

OF 2025 – 1 – Consultation (2nd)
Draft Determination on Proposed Truth in Advertising Rules

**UTILITY REGULATION AND COMPETITION OFFICE
THE CAYMAN ISLANDS**

Launch Date: 21 July 2025

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A. Introduction

1. The Utility Regulation and Competition Office (the “Office” or “OfReg”) is the independent regulator established by section 4(1) of the Utility Regulation and Competition Act (the “URC Act”) for the electricity, information and communications technology (“ICT”), water, wastewater and fuels sectors in the Cayman Islands. The Office also regulates the use of electromagnetic spectrum and manages the .ky Internet domain.
2. As outlined in the OF 2019 – 1 – Consultation Paper, in keeping with its statutory mandate to protect the interests of consumers in relation to utility services, the Office has determined that marketing communications by Authorisation Holders must be truthful, substantiated, and not misleading or deceptive. The Office has therefore prepared the attached Truth in Advertising Rules (“the Proposed Rules”) to replace the former Information and Communications Technology Authority’s Guidelines (the “ICTA TIA Guidelines”). These Rules will apply across all sectors regulated by the Office.
3. The Proposed Rules, after conducting a public consultation with Licensees and members of the public, were prepared in accordance with the Office’s powers and principal function of protecting the consumers of the Cayman Islands in relation to the sectors and markets for which it has responsibility. The Proposed Rules were revised in April 2025 following a review of earlier feedback and regulatory developments.
4. A core responsibility of the Office is to make regulatory decisions with the appropriate input from persons with sufficient interest or who are likely to be affected by the outcome of such decisions. Consultation is an essential aspect of regulatory accountability and transparency and provides the formal mechanism for these persons to express their views. The requirement for the Office to consult is mandated in its enabling legislation and for the purposes of procedural fairness and compliance with administrative law principles.
5. This Draft Determination is issued in accordance with Section 7(1) of the Utility Regulation and Competition Act (2024 Revision) (the ‘URC Act’) in order to the public, an opportunity to offer comments on this Draft Determination in relation to the Office’s Proposed Rules.

B. Legal Framework

6. Section 6(1)(c) of the URC Act outlines that one of the principal functions of the Office, in the markets and sectors for which it has responsibility, is “*to protect the short-and long-term interests of consumers in relation to utility services...*”. The Office, in carrying out its principal functions, may make administrative determinations, decisions, orders and regulations under the URC Act.
7. Under section 6(3) of the URC Act, the Office has the power to carry on any activity which appears to it to be requisite, advantageous or convenient for or in connection with the performance of its functions and exercising its powers under this or any other law.
8. The Rules were prepared pursuant to these statutory functions to ensure that consumers are not misled or misinformed when making decisions about utility services.

C. OF 2019 – 1 - Consultation

9. The draft Rules were attached to the consultation document as ANNEX 1 and are summarised in the paragraphs below.
10. The attached draft Rules consisted of thirty-six (36) rules, which were divided into ten different parts. In addition to addressing the Office’s expectations of Sectoral Providers in relation to marketing communications, the draft Rules also addressed the following:
 - Substantiation, Qualification and Exaggeration;
 - Pricing statements;
 - Imitation and Denigration;
 - Endorsements and Testimonials; and
 - Guarantees and After-Sales Services.
11. Parts A and B outlined the objectives and the defined terms of the draft Rules. The Office’s expectations are outlined in Part C, including the Office’s expectation that marketing communications should not materially mislead the consumer and that subjective claims about sectoral utility service should not materially mislead the Consumer, or be likely to do so.

Part D addressed substantiation, qualification and exaggeration in relation to marketing communications. Pricing and comparisons are addressed in Parts E and F. Part G outlines the Office's rules in relation to imitation and denigration, while Part H addresses endorsements and testimonials. Guarantees and after-sales services are covered in Part I. The last part, Part J, addresses remedies and consequences.

12. The Office intended to apply the draft Rules to all marketing communications published by Sectoral Providers in relation to any sectors for which it is responsible under the URC Act.

