



Decommissioning of Electronic Communications Price Comparison Website

**Final Report
Final Decision and Order**

Matter: 20190329

Date: 27th May 2021

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I. INTRODUCTION

1. The Regulatory Authority of Bermuda (the “RA”) hereby issues its Final Report and Final Decisions and Order (“Final Report”) on Decommissioning of Electronic Communications Price Comparison Website.
2. This Final Report is structured as follows:
 - a. section II outlines procedural history;
 - b. section III sets out the legislative context and framework;
 - c. section IV outlines the background;
 - d. section V summarises the response to the Preliminary Report;
 - e. section VI provides the conclusion and final decision;
- a. Appendix A sets forth the Final Decision and Order;
- b. Appendix B sets forth the General Determination.

II. CONSULTATION PROCEDURE

3. This RA initiated the consultation by publishing a Consultation Document on 29th March 2019 that invited responses from members of the public, including electronic communications sectoral participants and sectoral providers, as well as other interested parties.
4. The purpose of the RA's Consultation Document was to consult with the public on the RA's proposed decision regarding the decommissioning of the electronic communication comparison website ("the Website") and to determine whether such a tool is necessary to promote transparency in the electronic communications sector.
5. The Consultation Document asked the following questions:
 - (i) Question 1: On a scale from 1 to 5 (1 being the lowest, 5 being the highest), how easily are you able to access information from sectoral providers regarding service tariff rates?
 - (ii) Question 2: What suggestions would you recommend are implemented to ensure that information regarding service tariffs is clearer and more easily accessible on sectoral provider websites?
 - (iii) Question 3: In addition to the type of service provided and the associated tariff rate, what other information would you like disclosed to aid in your decision-making process prior to purchasing electronic communications services (e.g. roaming charges, extra charges, etc.)?
 - (iv) Question 4: In your opinion, do you feel it is necessary that an independent price comparison tool is made available to aid in your decision-making process prior to acquiring an electronic communications service?
 - (v) Question 5: In the event that the existing price comparison website is decommissioned, what other methods or ideas would help consumers make better-informed decisions about the telecommunications services?
6. Responses to the Consultation Document were solicited from the public electronically through the RA's website at www.rab.bm.
7. The response period commenced on 29th March 2019 and concluded on 12th April 2019.
8. The RA received one written response to the Consultation Document from Telecommunications (Bermuda & West Indies) Limited, Bermuda Telephone Company Limited and Transact Limited (collectively, "Digicel").
9. On the 30th April 2021, the RA issued its Preliminary Report, Decision and Draft General Determination ("Preliminary Report").
10. Responses to the Preliminary Report were solicited from the public electronically through the RA's website at www.ra.bm.

11. The Response period commenced on the 30th April 2021 and concluded on the 14th May 2021.
12. The RA received no responses to the Preliminary Report.
13. In accordance with s. 72 (4) of the RAA the RA now issues its Final Report.

III. LEGISLATIVE CONTEXT

14. The RAA established a cross-sectoral independent and accountable regulatory body “to protect the rights of consumers, encourage the deployment of innovative and affordable services, promote sustainable competition, foster investment, promote Bermudian ownership and employment and enhance Bermuda’s position in the global market”.
15. The ECA is the applicable sectoral legislation governing the electronic communications sector and received royal assent on 18th December 2011 and commenced on 28th January 2013.
16. Section 9(2)(c)(ii) of the ECA states that:

(2) The functions of the Authority shall include –

(c) the making of administrative determinations to provide for the control and conduct of public electronic communications, including –

(ii) transparency measures and notice requirements relating to the rates, charges and other terms and conditions for the provision of public electronic communications services for the benefit of consumers.
17. To enable the RA the ability to carry out its regulatory functions specified under section 9(2)(c)(ii) of the ECA, section 26 of the ECA authorizes the RA to make general determinations:

(i) Governing the commercial and marketing practices of ICOL holders and any other types of communications providers specified by the Authority to protect the rights of customers, subscribers, users and consumers, having due regard for the vulnerability of certain categories of consumers; and

(ii) Issuing or approving codes of practice relating to such practices.
18. In summary, section 9(2)(c)(ii) and section 26 of the ECA empower the RA to make administrative determinations to impose statutory obligations on sectoral providers to provide consumers of electronic communications services with a degree of transparency regarding the rates, charges and other terms and conditions that are associated with any services made available by electronic communications services providers.
19. Section 62(2)(d) of the RAA states:

(2) Any general determination –

(d) may be revoked or modified by the Authority through the adoption of a subsequent general determination.

