

INFORMATION STATEMENT OF THE REGULATORY AUTHORITY OF BERMUDA - PURSUANT TO SECTION 5 OF THE PUBLIC ACCESS TO INFORMATION ACT 2010

Issue Date: 21st December 2020

Introduction

In the interest of openness, good governance, transparency and pursuant to section 5 of the Public Access to Information Act 2010 (hereinafter referred to as “PATI” or the “Act”), the Regulatory Authority of Bermuda (the “RA”) provides this Information Statement.

PATI gives the public the right to access records held by public authorities and supports the idea that the people of Bermuda should know more about how and why public authorities do what they do or make certain decisions, and how public money is spent. The RA is committed to this effort within Bermuda and so its Information Statement seeks to facilitate the public’s access to the records that it holds.

Information concerning the RA and its activities can be found at www.ra.bm.

The RA recommends that where there is a genuine interest in information that may be held by the RA, the requesting party should first try to obtain the information from what is available in the public domain as a request for information pursuant to the Act can be time consuming.

The RA is committed to facilitating the public’s access to information fairly, efficiently and accurately therefore requests made pursuant to PATI must be submitted via a formal application process. The reason for this application process is to enable the RA to assess and balance your right of access while simultaneously protecting exempt information held by the RA that must remain confidential. The Act provides that certain records may be exempt from disclosure however the RA will consider and apply such exemptions reasonably and in accordance with the Act and relevant guidance.

The RA otherwise summarizes the relevant information concerning requests made pursuant to PATI as follows:

A. Structure, Organization and Legislation (s. 5(1)a)

The RA is an independent, multi-sector regulatory authority which was created and is empowered by the Regulatory Authority Act 2011 (the “RAA”). It is currently responsible for the oversight of the electronic communications and electricity sectors in Bermuda (the “Regulated Industries”). This remit can be expanded by an Act of Parliament to cover other industry sectors.

The RA is headed by the Chairman of the Board of Commissioners. The Chief Executive, who acts as the principal administrative officer of the RA, has charge of the RA’s day-to-day functions as well as of the staff of the RA. An attorney currently serves as the PATI Information Officer for the RA and will consider all requests for access to information made pursuant to the Act.

Please find the RA’s organisational chart in Annex 1 below.

The Acts of Parliament and Regulations that govern the RA are listed below and can be found on its website at www.rab.bm:

ACTS

Submarine Communications Cables Act 2020

Electricity Act 2016

Customs Tariff Amendment (No. 2) Act 2013

Electronic Communications Act 2011

Regulatory Authority Act 2011

Telecommunications Act 1986

REGULATIONS

Cable Television Service Amendment Regulations 2008

Cable Television Service Regulations 1987

Class Eight Radio (Personal Radio Service) Regulations 1988

Class Eleven Radio (Aeronautical and Maritime Land Services) Regulations 1987

Class Four (Two Way Radiotelephone Services) Regulations 1987

Class Nine Radio (Maritime Mobile Service) Regulations 1988

Class Three Radio (Amateur Service) Regulations 1987

Electronic Communications (Regulatory Authority Fees) Regulations 2016

Electronic Communications (Regulatory Authority Fees) Regulations 2013

Electronic Communications (Transitional) Regulations 2013

Government Fee Amendment Regulations 2016

Government Fees Amendment (No 4) Regulations 2014

Government Fees Amendment (No 2) Regulations 2013

Government Fees Amendment Regulations 2012

Public Telecommunication Service Regulations 1998

Satellite Network Notification and Coordination Regulations 2007

Subscription Radio Service Regulations 2003

Telecommunication Radio Regulations 1987

Wireless Telegraphy (Exemption from Licensing) Regulations 1967

Wireless Telegraphy (License) Regulations 1961

GENERAL DETERMINATIONS

Regulatory Authority (Submarine Cable Communications Operating Licence) General Determination 2020

Principles of Consumer Protection General Determination 2020

Regulatory Authority (COVID-19) Emergency General Determination 2020

Regulatory Authority (Master Communications Operating Licence Application Process) General Determination 2019

Regulatory Authority (Regulatory Accounting Instructions for Electricity Sector) General Determination 2018

Regulatory Authority (Feed-in Tariff Methodology) General Determination 2018

Regulatory Authority (Retail Tariff Methodology) General Determination 2018

Regulatory Authority (Renewable Energy Metering Scheme) General Determination 2018

Regulatory Authority (Bulk Generation Licence) General Determination 2017

Regulatory Authority (Bulk Generation Licence Renewable Energy Class) Generation Determination 2017

Regulatory Authority (Application Process for Electricity Licences) General Determination 2017

Regulatory Authority (Transmission, Distribution and Retail Licence) General Determination 2017

Regulatory Authority (Process for Payment of Regulatory Authority and Government Authorization Fees) General Determination 2016

