

Bermuda Regulatory Authority

(The “Authority”)

Advisory Panel

Terms of Reference (“TOR”)

Constitution

The Advisory Panel was constituted on October 27, 2020, at a meeting of the Regulatory Authority Board of Commissioners and in accordance with section 35 of the Regulatory Authority Act 2011.

Purpose of the Advisory Panel

To provide a range of perspectives and expertise, in the area of Radiofrequency wireless technology and particularly for Fifth Generation (“5G”) technologies. The panel will offer independent advice and insight into policy direction emerging from reviewing information and public consultations. The Advisory Panel will be responsible for providing a final report to the Board of Commissioners regarding its work. It will not have decision-making authority.

Advisory Panel Member’s Roles and Responsibilities

- To undertake a review of current global practices, approaches, and public policies, without prejudice, regarding the general use of radiofrequency and Fifth Generation (“5G”) wireless technology, as defined by the 3rd Generation Partnership Project (“3GPP”) in particular,
- To address questions and concerns from local members of the Bermuda public and special interest groups,
- To engage in a factual discussion regarding the technology with internal and external stakeholders,
- To review the findings of the Regulatory Authority’s radio frequency study,
- To participate in advisory panel meetings via technology,
- To be available and prepared to attend public consultation activities related to the Advisory Panel’s purpose as necessary,
- To provide a recommendation to the Regulatory Authority’s Board of Commissioners on whether to remove or retain the current moratorium on the deployment of 5G in Bermuda, and

- To provide a recommendation to the Regulatory Authority’s Board of Commissioners on the best way forward for Bermuda regarding Fifth Generation technology and possible solution to address major concerns raised by the public.

Project Timelines

- The projected timeframe for the project is October 2020 – February 2020.

Composition of the Advisory Panel

As per the Regulatory Authority Act 2011, section 35 (1), “ *The Authority may appoint advisory panels, consisting of knowledgeable persons from out the Authority, to provide information and recommendations regarding any matter within the competence of the Authority*”. – Appendix 1 of the TOR, page 6.

- a. The majority of the Advisory Panel members will be considered experts in the field of wireless technology, with in-depth knowledge regarding the impact(s) of radio frequency from a scientific and/or public health perspective.
- b. The Advisory Panel will be comprised of six (6) members, from the following countries:
 - i. Two (2) from Bermuda;
 - ii. Two (2) from Canada;
 - iii. One (1) from the United States of America (USA); and
 - iv. One (1) from Australia.
- c. The biography of each Advisory member will be posted on the Authority’s website.

Governance

Structure

- The Advisory Panel shall elect, from among its members, a chairman to direct its debates, act as its rapporteur, schedule and convene meetings, set meeting agendas and chair the meetings.

Meetings

- The meetings of the Advisory Panel shall normally be of a private nature. They shall not become public except by the express decision of the full Advisory Panel and with the approval of the Board of Commissioners. This does not include any online public consultation event(s).

Venue of Meetings

- Advisory Panel meetings will be held using online technology.

Sub-Committees or Joint Sub-Committees

- No sub-committees or joint sub-committees will be established under and as part of the Advisory Panel.

Findings and Recommendations

- The Advisory Panel will provide its findings and recommendations to the Chair of the Board of Commissioners and the Chief Executive, in the form of a written Preliminary Report and, subsequent to further public input, a Final Report.

Quorum

- The discussions of the Advisory Panel shall be valid:
 - (a) if at least two-thirds of its members are present; or
 - (b) unless otherwise authorized by the Board of Commissioners and the Chief Executive is present at the relevant Advisory Panel meeting.

Reporting

- The Board of Commissioners and Chief Executive shall receive minutes of all the Advisory Panel meetings.
- The Chairman of the Advisory Panel will make themselves available to the Board of Commissioners and the Chief Executive, to answer questions concerning Advisory Panel's work.

Frequency of Meetings

- The Advisory Panel shall meet at least bi-weekly over the duration of the engagement or as it is deemed necessary.

Notice of Meetings

- Meetings of the Advisory Panel shall be called by the Advisory Panel Chairman.
- Notice of each meeting will confirm the venue, time and date, and an agenda of the matters to be discussed shall be forwarded to each member within two (2) days prior to the date of the meeting. Any supporting papers shall be sent to each member of the Advisory Panel at the same time.

Administrative Support

- Regulatory Authority Staff will provide administrative support to the Advisory Panel Chairman and its members.

