



March 26th, 2019

Utility Regulation and Competition Office
85 North Sound Rd.
Alissta Towers, 3rd Floor
P.O. Box 2502
Grand Cayman, KY1-1104
Cayman Islands
consultations@ofreg.ky

Dear Sir/Madam,

To: The Utility Regulation and Competition Office ("OfReg")

Re: OF 2019 - 1 - Consultation re Proposed Truth in Advertising Rules

On behalf of WestTel Limited, trading as "Logic" we are writing to respond to the request for comments regarding the Draft Rules proposed for Truth in Advertising.

Logic is pleased to confirm that its advertising practice and overall marketing policy is to communicate the truth in respect of the quality of our services and the value our customers receive. We do not knowingly or purposefully misrepresent or mislead customers in pursuit of sales. We further note that we remain in compliance with the ICTA Licensee Advertising Guidelines – "Truth in Advertising" (the "ICTA TIA") as per the current law.

Fundamentally, our corporate belief is that positive customer relationships begin with truthful communications. There is no instance where it makes good business sense to be less than truthful, as the long run implications are negative for your brand and profitability. As a result, we do not believe that regulatory intervention is necessary to ensure truth in advertising. The market will reward truth and ultimately punish service providers whose advertising is less than truthful. In some ways, the honesty of Logic's advertising has become a competitive advantage. Further regulating in this area may actually erode our market differentiation as the preferred telecoms brand in Cayman.

We have no specific objection to the guidelines set out in the ICTA TIA or the OfReg Draft Rules. As per paragraph 21 of the consultation document, we understand that the ICTA TIA is currently in force, and will be repealed upon publication of the proposed Draft Rules as final. We note that the 2 sets of guidelines – old and new – overlap significantly. The OfReg Draft Rules provide more detail in certain areas, but in broader substance they appear to duplicate the ICTA TIA without much explanation as to why. What was lacking or ineffective in the ICTA TIA? How do the OfReg Draft Rules better address the problems with the ICTA



TIA? These are key questions that should be answered in this consultation, otherwise there is no obvious need to adopt the Draft Rules and repeal the ICTA TIA.

Accordingly, we ask OfReg to address the questions raised above prior to finalizing the Draft Rules, so that all consultation participants can better assess the benefits of adopting the new rules.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rob McNabb".

Rob McNabb
CEO - Logic

20 March 2019

Mr. Alee Fa'amoe
Deputy CEO & Executive Director ICT
Utility Regulation and Competition Office
85 North Sound Rd
Alissta Towers, 3rd Floor
P.O. Box 2502
Grand Cayman KY1-1104
Cayman Islands

Dear Mr. Fa'amoe,

Re: OF 2019-1 – Consultation on Proposed Truth in Advertising Rules

Cable and Wireless (Cayman Islands) Limited, dba "Flow", hereby submits our responses to the four consultation questions included in Ofreg's OF 2019-1 Consultation Document.

Ofreg Question 1: Do you agree that rules should be in place to regulate marketing communications? Why or why not?

Flow response to Ofreg Question 1: Truth in Advertising Guidelines have been in place in the Cayman Islands almost since the inception of Liberalization and were among the first regulations implemented by Ofreg's predecessor, the ICTA. This new set of guidelines ("the new Guidelines") largely mirrors the previous set of guidelines developed in 2002 ("the 2002 Guidelines"), and we have no objections with retaining them.

We believe Ofreg's Truth in Advertising Guidelines provide an appropriate framework to monitor the marketing communication of all companies operating in the Cayman Islands, including Licensed ICT operators.

Ofreg Question 2: What are your views on the Office's expectations of Licensees in relation to marketing communications?

Flow response to Ofreg Question 2: We indicated in response to *Ofreg Question 1* that the new Guidelines are almost identical to their predecessor. There is, however, at least one exception. The new Guidelines introduce the concept of fairness, which did not appear in the 2002 Guidelines. We believe the introduction of fairness to the new Guidelines is unnecessary; it adds uncertainty and potential confusion.

Paragraph 7 in the new Guidelines states: "All Marketing Communications should be truthful, and not deceptive or unfair," and paragraph 9 defines "unfair marketing communications" as follows:

Marketing Communications are considered unfair if they cause or are likely to cause substantial loss to the consumer which a consumer could not reasonably avoid, and this loss is not outweighed by the benefit to the consumer.