IV. BACKGROUND

20. The introduction of the Website was first discussed in the RA's 2014-2015 Work Plan (the "Work Plan") in light of the electronic communications sector having ten (10) service providers offering different pricing plans at that time. In September 2014, the RA issued an initial consultation document. The public comment period for the initial consultation document began 4th September 2014 and concluded 22nd September 2014.
21. Upon considering the public comments received from sectoral providers and consumers during the consultation period, the RA decided that it would be in the public interest to establish and develop a price comparison website to ensure consumers would have transparent information regarding the rates, charges and other conditions associated with the services provided by licensed sectoral providers.
22. The RA issued the Regulatory Authority (Electronic Communications Price Comparison Website) General Determination 2015 (the "Website General Determination") on 18th February 2015.
23. Market developments occurred and reduced the number of sectoral providers currently offering electronic communications services.
24. Upon completing the Sectoral Review of the Electronic Communications Sector on 30th November 2018, the RA identified that the Website General Determination may require further review or revocation due to sectoral developments that had occurred since 18th February 2015.
25. Given the market developments, Consumers now have fewer options to choose from when searching the electronic communications sector for services. The services and tariff information are easily accessible on the service provider's website.
26. While consumer utilization of the Website increased between 2015 and 2017, Consumer utilization of the Website decreased significantly and between 1st January 2018 to 31st December 2018, the Website only had 2,018 views a decrease in utilization of approximately 50% when compared against the prior calendar year which were 5,014 visits.
27. Between 2015 and 2018, there were a limited number of complaints received by Consumers in relation to service and tariff information.
28. There are maintenance costs of approximately \$26,000.00 per annum to maintain a price comparison website and associated database.
29. Due to the development in the electronic communications sector the RA formed a preliminary view that the Website should be decommissioned given that consumers have easy access to tariff information and service fees on the electronic communications provider's website and that the costs of maintaining the Website are disproportionate to any "transparency" benefits that are achieved for Consumers.
30. The RA commenced a Public Consultation on this issue. The RA received one response to the Consultation Document from Digicel supporting the RA's proposal of decommissioning of the electronic communication comparison website.

31. Based on the response received and the RA's analysis, a Preliminary Report was published on the 30th April 2021. In the said Preliminary Report the RA proposed the decommissioning of the electronic communication price comparison website and invited members of the public, including electronic communications sectoral participants and sectoral providers, as well as other interested parties, to comment on the said report. The RA received no response from the public in relation to the Preliminary Report.

V. SUMMARY RESPONSE TO THE PRELIMINARY REPORT

32. The Preliminary Report invited the public including sectoral participants and sectoral providers, as well as other interested parties to submit responses commenting on the Decommissioning of Electronic Communications Price Comparison Website Preliminary Report, Order and Draft GD (the “Preliminary Report”). No response was received.

VI. CONCLUSION AND FINAL DECISION

33. Having considered the response to the Consultation Document and the lack of responses to the Preliminary Report, the RA notes that there were no objections to decommissioning of the electronic communication comparison website and no modifications proposed to the Preliminary Report.
34. Accordingly, the RA determined that The Regulatory Authority (Electronic Communications Price Comparison Website) General Determination 2015 shall be revoked and hereby adopts the Final Order set forth in Appendix A to this Final Report and the GD set forth in Appendix B.

APPENDIX A

FINAL ORDER

- I. The Regulatory Authority of Bermuda, pursuant to sections 12, 13, 62 and 69 to 73 of the Regulatory Authority Act 2011 and sections 9 (2) (ii) and 26 of the Electronic Communication Act 2011, hereby:
 - (a) Adopts the General Determination attached hereto;
 - (b) Directs the Chief Executive of the RA to forward the General Determination to the Cabinet Secretary; and
 - (c) Authorises the General Determination to be effected on the date of its publication in the Official Gazette.

- II. So Ordered this 27th day of May, 2021.

APPENDIX B

GENERAL DETERMINATION

Draft

BERMUDA

**Regulatory Authority (Decommissioning of Electronic Communication Price Comparison Website)
General Determination 2021**

BR ___/2021

The Regulatory Authority, in the exercise of the power conferred by section 62 of the Regulatory Authority Act 2011 (the “RAA”), as read with sections 12 and 13 of that Act and sections 9(2)(c)(ii) and 26 of the Electronic Communications Act 2011 (“ECA”), makes the following General Determination (“GD”):

Citation

1 This GD may be cited as the Regulatory Authority (Decommissioning of Electronic Communication Price Comparison Website) General Determination 2021.

Determination

2 This GD is made pursuant to the Consultation Document entitled “Decommissioning of Electronic Communication Price Comparison Website”, which commenced on 29th March 2019 and the Regulatory Authority’s Decision on it.

Revoke 2015 General Determination

3 The Regulatory Authority (Electronic Communications Price Comparison Website) General Determination 2015 is revoked.

Effective Date of General Determination

4 This General Determination shall become effective on the day it is published in the Official Gazette.

Signed this 27th day of May, 2021