Advisory Panel Deliberations and Reports

- The Advisory Panel is encouraged to record any diversity of opinions and advise the Board of Commissioners of any dissenting opinions in its reports.
- The Advisory Panel will not provide recommendation(s) unless a quorum is present.
- Reports will be published on the RA's website after the Board of Commissioners approves the release of the content.
- The contents of the report will be non-attributed – there will be no reference to individual Advisory Panel members, unless explicitly requested.

Process for Resignation

- Advisory Panel members will provide 14 days' notice of their intent to resign from the panel.
- The resignation notice must be in writing and be addressed to the Chief Executive. The letter should state the effective date of the resignation.

Termination of an Advisory Panel Member

- The Board of Commissioners may terminate an Advisory Panel member for failure to act according to the Advisory Panel's TOR or for a breach of confidentiality.
- A termination notice will be in writing.

Dissolution of the Advisory Panel

- The Board of Commissioners may dissolve the Advisory Panel when the purpose of the panel is fulfilled or if the Board of Commissioners determines the Advisory Panel to be ineffective.

Confidentiality

- To support the Advisory Panel's ability to provide well-informed advice to the Board of Commissioners, panel members may receive and discuss at meetings, information that is confidential in nature. Therefore, each panel member will be required to sign and adhere to a confidentiality agreement before participating. The agreement prohibits the disclosure of any information received through participation in the Advisory Panel, including information received orally or in writing.

Indemnification

- The members of the Advisory Panel shall indemnify and hold harmless the RA and its officers, directors, agents and employees from and against any loss, liability, costs (including reasonable legal costs), damages or expenses directly or indirectly incurred, resulting from any breach (or failure to be true and correct as of the date hereof or at any time until the termination of the TOR) by the said member of the terms, representations, warranties or covenants of the TOR including any negligent or reckless act, omission or default, or any unauthorised act or omission in the execution of the TOR.
- The RA shall indemnify and hold harmless the members of the Advisory Panel from and against damages directly or indirectly incurred, resulting from or arising out of:
 - (a) Any breach (or failure to be true and correct as of the date hereof or at any time until the termination of the TOR) of any of the representations, warranties, covenants or agreements given or made by the RA in connection with the TOR; or
 - (b) Any action that is asserted by a third party that relates to the TOR (except, as above, to the extent due to, or arising from, any negligent or unauthorised act or omission of the relevant member of the Advisory Panel).

Working Language

- The working language of the Advisory Panel will be English.

Authority

- The Advisory Panel is expected to make recommendations and does not have the authority to make decisions on behalf of the RA.
- The recommendation(s) of the Advisory Panel should solely be presented in writing.

Remuneration

Advisory Panel members will be remunerated \$150 US for each meeting attended. The remuneration can be paid to an advisory member's registered Bermuda charity of choice.

Communication Protocol

The Advisory Panel Chairman will be the panel spokesperson and, with guidance from the CE, may engage the public and/or media as required.

Transparency

- Transparency will be adhered to through posting the following Advisory Panel information on the RA's website: e.g. agendas, names, and biographical information.
- The RA will also publish on its website the Final Report, documenting the recommendation(s) of the Advisory Panel, how the recommendation(s) was/were considered and any resulting impacts on the recommendation(s).

Public Access to Information (PATI)

- Documents, emails, working files, minutes, reports, etc... of the Advisory Panel, are subject to the Public Access to Information Act 2010.

Appendix 1 – Regulatory Authority Act 2011, Section 35, Advisory Panels

Advisory panels

Section 35

- (1) The Authority may appoint advisory panels, consisting of knowledgeable persons from outside the Authority, to provide information and recommendations regarding any matter within the competence of the Authority.
- (2) In any case in which the Authority appoints an advisory panel, the Authority shall publish on its official website a statement setting out—
 - (a) the purpose for which the panel has been established;
 - (b) the membership of the panel, including a brief statement setting out the current employment or other significant information regarding each member;
 - (c) any financial, staffing or other resources that the Authority will provide to the panel;
 - (d) any procedures to be used, or deliverables to be provided, by the panel; and
 - (e) the duration of time in which the panel will remain in existence.
- (3) In considering candidates for appointments to any advisory panel, the Authority shall give due regard to—
 - (a) the qualifications and experience of the candidates; and
 - (b) the need to ensure representation of diverse views.
- (4) Each advisory panel shall provide a report to the Authority regarding its work, at such times as the Authority may specify, which the Authority shall publish on its official website.