D. Comments Received and Office Responses

13. The Office received five responses to OF 2019 – 1 – Consultation, from WestStar TV Limited ("Logic"), Cable & Wireless (Cayman Islands) Ltd. ("Flow"), Cayman Water Authority ("WAC"), Digicel Cayman Ltd. ("Digicel"), as well as a Private Citizen:

Logic

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

Logic did not submit a direct answer to the question.

15. **Office Response**

N/A

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

Logic did not submit a direct answer to the question.

17. **Office Response**

N/A.

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

Logic did not submit a direct answer to the question.

19. **Office Response**

N/A.

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

Logic responded that it had no specific objection to the guidelines set out in the ICTA TIA Guidelines or the OfReg Draft Rules, but notes that the two sets of guidelines - old and new - overlap significantly. Logic enquired what was lacking or ineffective in the ICTA TIA Guidelines, and how does the OfReg Draft Rules better address the problems with the ICTA TIA Guidelines.

21. **Office Response**

The Office notes Logic's response and that Logic had no specific objection to the guidelines set out in the "ICTA TIA or the OfReg Draft Rules". As stated in the consultation paper, the proposed Rules are meant to address all sectors regulated by the Office. The ICTA TIA Guidelines were consolidated and inserted into the proposed Rules so that there would be one set of rules in relation to marketing communications governing all regulated sectors. The Office does not hold the position that the ICTA TIA Guidelines were lacking or ineffective, but the proposed Rules are meant to address all sectors, as well as outline the remedies available to the Office in relation to the breach of the rules and potential consequences (which the ICTA TIA Guidelines did not address). The Office did not conclude that there were "problems" with the ICTA TIA Guidelines but noted that the guidelines were drafted and enforced under the former ICTA, and therefore, only applied to the ICT sector. Consequently, the Office planned to repeal the ICTA TIA Guidelines so that it could introduce/implement truth in advertising requirements across all the sectors that it has responsibility for.

Flow

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

Flow submitted that the “*new set of guidelines largely mirrors the previous set of guidelines developed in 2002, and we have no objections with retaining them. The new set of guidelines provide an appropriate framework to monitor the marketing communication of all companies operating in the Cayman Islands including Licensed ICT operators. Definition of "Marketing Communications" - is unchanged. Believe that the definition should be updated to reflect the changes of internet-based marketing over the past 17 years. Flow would like clarification in relation to definition of "Material Information" - whether OfReg holds the position that a consumer's right to cancel his/her/its' contract to be optional.*”

23. Office Response

The Office notes Flow’s response and agrees with Flow that the definition of “Marketing Communications” should be updated. Therefore, the Office amended the definition of “Marketing Communications” in the proposed Rules, to include internet-based advertisements and examples of such.

In response to Flow’s query regarding Material Information, OfReg holds the position that the definition is adequate for the purposes of the proposed rules, and that the term of a contract may include a right of cancellation.

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

Flow submitted the following response: “*New Guidelines are almost identical to their predecessor. However, the new guidelines introduce the concept of fairness, which did not appear in the 2002 Guidelines. Believe the introduction of fairness to the new Guidelines is unnecessary; it adds uncertainty and potential confusion. Fairness is an inherently expansive concept and this definition does not appear to apply meaningful limitations. 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. The definition of "Marketing Communications" should be updated to reflect the growth of internet.*”

25. Office Response

The Office notes Flow’s response but disagrees with Flow and holds the position that fairness should be a part of the Rules in order to protect the short- and long-term interests of consumers.

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

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. Flow 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.

27. **Office Response**

The Office notes Flow's response, and as previously stated above in paragraph 23, it disagrees with Flow's suggestion. The Office maintains the position that 'unfair' marketing communications should be addressed in the proposed Rules.

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

Flow did not have any additional views.

29. **Office Response**

The Office notes Flow's response.

WAC

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

While WAC 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 WAC's opinion, these would need to form part of Consumer Protection Law, which still seems to be in bill form. WAC 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 consumer relations.