Regulatory Authority (Request for Applications for the Assignment of Designated HDS-1 Frequencies in the 850 MHz, and 2100 MHz Bands) General Determination 2016

Regulatory Authority (Electronic Communications Price Comparison Website) General Determination 2015

Regulatory Authority (Consumer Rights: Residential Contracts) General Determination 2014

Regulatory Authority (Adjudication Rules) General Determination 2014

Regulatory Authority (Locking of Cellphones) General Determination 2014

Regulatory Authority (Numbering Portability) General Determination 2014

Regulatory Authority (National Numbering Plan) Interim General Determination 2014

Regulatory Authority (Amalgamation of North Rock and Logic) Emergency General Determination 2013

Regulatory Authority (Amalgamation of North Rock and Logic) Revocation Emergency General Determination 2013

Regulatory Authority (Exemptions and Class Licenses) (No 2) General Determination 2013

Regulatory Authority (Exemptions and Class Licenses) General Determination 2013

Regulatory Authority (Obligations for Operators with Significant Market Power) General Determination 2013

Regulatory Authority (Market Definition and Significant Market Power) General Determination 2013

B. Functions, Powers and Duties of the RA, including its Obligations under PATI (s. 5(1)b)

PRINCIPAL FUNCTIONS WITHIN THE REGULATED INDUSTRIES AS PER SECTION 12 OF THE RAA

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

POWERS & DUTIES

The RA supervises, monitors and regulates both the electronic communications and electricity sectors in Bermuda. As defined by the Electronic Communications Act 2011, electronic communications services regulated by the RA include all electronic voice and data transmissions, including audio and visual services. The RA's powers to regulate the electricity sector are set forth in the Electricity Act 2016.

The RA is responsible for issuing licences and permits, promoting competition, protecting consumer interests and encouraging innovation in the Bermuda electronic communications and electricity sectors. This involves dealing with complex regulatory matters, economics, technology and ensuring that the RA's decisions are conducted fairly and in the best interests of the residents and businesses of Bermuda.

The RA has the power to issue Administrative Determinations, which are written documents the RA uses to establish the legal rights and obligations of the sectoral participants in the Regulated Industries. General Determinations, which are a form of Administrative Determination, hold the force of law as statutory instruments pursuant to the Statutory Instruments Act 1977.

Another function of the RA is to provide consumer protection services as it relates to the Regulated Industries. If a consumer has a complaint concerning a regulated service provider, the RA has the legal authority to respond and subsequently direct the service provider to remedy the issue which gave rise to the complaint, if it finds that the service provider has breached the terms of its licence or any applicable legislation.

STRATEGIC GOALS & VALUES

i) Striving for Organizational Excellence

To be a highly efficient and effective organization that supports and enables its staff to achieve the RA's objectives.

ii) Promoting and Facilitating Sustainable Competition

Dependent on the sectorial legislation, to apply effective and proportionate regulation to facilitate dynamic and sustainable competition within the sectors it regulates.

iii) *Promoting and Protecting the Interests of Consumers*

To safeguard the interests of the consumers of electronic communications and electricity services by protecting and empowering them.

iv) *Facilitating Innovation and Investment*

To provide regulatory certainty within the sectors under its responsibility. This will include the fair application of rules, market evaluation and enforcement of breaches of the rules and compliance. This, in turn, will support investment into the relevant sectors.

v) *Providing Timely Advice and Information to the Government*

On policy and legislative changes which may be required to enhance the success of the electronic communications and electricity sectors or its regulatory framework, and to promptly respond to legally mandated directives from the Minister of Economic Development.

OBLIGATIONS UNDER PATI

- To provide an Information Statement which is readily accessible by the public. [s5].
- To inform the public of the type of information currently in the possession of the RA and inform the public how said information may be accessed [s6].
- To respond to information requests in a timely manner [s12-16].
- To track information requests and provide this data to the Information Commissioner [s6].
- To respond to requests from the Information Commissioner [s9].
- To amend personal information held by the RA that is wrong or misleading following a written request by the person to whom the information relates [s19].
- To conduct an internal review if formally requested [part 5].
- To give evidence for review by the Information Commissioner [part 6, 47(4)], or for judicial review [s49], if required
- To provide an annual written report to the Information Commissioner of the status of information requests [s58(3)]
- To do anything else as required under the PATI Act and subsequent Regulations [s59, 60], including:
 - Fees for requests for information
 - Management and maintenance of records
 - Procedures for administering the Act
- To train staff and make arrangements so as to facilitate compliance with the Act [s61]
- To designate one of its officers to be the person to whom requests are directed [s.62]

C. Services & Programmes (s. 5(1)c)

The RA presently provides the following services:

- Regulation of the Regulated Industry in line with its responsibilities under the relevant sectoral legislation;
- Periodic comprehensive reviews of each Regulated Industry;
- Rendering of advice and Administrative Determinations to and in respect of licence holders and applicants for licences that are regulated by RA;
- Investigation of complaints concerning licence holders with the provision of a resolution process to such complaints as may be needed; and
- PATI Requests—the prescribed fees shall apply pursuant to the Government Fees Regulations 1976.