Fairness is an inherently expansive concept and this definition does not appear to apply meaningful limitations. For instance, there is no indication as to what constitutes a loss or benefit to the consumer, and whether this includes measurable metrics and/or consumers' perceptions of benefit and loss. To avoid the uncertainty and ambiguity of this term, we recommend eliminating reference to "unfair" conduct, and limiting the scope of conduct to truth and non-deception, which are the same two objective criteria applied to the 2002 Guidelines.

Another concern includes the definition of "Marketing Communications" in paragraph 6 of the New Guidelines. This definition is unchanged from the 2002 Guidelines. However, given the significant growth of the Internet, and growing emphasis on Internet-based marketing during the intervening 17 years, we believe this definition should be updated to reflect these changes. In particular, we believe the definition should capture the current focus of Licensed operators on Internet marketing via social platforms, such as Twitter, Facebook and Instagram, among others.

Finally, in the same paragraph 6, the New Guidelines indicate the definition of "Material Information" includes "that the Consumer as a customer...has the right to cancel his or her contract, if they have that right." It would appear from this language that Ofreg considers a customer's right to cancel her contract to be optional. We ask Ofreg to clarify if this is its position regarding customer contracts.

Ofreg Question 3: What are your views on the proposed remedies and consequences?


Flow response to the Office question 3: The remedies and consequences set forth in paragraphs 39-41 of the New Guidelines appear to be appropriate. The application of these remedies and consequences are stated to apply to marketing communications that are unsubstantiated, not truthful, deceptive or unfair. Again, we ask Ofreg to consider removing reference to "unfair" marketing communications and retaining only the more objective criteria; namely, marketing communications that are unsubstantiated, not truthful or deceptive.

Ofreg Question 4: Please provide your views on any other matters you consider relevant to this Consultation.

Flow response to the Office question 4: We have no additional views on the New Guidelines at this time.

Yours sincerely,
Cable and Wireless (Cayman Islands) Limited, trading as FLOW

Paul Osborne



Paul Osborne

~~Managing Director~~

Country manager

c.c. David Burnstein, Sr. Manager, Regulatory Finance, FLOW



Water Authority-Cayman

Incorporated by Law No.18 of 1982 in the Legislative Assembly of the Cayman Islands

The Consultation Group
Utility Regulation and Competition Office
PO Box 2502
Grand Cayman, KY1-1104
CAYMAN ISLANDS

26 March 2019

via email to: consultations@ofreg.ky

Re: Consultation - Proposed Truth in Advertising Rules

To whom it may concern,

With respect to the consultation on Proposed Truth in Advertising Rules launched by the Utility Regulation and Competition Office ('OfReg') on 13 February, 2019, Water Authority – Cayman is hereby submitting its comments on the proposed process.

Question 1: *Do you agree that rules should be in place to regulate marketing communications? Why or why not?*

While we agree that there should be rules in place to regulate marketing communications, the aim of regulating marketing communications should be to ensure that all ads/marketing communications in the Cayman Islands, regardless of the organization, industry or medium used, is done in a responsible manner. In our opinion, these would need to form part of Consumer Protection Law, which still seems to be in bill form.

It should be noted that the Water Authority has its own internal Corporate Communications Procedures which ensure timeliness, truthfulness and accuracy of all marketing communications and these factors for us are key in engaging and building customer relations.

Question 2: *What are your views on the Office's expectations of Licensees in relation to marketing communications?*

The Water Authority has no issues with the expectations of the Office in regards to Licensees and the marketing communications as these expectations are in line with the General Rules of The CAP Code of the UK (The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing, Version, Edition 12)

Suppliers of the World's most popular drink

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PO Box 240, Cayman Brac KY2-2002, CAYMAN ISLANDS
Website: www.waterauthority.ky

Tel No: 345-94Water (2837) Fax No: 345-949-0094
Tel No: 345-948-1403 Fax No: 345-948-1404
Email: info@waterauthority.ky

<https://www.asa.org.uk/uploads/assets/uploaded/f5dd3788-2540-4db8-950925e31552392d.pdf>

As question 2 references the Office's expectations of licensees only, it is unclear whether these rules are capturing all the relevant participants from each sector such as sectoral provider or sectoral utility.

Question 3: *What are your views on the proposed remedies and consequences?*

Under the remedies and consequences, it is noted that in J39 (a), reference to Section 91 of the Law is made; however, there are no regulations to support how administrative fees would be calculated.