31. Office Response

The Office notes WAC's response. The Office is aware of the proposed Consumer Protection Bill and agrees that the bill should ideally address all relevant principles in order to adequately protect consumers within the jurisdiction. However, the Office holds the position that there is a need for rules governing truth in advertising for the sectors that it regulates for the time being. The Office, due to ongoing investigations and consumer complaints, believes that the preparation and implementation of the proposed Rules are timely. One of the principal functions of the Office under section 6(1) the URC Act is to protect the short- and long-term interests of consumers in relation to utility services. Therefore, the Office, in its endeavour to achieve this principal function, prepared these rules in order to ensure the protection of consumers in relation to marketing communications published or communicated by Sectoral Providers. If the Consumer Protection Bill becomes legislation, it is envisioned that the Rules will be repealed.

The Office notes that WAC has its own internal corporate communications procedures, and encourages WAC to revise its procedures, if necessary, to be in line with the final set of Rules attached to this determination.

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

WAC has no issues with the expectations of the Office in regard 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). 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.

33. Office Response

The Office notes WAC's comment in relation to the applicability of the proposed Rules to all Sectoral Providers, and not solely Licensees. Hence, the Office made amendments to paragraphs 2 and 5 accordingly

in order to clarify that the Rules are applicable to all Sectoral Providers as defined in the URC Act.

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

“Under the remedies and consequences, it is noted that in J39 (a), references 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 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 task and resources.”

35. **Office Response**

The administrative fees will be calculated on a case-by-case basis and approved by the Board of Directors of the Office. The Office believes that consumers who have been financially disadvantaged by paying for a product and/or service which is not what it is advertised should be compensated if they relied on the description (of that product and/or service) and there was knowledge that false verbal or written statements were being made e.g. advertising gasoline with an octane level below 90 as gasoline with an octane level of 93 or higher. The Office agrees that corrective action would also be effective to address any breaches of the truth in advertising rules. However, there may be cases where the consumer(s) should be compensated, and the Office would encourage consumers to seek professional advice where necessary, e.g. breach of contract, criminal acts, knowledge of violation, etc.

The Office notes consumers may wish to seek redress in a Court in order to seek satisfaction of a legal claim. A consumer may seek from the Office the name and address of the Marketer, for the purpose of serving a summons in accordance with the local Court Rules. In addition, the Office

may choose to initiate a criminal proceeding where the facts reveal that criminal offence has taken place, e.g. fraud.

36. **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 the responsibility the publisher has, who may be a sectoral provider, for allowing others to utilise their channels to advertise or cross promote products and service in a manner that it 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 state: “*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.”

37. **Office Response**

The Office agrees that there should be comprehensive and all-encompassing legislation to “*regulate marketing communications across all industries*”. However, the Office is not certain when such legislation would be brought into force and hence, will only address marketing communications made regarding to the provision of Electricity, Fuels, ICT and Water related products and/or services in order to protect consumers in the jurisdiction. The Office has determined that there have been deceptive advertising practices, which are presently being investigated and there is a need to regulate marketing communications as soon as possible.

Private Citizen

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

The Private Citizen did not submit a direct answer to the question.

39. **Office Response**

N/A

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

The Private Citizen did not submit a direct answer to the question.

41. **Office Response**

N/A.

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

The Private Citizen did not submit a direct answer to the question.

43. **Office Response**

N/A.

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

“Telecom advertising concerns:

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):

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 (i.e. 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."

45. Office Response

The Office notes the Private Citizen's response. In response to the private Citizen's concerns, the Office agrees and hence prepared the proposed Truth in Advertising Rules to address such issues. However, the Office would like the Private Citizen to note that billing and the content of bills will be addressed in the Office's proposed Consumer Protection Regulations (the "CPRs") for each sector.

Digicel

46. As Digicel's submission was received by the Office after the deadline without a detailed and satisfactory explanation for the delay, the Office made the decision not to accept its submission to this Consultation.

