desire is always to bring objectivity and that both himself and Greenrock are not against 5G but rather on the side of objectivity. Mr. Williams explained that other organizations had requested the RA's participation on public discussions regarding 5G which the RA ultimately decided was not appropriate because prior to our decision being issued we needed to preserve our neutrality, particularly the neutrality of the Board of Commissioners. Mr. Williams stated that the Board of Commissioners has allowed the panelists complete autonomy.
- Mr. Williams noted that the Electronic Communications Act 2016 requires the RA to support innovation and increased economic activity.
- Mr. Dean said that based on his interpretation of the information provided that it appears that the public consultation process is a genuine gesture to allow the broader community to participate in this process by giving their input. Mr. Dean went on to state that the concerns however are that most people are not aware that the process is going on and that those who are aware do not feel informed enough to give input. He explained that there are huge segments of the community that struggle with computer literacy and that even for a tech person like himself radio frequency discussion could require study to get up to speed. He stated that it takes quite a bit of research to get on that level. Mr. Dean stated that from a Greenrock perspective they have always taken it to the community so therefore he poses the question why is the RA not investing more time and energy into education and raising awareness. He goes on to state that he has had conversations where it has been stated that things have been posted in the news paper and on the website and while all of that is fine in his view, unless the information is taken to the community then it doesn't really translate. Duly, despite the effort, you're left with a community that still feel unaware and then ultimately the purpose of the public consultation is not achieved as a result.
- Mrs. Burgess responded to Mr. Dean's question. Mrs. Burgess reiterated that this discussion has been ongoing for over a year, including e-mail correspondence with other interested organizations. Mrs. Burgess explained that the spirit behind the public consultation process is an open opportunity for everyone to say what they want to say without prejudice- the good the bad and the ugly. Mrs. Burgess explained that it is a general rule that it is extremely difficult to get people engaged on a topic unless they already have a predisposed interest in that topic. Mrs. Burgess assured Mr. Dean that the RA's ad's on this topic were not just on our website but also we also served up over 59,000 impressions – we are also all over programmatic ad's and Mr. Williams also did a virtual roadshow on the radio. Mrs. Burgess also explained that the topic of 5G heavily arose around the same time as shelter in place first started in Bermuda. Mrs. Burgess went on to explain that the advisory panel take this quite seriously and are fully engaged and everybody is working towards the same goals which is what is best for Bermuda. Mrs. Burgess stated that this is a protracted process which will not end on December 17th and noted that there will be another opportunity at the Preliminary Report round for the public to give their opinion again. Mr. Williams explained that the advisory panel's preliminary view that they are 'inclined' to take will be in the preliminary report document.

- Mr. Dean explained that in his view this was similar to social dynamics because there are all different types of people and he poses the question whether the RA is open to working with different organizations to assist with achieving aims. He stated that Greenrock's focus has not been around outcome it has been around process and wanting people to be informed and he stated that he believes there are other ways that the RA can penetrate the community in a way that engages different groups and gets that large segment that has not tuned in to tune in. Mr. William said the RA is willing to work with whoever, however the RA may find itself in a position where it continuously has to say that 'we can't speak to that' in response to many questions due to the stage of the process, which may come across as disingenuous. Mr. Williams reiterated that the RA did not want to put itself in a position where it could be lobbied or make commitments when we had not given substantive thought yet. He stated that the RA fully supports educating people.
- Mr. Dean expressed that he thinks it all comes down to trust factors. Mr. Williams reiterates the RA placing high importance on transparency.
- Mr. Dean's next question was whether the RA had to get through this process within 6 months before it expires. Mr. Williams stated that he cannot speak for the Minister but he does not think the Minister would object if we needed an extension and explained valid reasons in our request. Mr. Williams added that the consultation could in fact solidify the moratorium and make it permanent. He stated that the moratorium was brought in on a temporary basis because it allows us to quickly implement the moratorium and then consult afterwards whereas normally it is the opposite. Without the moratorium the sectoral providers could have deployed 5G at any point up until then.
- Mr. Dean then inquired about a new start-up company called Horizon that he stated was backed by the government infrastructure fund and has recently been given a licence from the RA. He stated that it looks like Horizon is trying to deploy 5G technology right away. Mr. Dean queried how they were granted a licence in the midst of there being a moratorium on 5G when their business model seems to be built around 5G .
- Mr. Williams responded by saying that that was not 100% accurate and stated that their proposal does not entirely rely on 5G. He stated that they could deploy with 4G etc. He clarified that what they got a licence for was to be an electronic communications sectoral provider and that licence does not prescribe that they must deploy 5G only. Mr. Williams stated that the Integrated Communications Operating Licence allows them almost unlimited possibilities and the RA has not limited them to that one specific scenario and in fact the RA has currently blocked that one specific scenario.
- Mr. Dean finished by stating that he hopes that the RA shares more of what is discussed internally with the public.
- Mrs. Burgess confirmed that there will be more opportunities to get the RA out there so people can understand who we are, what drives us and thanked Mr. Dean for his input.