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OfReg fines FLOW \$400,000 for breaching licence conditions

Utilities regulator OfReg last month issued its determination confirming telecommunications operator FLOW breached the terms of its licence twice. It did so by, firstly, increasing its business customer rates from \$30 to \$34.99 from January 2019 to April 2022 without approval to do so, and secondly, by failing to comply with its obligation to provide data to the regulator as part of a quarterly data reporting requirement.

The regulator has now issued a final determination imposing a fine on FLOW of \$400,000 for the unapproved price increase and delivered a warning for the data reporting breach. Flow has now paid the fine.

OfReg's power to discipline licensees in breach is governed by the Utility Regulation and Competition Act which provides for two courses of action: to apply administrative fines or, to issue a warning. Under the administrative fines provision, a maximum fine of up to \$500,000 may be imposed, and a fine of \$25,000 for every day the breach continues after the time to appeal a determination has passed.

Speaking on the sanctions applied to FLOW, Mr. Sonji Myles, OfReg Executive Director of Information said, "All licensees must comply with the terms of their licence and the laws of the Cayman Islands. As the regulator for the utilities sectors, it is our job to protect consumers and ensure licensees are held to account when they do not. We will act accordingly and apply the full force of the sanctions made available to us under the law.

"In this case, the fine imposed on FLOW is in the upper region of the maximum amount and reflects the seriousness of the first breach of its licence, applying unapproved price increases. For the second breach of failure to provide data reports, a warning is deemed sufficient, and we will be monitoring future reporting closely."

Interim CEO, Mr. Peter Gough added, "It is important that customers are protected from organizations that do not comply with their license conditions, OfReg has drafted Consumer Protection Regulations for the ICT Sector that will further enhance the protection of customers. We take our responsibility to protect consumers very seriously indeed. Where we find failures by licensees and operators to comply with the law, we will not hesitate to exercise our authority and impose fines and sanctions at appropriate levels to discipline operators and warn others of the consequences of non-compliance with the terms of their licences. In our role as policy advisors to government, we will be making representations to law makers to consider increasing the types and levels of penalties available to us, including express legislative provisions to make restitution



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orders for consumers. In the meantime, OfReg urges FLOW to honour their obligations to their customers.”

Hon. J. Ebanks, Minister for Planning, Infrastructure, Agriculture and Housing said “I am proud of the hard work that the Office is doing to ensure regulatory compliance in this matter and look forward to continued achievements in utility regulation generally. I pledge my continued support to the hardworking staff at OfReg and to provide the necessary legislative support that Ofreg needs to be a more effective regulator.”

The full determinations on the breach, fine and warning issued to FLOW can be found on the OfReg website at <https://www.ofreg.ky/viewPDF/documents/2023-08-17-13-26-17-Determination-CWCIL-Flow-Fine-and-Warning-Notice-.pdf>

And;

<https://www.ofreg.ky/viewPDF/documents/2023-07-21-13-53-24-ICT-2023-1--Determination-CWCIL-FLOW-Enforcement-Notice-Breach-of-Licence.pdf>

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PHOTO: Mr. Sonji Myles, Executive Director – Information, OfReg

ABOUT OFREG

The Utility Regulation and Competition Office ('OfReg' or the 'Office') is the independent regulator established by section 4 of the Utility Regulation and Competition Act (as revised) (the 'URC Act') for the electricity, information, and communications technology, water, wastewater, and fuel sectors in the Cayman Islands.

OfReg provides the opportunity for consistency and collaboration in regulation across the energy, fuel, ICT, and water sectors; better utilisation of skills and resources resulting in more efficient and effective regulatory processes; encouraging competition where appropriate and feasible; championing sustainability and innovation across markets, contributing to the economic and social goals of the Cayman Islands.

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