E. Proposed Determinations

47. The Office considered all written submissions from stakeholders. Key responses and the Office's positions are summarised below:
- a. Several stakeholders sought clarity on whether the Rules apply to all Authorisation Holders. The Office confirms that the Rules apply to all Authorisation Holders and sectoral providers under the URC Act.
 - b. Flow and others noted the need to update definitions to reflect evolving digital advertising practices. The Office has expanded the definition of "Marketing Communications" accordingly.
 - c. Some stakeholders raised concerns about the inclusion of "fairness" due to its perceived subjectivity. The Office maintains that fairness is integral to ensuring that consumers are not unduly influenced or misled, especially in the context of incomplete or asymmetric information.
 - d. Concerns were raised about the enforcement mechanisms, especially in the absence of a general consumer protection law. The Office confirms that these Rules are enforceable under the URC Act, and that enforcement tools include administrative fines, cease and desist orders, consumer redress, and potential court referral.
 - e. Issues raised regarding geographic coverage in telecom advertising and transparency in energy sector claims have been acknowledged and will be addressed in the application of the Rules and upcoming consumer protection regulations.
48. Having considered all the submissions made by the respondents, the Office proposes to determine that it will adopt the Proposed Rules as amended, upon approval by the Board of Directors, with the following changes:
- a. The replacement of the term "Sectoral Provider" with the term "Authorisation Holder" as defined in the URC Act;
 - b. Amendments to the *Introduction and Objectives* section to:
 - clarify that the Rules are binding on all Authorisation Holders as conditions of authorisation;
 - confirm the applicability of the Rules to the advertising and marketing of Electricity, Fuels, ICT, and Water-related products and/or services; and
 - explicitly exclude business-to-business marketing and marketing by resellers not directly authorised by the Office;

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- c. Amendments to the *Definitions* section to:
- add definitions for “Claim”, “Covered Services”, “Micro business” and “Small Business”;
 - expand the definition of “Consumer” to include small businesses, micro businesses, and not-for-profit entities, while excluding entities under bespoke service level agreements;
 - broaden the definition of “Marketing Communications” to explicitly include emerging forms of internet-based and digital advertisements (e.g., SMS, MMS, social media, PPC, affiliate marketing, and native ads);
- d. Amendments to *Part B (Substantiation, Qualification and Exaggeration)* to:
- prohibit the use of the term “unlimited” unless the service is genuinely unrestricted;
 - require that Claims based on survey data disclose survey size, date, and methodology and be verifiable upon request;
 - clarify that Marketers are responsible for compliance even when using automated or AI-driven content;
- e. Amendments to *Part C (Pricing)* to:
- address introductory and time-limited pricing practices;
 - require disclosures related to service bundling and usage of the terms “free” or “without charge”;
- f. Amendments to *Part D (Comparisons)* to:
- distinguish between comparisons made with identifiable versus unidentifiable competitors;
 - prohibit use of outdated data or non-equivalent metrics;
- g. Amendments to *Part E (Endorsements and Testimonials)* to:
- require disclosure of paid or incentivised endorsements;
 - confirm that testimonials must be current and used only with the express permission of the source;
- h. Amendments to *Part F (Guarantees and After-Sales Service)* to:
- require that guarantees include all related warranties and service terms;
 - require that any limitations be clearly disclosed prior to contract commitment;
- i. Amendments to *Part G (Remedies and Consequences)* to:
- provide a broader suite of remedies including administrative fines, warnings, cease and desist notices, public reprimands, compensation directions, and referral for civil or criminal proceedings;

- include publication of non-compliance determinations on the Office's website in the interest of transparency;
 - j. Global editorial revisions, including corrections to grammar, syntax, and formatting for clarity and consistency throughout the Rules; and
 - k. The addition of a requirement that Marketing Communications be reasonably accessible to persons with disabilities, particularly where pricing or contract terms are involved.
49. The Office also proposes to determine as follows:
- a. The Proposed Rules attached to this Determination be adopted and implemented.
 - b. The Rules shall apply to all marketing communications by Authorisation Holders in the Electricity, Fuels, ICT and Water sectors.
 - c. The ICTA TIA Guidelines be replaced.
 - d. All Authorisation Holders are required to ensure compliance with the Rules and to update internal processes accordingly.
 - e. The Office will monitor compliance and may take enforcement action where breaches occur.
50. A copy of the Proposed Truth in Advertising Rules is attached as Appendix 1 to this Determination.