D. Classes of Records & Documents Held (s. 5(1)d)

The files that are presently held by the RA fall within the following classes:

- Human Resource Documents;
- Financial Records;
- Travel Records;
- PATI Information Request Log;
- Information Technology, including website administrative records;
- Minutes of the Board meetings of the Board of Commissioners;
- Annual Reports;
- Work Plans;
- Policies and Procedures;
- Telecommunications Licences;
- Fuel Adjustment Rate Submissions & Approvals;
- Consumer Complaints Log;
- Investigation and Enforcement Records;
- Administrative Determinations and related documents; and
- Public Consultation Documents.

E. Administrative & Operational Manuals (s. 5(1)e)

The RA holds several policies and procedures and an employee handbook. The following are presently in force or in the process of being developed within the RA:

- Employee Handbook
 - This document sets out the behavioural and administrative standards that apply whilst an individual is employed by the RA.
- Class Licence Collection and Processing and Issuance Procedures
 - This document sets out the RA's procedures and processes for the collection of Class Licence fees, the review of Class Licences and the remittance of licence fees to the Government of Bermuda.

- Class Licence Database Reconciliation Procedures
 - This document sets out the administrative procedures required to reconcile class licence revenue received between the bank statements and relevant database records.
- ICOL, Handset and Spectrum Collections and Payments Procedures
 - This document sets out the processes within which ICOL, Spectrum and Handset fees are collected and accurately recorded.
- Invoices and Payment Procedures
 - This document sets out the processes within which invoices and payments are made to ensure that the RA maintains a reporting system that is consistent, accountable and transparent.

F. Decision-Making Documents (s. 5(1)f)

- Public consultations
- Reports and papers for Board of Commissioners meetings
- The following policies are presently in force or in the process of being developed within the RA:
 - PATI Policy;
 - IT Policy;
 - Communications Policy;
 - Governance Policy;
 - This document sets out the policy which governs the Board of Commissioners (the “Board”) of and their oversight of the RA. The governance policy guides the Board in ensuring that the RA remains independent and accountable in its pursuit of the protection of consumer rights, the innovation of industry developments, the promotion of competition and investment in Bermuda and enhance Bermuda’s position in the global commercial market.
 - Procurement Policy;
 - This document sets out the policy to govern the process of acquiring goods and services required by the RA to function efficiently.
 - Finance Policy;
 - This document sets out the policy for the fiscal management of the RA.
 - Overseas Travel and Subsistence Policy;
 - The document sets out the policy for travel by the RA’s staff and Commissioners.
 - Conflict of Interest and Gifts and Hospitality Policy; and
 - This document sets out the policy for the disclosure of Conflicts of Interest and the receipt of gifts and hospitality services received. In the best interest of the public and sectoral participants, it is essential that the RA, and its staff, maintain a reputation for impartiality, integrity and high professional standards.

- Recruitment, Remuneration and Employee Performance Review Policy;
 - This document sets out the policy on the recruitment, remuneration and performance review of the full-time employees of the RA.

G. PATI Information Officer (s. 5(1)g)

Tristy Smith
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8 Wesley Street
Hamilton HM 11
Tel: +1 441 405 6000
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H. Any Other Information (s. 5(1)h)

As new consultations, determinations and policies and procedures for the RA become available they will be posted to the website at www.ra.bm.

I. Any Other Information to be Provided (s. 5(1)i)

For the RA's Annual Reports and other financial documents please visit its website.

All requests for information made pursuant to PATI must be made in writing. Information request forms can be found on the RA's website or obtained from the office of the RA.

J. Information Statement: Copies & Updates (s. 5 (2,3,4,5))

Every public authority shall update its information statement as least once a year, and make it available for inspection by the public at reasonable times pursuant to s. 5 (1-5) of the Act.

Date Information Statement was updated: 30 June 2020

Locations of Information Statement:

- Principal office: 1st Floor, Craig Appin House, 8 Wesley Street, Hamilton HM11
- The Bermuda National Library
- The Bermuda Archives
- Available electronically by request
- Website of public authority: www.ra.bm
- With the Information Commissioner

Signed:

A handwritten signature in black ink, appearing to be 'R. Ambrosio', written over a horizontal line.

Richard Ambrosio
Acting Chief Executive / Senior Legal Advisor

Date: 21st December 2020

ANNEX 1 Regulatory Authority Organizational Chart