Under section J 39 (e), it is also unclear of the purpose of compensating the consumer who made the complaint. Any deceptive or unfair marketing communications would impact more than the complainant, therefore corrective action such as requiring the recall and reissuance of new marketing communications with explicit heading indicating it was a correction, would be more effective in our opinion.

It is also not clear in section J 39 (f) how the civil or criminal case would come about and what penalties would come about for such as we could not find an enacted local Consumer Protection Law. It is also not clear if there will be an enforcement procedure put into place, that may require Sectoral Providers to undertake additional procedural tasks and resources.

Question 4: *Please provide your views on any other matters you consider relevant to this Consultation.*

Section E. 20, Pricing is not clear and requires clarification.

In addition, it is not clear to what extent of responsibility the publisher has, who may be a sectoral provider, for allowing others to utilize their channels to advertise or cross promote products and services in a manner that is clearly untruthful or deceptive.

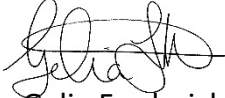
The rules should ensure that all relevant items stated are defined for clarity. Examples are sectoral licensee and licensee.

The objectives of the Draft Truth Advertising Rules states: *'The main objective of the draft Rules is to outline how the Office would normally consider the appropriateness of marketing communications made relating to the provisions of Electricity, Fuels, ICT and Water services.'*, however in our opinion, there should be a comprehensive, all-encompassing law to regulate marketing communications across all industries in the Cayman Islands. Having rules regulating marketing communications for just these four

sectors, advances the perception that there is/has been unfair or deceptive advertising practices employed by them, thus the need to regulate now.

We look forward to the Office's feedback on the comments provided.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gelia', with a horizontal line drawn through it.

Gelia Frederick-van Genderen
Director, Water Authority

cc: Mr Kearney Gomez, MBE JP, Chairman, Water Authority Board *via email to*
kearney.gomez@gmail.com

From: [REDACTED]
Subject: Re: Input on TOA in
Cayman
Date: April 1, 2019 at 10:14 PM
To: Alison Maxwell

Hi Alison - below is my revised submissions:

Telecom advertising concerns:

1. No Telecom company should be allowed to make sweeping declarations in advertising that they offer 4G/LTE, Fibre, certain speeds or any other service without stating which areas/districts they do NOT provide that service to. For example, East End and North Side still do not have 4G/5G service by some carriers, and service is also limited or excluded in Cayman Brac and Little Cayman. Related disclaimers should be required so that customers can make a decision on which carrier to choose based on where they live and work.

CUC advertising concerns (energy):

1. CUC's ongoing lobbying of the Government to maintain its monopoly on Grand Cayman is making it increasingly difficult and less lucrative for Cayman residents to choose renewable energy. Any advertising CUC activates regarding renewable energy, including public relations and media interviews, should disclose facts like why they're charging ALL customers now for "renewable energy" even when a customer does NOT have solar panels or any form of renewable energy attached to their homes. Any advertising or public relations by CUC regarding the dominating role they play in limiting the access to, and benefits of, affordable renewable energy for customers via their restrictive Power Purchase Agreement with government, should always be disclosed truthfully and clearly for customers and small businesses in the industry to understand before they choose to invest in Renewable Energy.

Job advertisements concerns (telecom):

Add teeth to the applicable law(s) governing the telecom industry that would give OfReg the authority and power to also hold telecom licensees accountable (ie cancel licenses or impose deep fines) for proven "misleading, unfair, and deceptive advertising" for job ads tailored for chosen expatriates requiring work permits for positions the company should either be offering to qualified Caymanians/spouses of Caymanians or training able Caymanians/spouses of Caymanians per the relevant sections of the Immigration (Transition) Law, the Immigration (Transition) Regulations, and per their Business Staffing Plan obligations where applicable. Especially for executive level and management positions, including (but not limited to) CEO, Managing Director, Country Manager, CFO, CTO, CTIO, Project Managers, and HR Managers. OfReg should also be able, via applicable legislation, to automatically hold its telecom licensees accountable via strict fines, sanctions, or license revocation for "misleading, unfair, and deceptive advertising" with job ads that lead to fines by the relevant immigration/WORC authorities, where the application for temporary and long term work permits, and work permit renewals, is concerned.