F. Consultation Questions

51. Based on the above, the Office invites all interested parties to submit their comments, with supporting evidence, on the following question:

Question 1: Please provide your views on any matters you consider relevant to this draft Determination.

G. How to Respond to This Consultation

52. This consultation is conducted in accordance with the Consultation Procedure Guidelines determined by the Office and found on the Office's website.¹

¹<https://www.ofreg.ky/viewPDF/documents/Policies/2022-07-04-01-01-01-OF-2022-G1-Consultation-Procedure-Guidelines--.pdf>

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53. The Office considers that given the prior consultation on the subject of this Draft Determination, a second round consultation period of thirty (30) days is fair and appropriate. As noted above, **section 7(1)** of the URC Act states that prior to issuing an administrative determination of public significance, the Office shall “*issue the proposed determination in the form of a draft administrative determination.*” The Office considers the proposed determination outlined above to be a “*draft administrative determination*” for the purposes of **section 7(1)**.
54. All submissions on this consultation should be made in writing and must be received by the Office by **5 p.m. on 21 August 2025** at the latest.
55. Submissions may be filed as follows:
- By e-mail to:
consultations@ofreg.ky
- Or by post to:
Utility Regulation and Competition Office
P.O. Box 10189
Grand Cayman KY1- 1002
CAYMAN ISLANDS
- Or by courier to:
Utility Regulation and Competition Office
3rd Floor, Monaco Towers II
11 Dr. Roy’s Drive
Grand Cayman
CAYMAN ISLANDS
56. If a respondent chooses to file any information in confidence with The Office, it should, *at the time of making its filing*, also file redacted versions for the public record along with the reasons for each confidentiality claim and the other requirements for confidentiality claims as specified in section 107 of the URC Act.
57. If a respondent chooses to apply to the Office for an extension of the time to file comments or reply comment, it must do so no less than four (4) days before the day of the existing deadline, include a complete and detailed justification for the request, and copy all other respondents (if known) *at the same time* as it applies to the Office. The other respondents (if applicable) may comment on the application for an extension within two (2) days of submission of the application, copying all other respondents *at the same time*. The Office reserves the right not to accept applications for extensions that do not satisfy these requirements. However, at no time will



the Office accept an application for an extension submitted after the deadline in question has passed.



Appendix 1

Proposed Truth in Advertising Rules

Truth in Advertising Rules

**UTILITY REGULATION AND COMPETITION OFFICE
THE CAYMAN ISLANDS**

Effective Date: [DD] [M] 2025

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A. Introduction and Objectives

1. The Utility Regulation and Competition Office (the “Office”) is the independent regulator for the electricity, information and communications technology (“ICT”), water, wastewater and fuels sectors in the Cayman Islands. The Office also regulates the use of electromagnetic spectrum and manages the .ky Internet domain.
2. One of the functions of the Office, in accordance with section 6 of the Utility Regulation and Competition Act (the “URC Act”), is to protect the short- and long-term interests of consumers in relation to utility services. Section 6(3) provides that “...the Office has the power to carry on any activity which appears to it to be requisite, advantageous or convenient for or in connection with the performance of its functions or the exercise of its powers” under the URC Act or any other law. Therefore, the Office has prepared the following Rules in relation to truth in advertising with which Authorisation Holders to required comply with regarding all advertisements published after the Effective Date.
3. These ‘*Truth in Advertising*’ Rules (the “Rules”) outline what the Office considers to be appropriate marketing communication made relating to the provision of Electricity, Fuels, ICT and Water related products and/or services.
4. In the event of a complaint or dispute about such marketing communications being made to the Office, the Office will consider a utility provider’s compliance with these Rules when making any related determination. The Office retains the ability to depart from the Rules when circumstances reasonably require it.
5. These Rules are relevant to all members of the public, Authorisation Holders and stakeholders who could be affected by the regulatory decisions made by the Office and are applicable to all marketing communications by Authorisation Holders made via any form of medium or delivery. These Rules replace the former *Information and Communications Technology Authority’s Truth in Advertising Guidelines*. It should be noted that these Rules do not restrict the use of other remedies that a Consumer may have, such as a contractual or statutory right. These Rules will be binding on all Authorisation Holders from the Effective Date.
6. These Rules are issued pursuant to the Office’s powers under sections 6 and 91 of the URC Act and are binding on all Authorisation Holders as conditions of authorisation.
7. These Rules apply to all Authorisation Holders engaged in the advertising or marketing of Utility Services to Consumers in the Cayman Islands, regardless of the medium of delivery. The Rules do not apply to business-to-business marketing or marketing by resellers not directly authorised by the Office.

B. Definitions

8. In the Rules:

‘Authorisation Holder’ has the same meaning as in the URC Act.

‘Claim’ means an assertion of the truth of something. For the purposes of these Rules, a claim can be implied or direct, written, spoken or visual.

‘Consumer’ means any natural person, small business, micro business, or not-for-profit entity, as registered under the applicable laws of the Cayman Islands, that purchases or uses Utility Services for personal or business purposes but does not include persons who resell or deliver the service to a third-party. For the purposes of these guidelines, consumers do not include entities operating under bespoke service level agreements (SLAs).

‘Covered Services’ has same meaning in the URC Act.

‘Marketer’ includes but is not limited to an advertiser, promoter or direct marketer.

‘Marketing Communications’ includes but is not limited to:

- advertisement made in newspapers, magazines, brochures, leaflets, circulars, mailings, e-mails, text transmissions (including short message service (SMS) and multimedia messaging service (MMS)), fax transmissions and other electronic or printed material;
- advertorials (being an advertisement feature, announcement or promotion, the content of which is controlled by the marketer, not the publisher, that is disseminated in exchange for a payment or other reciprocal arrangement);
- cinema, television, radio, video, DVD advertisements;
- internet-based advertisements (e.g. display advertising, search engine marketing, social media, native advertising, pay per click (PPC), remarketing, affiliate marketing, video advertising, and any other type of online advertisements and promotions);
- point-of-sale displays;
- posters and other promotional media (including moving images);
- promotions; and,
- sponsorships.

‘Material Information’ means information that the Consumer needs in order to make an informed decision in relation to the purchase or continued use of a covered service, and includes but is not limited to:

- the main characteristics of the Utility Services;
- the identity (for example, a trading name) and geographical address of the Marketer and any other trader on whose behalf the marketer is acting;
- the price of the advertised Utility Services, or if the nature of the Utility Services is such that the price cannot be calculated in advance, the manner in which the price is calculated;

- delivery or installation charges, if any;
- the arrangements for payment, delivery, performance or complaint handling, if those differ from the arrangements that consumers are likely reasonably to expect;
- that a twelve (12) month contract requires payment for an addition month, i.e. the thirteenth month, to facilitate the termination process; and,
- that the Consumer as a customer of that Authorisation Holder has the right to cancel his or her contract, if they have that right and any related terms.

'Micro business' has the same meaning as in the Trade and Business Licensing Act (as revised).

'Small business' has the same meaning as in the Trade and Business Licensing Act (as revised).

'URC Act' means the Utility Regulation and Competition Act (as revised).

C. The Office's Expectations

9. All Marketing Communications must not materially mislead the average Consumer or be likely to do so.
10. All Marketing Communications must be truthful and not deceptive or unfair. Any specific Claims mentioned in Marketing Communications shall be able to be substantiated with credible evidence.
11. Marketing Communications are considered deceptive if they contain a statement, or omits information, that is likely to mislead reasonable consumers and is important to a consumer's decision to buy or use the service and/or product.
12. Marketing Communications are considered unfair if they mislead or are likely to mislead a consumer into making a decision to use or not use a service, are likely to cause loss to the consumer which a consumer could not reasonably avoid or cause a consumer to form a negative opinion about another Authorisation Holder.
13. Obvious exaggerations or Claims ('puffery') about the Utility Services being marketed that the reasonable Consumer who sees such Marketing Communications is unlikely to take literally are allowed, provided such exaggerations/Claims do not materially mislead the reasonable Consumer, or be likely to do so.
14. Marketing Communications should not materially mislead the reasonable Consumer or be likely to do so by, among other things:
 - i. omitting Material Information;
 - ii. hiding Material Information; or,
 - iii. presenting Material Information in an unclear, unintelligible, ambiguous or untimely manner.

Whether the omission or presentation of Material Information is likely to materially mislead a Consumer, or be likely to do so, will depend on:

- i. the context;
 - ii. the medium, and if the medium of the Marketing Communication is constrained by time or space;
 - iii. use of subliminal messaging;
 - iv. inconsistent information such as an image which conveys information different from text or voice track; and/or,
 - v. the measures that the Marketer may take to make that Material Information available to the Consumer by other means.
15. Marketing Communications should not materially mislead the Consumer, or be likely to do so, by omitting the identity of the Marketer.
16. Marketing Communications should be reasonably accessible to persons with disabilities, particularly where important terms or pricing information is provided.
17. Subjective Claims about the Utility Services should not materially mislead the Consumer, or be likely to do so: in particular, Marketing Communications should not imply that expressions of opinion by the Marketer are objective Claims.

D. Substantiation, Qualification and Exaggeration

18. Before distributing or submitting a Marketing Communication for publication, Marketers should hold credible evidence (e.g., market studies, technical specifications and customer data) to prove Claims that Consumers are likely to regard as objective, and that are capable of objective substantiation. The Office may regard Claims as misleading in the absence of adequate substantiation by documentation or otherwise.
19. Marketing Communications should state significant limitations and qualifications of the advertised covered services. Such limitations and qualifications may clarify but should not contradict the Claims that they intend to qualify.
20. Marketing Communications should not use terms such as “unlimited” or similar to describe any service or feature unless the service is truly without any material restriction or limitation. Where any fair usage policy or other form of limitation applies, these must be clearly and prominently disclosed along with all marketing communications.
21. All limitations and qualifications must be presented clearly, including being located and presented in such a manner as to be clearly legible and/or audible, where applicable. This precludes techniques where information or disclaimers are presented rapidly through images, sound or voice tracks, making them difficult or impossible to comprehend.

22. Marketing Communications should not mislead Consumers, or be likely to do so, by exaggerating the capability or the performance of a covered service.
23. Marketing Communications should not present rights given to Consumers in law as a distinctive feature of the Marketer's offer.
24. Marketing Communications should not suggest that the Marketer's Claims about the Utility Services being marketed are universally accepted if a significant division of informed or scientific opinion about such a Claim exists.
25. Marketing Communications should not suggest that the holding of Sectoral Licence is a sign of satisfactory or great Utility Services.
26. Claims based on survey data must include survey size, date, methodology where material to the Claim and such data must be verifiable upon request by the Office.
27. Where generative content, automated scripts or AI-driven marketing is used, Marketers remain responsible for ensuring compliance with these Rules and shall not rely on the autonomous nature of such tools as a defence for non-compliance.

E. Pricing

28. Price statements about the Utility Services being marketed should:
 - (a) include statements about the manner in which the price will be calculated as well as the definite prices;
 - (b) if introductory pricing or time-limited discounts are offered, the duration of the offer and post-offer pricing must be disclosed;
 - (c) include governmental surcharges, fees and miscellaneous charges that are collected from consumers on behalf of government or appropriate authority, and any costs the law allows the Authorisation Holder to pass onto its consumer as a surcharge; and,
 - (d) not mislead by omission, undue emphasis or distortion and must relate to the advertised Utility Services.
29. Marketing Communications that state prices of the Utility Services should also state any applicable delivery, freight or postal charges or, if those cannot be reasonably calculated in advance, state that such charges are payable.
30. If the price of one covered service depends on another, Marketing Communications should make clear the extent of the commitment the Consumer must make to obtain the advertised price.
31. Claims about the quality of a Utility Service provided or to be provided, such as "up to" and "from", should not exaggerate the availability or number of benefits likely to be obtained by the Consumer when using the Utility Services.

32. Marketing Communications should not describe a Utility Service as being “free” or “without charge” or imply such a case or similar if the Consumer has to pay anything other than the unavoidable cost of responding and collecting or paying for the delivery of the Utility Services. In addition, such communications should not misrepresent the Consumer’s opportunity to purchase the Utility Services at the terms presented. If the supply of the sale item is limited, or the seller can fulfill only limited demand, this must be clearly stated in the advertisement.

F. Comparisons

33. The Office will likely consider unqualified superlative Claims as comparative Claims against all competing Utility Services, and any superiority Claims (i.e., any Claims that the Authorisation Holder’s Utility Services is better than a competitor’s) must be supported by credible evidence unless such Claims are clearly hyperbolic and not reasonably interpreted as factual by the average Consumer.
34. Objective superiority Claims about a Utility Service must make clear the aspect of the Utility Service or the Marketer’s performance providing that service that is claimed to be superior and must be supported by credible evidence.
35. Marketing Communications that include a comparison with an identifiable competitor must not materially mislead the Consumer, or be likely to do so, about either the advertised Utility Service or a competing Utility Service, and should:
- compare Utility Services that meet the same need or are intended for the same purpose;
 - compare one or more material, relevant, verifiable and representative feature of those Utility Services, which may include price; or,
 - not create confusion between the Marketer and its competitors or between the Marketer’s product, service and trademarks, trade name, or other distinguishing mark and that of a competitor.
36. Marketing Communications that include a comparison with an unidentifiable competitor should not materially mislead the Consumer, or be likely to do so, and the elements of such comparison should not be selected to give the Marketer an advantage.
37. Comparisons should not be based on outdated data or non-equivalent metrics.

G. Imitation and Denigration

38. Marketing Communications should not materially mislead the Consumer, or be likely to do so, about who provides the advertised covered services, nor should they unfairly

discredit or denigrate another covered service, Marketer, trademark, service mark, trade name, or other distinguishing mark.

39. Marketing Communications should not take unfair advantage of the reputation of a competitor's trademark, service mark, trade name, or other distinguishing mark or of the designation of origin of a competing product.
40. Marketing Communications should not present a covered service, including any products used to provide that service, as a copy or unauthorised imitation of a competitor's protected product, service, or brand.

H. Endorsements and Testimonials

41. Endorsements and testimonials must relate to the advertised Utility Services and such endorsements and testimonials must be reasonably current and reflect the honest opinions of the endorser. If endorsements are paid or incentivised, that fact must be disclosed at the same time.
42. Claims that are likely to be interpreted as factual and appear in an endorsement or testimonial must not materially mislead the Consumer or be likely to do so.
43. Marketing Communications should not feature an endorsement or testimonial without the express permission of the person quoted, sourced or referenced.
44. Marketers should not refer in a Marketing Communication to advice received from the Office or imply endorsement by the Office.

I. Guarantees and After-Sales Service

45. Marketing Communications should not use the word "*guarantee*" in a way that could cause confusion about a Consumer's contractual rights.
46. Any guarantees advertised about a Covered services should should clearly outline all associated warranties, after-sales service terms, care packages, and any similar offerings.
47. Marketing Communications should make clear each significant limitation to an advertised guarantee and supply the full terms of that guarantee before the Consumer is committed to taking up the guarantee.
48. Marketers should promptly refund Consumers who make valid Claims under an advertised money-back guarantee.

J. Remedies and Consequences

49. If a Marketing Communications is not truthful, is deceptive, unfair or cannot be substantiated, the Office at its own discretion may take one or more of the following enforcement actions, as appropriate:

- a) impose an administrative fine or warning under section 91 of the URC Act;
- b) issue notice to cease use of the Marketing Communication;
- c) issue public consumer interest notice,
- d) issue letter of public reprimand;
 - a. letter of reprimand will be considered in future applications for licence renewals or additional grants;
- e) directions to compensate the Consumers who the Office determines were misled by Marketing Communications;
- f) referral of complaints for consideration of civil or criminal court proceedings where appropriate.

50. The Office may publish determinations of non-compliance on its website as part of its transparency obligations.

[END]