



**BY EMAIL**

Philip Micallef, Chief Executive Officer  
Regulatory Authority  
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3rd Floor  
1 Victoria Street  
Hamilton HM 11  
Bermuda

June 13, 2014

Dear Mr. Micallef,

**Re: LinkBermuda Ltd. and Quantum Communications Limited (collectively, the “Companies”)  
Comments to the Consumer Rights: Contracts Consultation 14/1615 Dated: 9 May 2014  
 (“Consultation”)**

The Companies respectfully submit the following responses to the questions posed in the Consultation:

**Proposed Decision 3**

- 1) The RA proposes that any Contract that, together with annexes, is longer than two (2) pages must be accompanied by a one (1) page Contract Summary setting out the issues listed below.*
- 2) The following terms and conditions must be provided in the Contract Summary*

**Question: #3:**

*Do you recommend any changes to the proposed decision? If so, please state these changes.*

We are concerned about the practical ability to comply with the specific requirement to include “the Price charged for the Service Provided” in the Contract Summary where bundled and/or variable rate service offerings are an option and can influence the final charge calculation. In this context, Industry is enabling customer choice by offering a variety of services that can be bundled at customer’s discretion to best fit their individual needs. The service offerings typically involve a host of bundle options having multiple service features at varying prices, some of which are entirely usage dependent (e.g., international voice rates). Consequently, when choosing more than a single service, it becomes a customized package service based on the customer selection at the time of signup that dictates the final price of the services delivered.

This desirable feature offering consumers a flexible choice of services creates impossible challenges for compliance with the RA’s proposed requirement. For example, it is not possible to create a single “form” description of “the Price charged for the Service Provided” in the Contract Summary that takes into

account all possible pricing permutations given the service options and bundling available to the customer. The international long distance service feature alone would require a rate table(s) listing country by country charges that would easily consume a single page. Whilst we agree the consumer should be fully apprised of the price they will be charged for the service they choose, we believe it is simply not feasible to create a bespoke description of “the Price charged for the Service Provided” in the Contract Summary as part of each and every customer sign up process.

We therefore believe that pricing should be clearly stated up front as part of the selection process but not required in the Contract Summary. We believe the RA’s consumer protection concerns are better addressed by requiring Industry to clearly state the prices for the service(s) the customer actually selects in the “checkout” process. The consumer should then be able to review a print out of the actual prices prior to completing the order. A further possible protection would be to allow the customer to cancel the service within one (1) business day of placing the order if they change their mind or are not satisfied with the price(s) listed. This of course will necessarily delay service fulfillment but will accommodate the “fair” dealing concerns raised by the RA.

#### **Proposed Decision 4**

- 1) *The RA proposes that the following standard terms must be included within the details of any Contract offered by Service Providers to Consumers ....*
  - o *Prices, Tariffs and Charges, Service Providers should state clearly all of the prices and charges applying to the provision of the specific service under Contract. This should also include any late payment fees and charges, overage rates, roaming charges, and other fees applicable.*

#### **Question #s 1 &3:**

*Do you agree or disagree that the terms above should be included in all contracts?*

*Are there any items, which have been included in the proposed decision that you think are unnecessary? If so, which items and why?*

Our concern here follows on the “Contract Summary” discussion above. For clarity, we are in full agreement that the customer is entitled to a clear description of the price it will pay for the service(s) selected. The practical dilemma, in our view, is how to fulfill that objective in a meaningful and fair way.

As discussed above, the final pricing terms are customized based on the customer’s final service selection. That is, using the website signup process they look through the possible bundles and various feature sets available thereunder, bearing in mind multiple criteria (price, speed, etc) and make their choices. Alternatively, they can print out the various web site pages describing the options and then go to our Customer Care center and sign up in person.

In either above scenarios in order to fulfill the literal requirement proposed above, we would have to attach our entire product price book to account for all of the possible service selections and permutations. Whilst possible to do so, this is neither practical nor useful to the customer. As indicated in our comments above, we believe a consumer-friendly approach is to require Service Providers to provide a clearly marked section on their websites of all service pricing in all possible permutations. The contract would reference that website page for easy access and confirmation of billing by customers. Finally, as part of the “check out” process once service(s) are ordered, whether online or in person, the Service Provider should be obligated to make available a print out in clear language of the final pricing for the

services ordered. In addition, the customer would be given one (1) business day to cancel the order for any reason without penalty.

**Proposed Decision 5**

- 1) *The RA proposes to determine that any term in a Contract providing for its automatic renewal must be limited to renewal on a month to month basis with the same terms and conditions under the previously expired long-term contract remaining in effect until such time as the Consumer indicates otherwise.*

**Question: #s 1 & 2:**

- 1) *Do you agree or disagree that Service Providers should not renew a contract without your consent?*
- 3) *Do you agree that the matters listed above should be included in Contracts for Services.*

We agree that contracts should be allowed to automatically renew on a month to month basis with the same terms and conditions under the initial term of the contract until and unless the Customer indicates otherwise, including a termination notice (if any) of not greater than thirty (30) days. The thirty (30) day notice requirement is appropriate given wholesale supplier notice termination of underlying service obligations.

**Proposed Decision 6**

- 2) *The RA proposes that the following standard terms pertaining to quality of service also be offered to Consumers in their Contracts; ...Availability and Up-Time ...; Speed ...; Installation ...; Maintenance ...; Repair ....*

**Question: #s 1 & 2:**

- 3) *Do you agree or disagree that Service Providers should have a minimum guarantee standard for services offered?*
- 4) *Do you agree that the matters listed above should be included in Contracts for Services.*

We believe that the matters listed in Proposed Decision 6 should not be mandated by the RA. Rather, they should be offered at the Service Provider's option. Many of these matters are of a technical nature driven by the unique operational environment of the individual Service Provider. These technical realities in combination with market forces should be allowed to guide the behavior of customers and Service Providers alike. Ultimately if there are quality or performance issues the consumer should have the final say in the matter by changing service providers.

**Proposed Decision 7**

- 3) *In an effort to deal with both of these Broadband Quality of Service issues the RA proposes to enter into a constructive dialogue with Internet Service Providers, Consumer Affairs and any other interested parties with a view to developing a solution that properly and reasonably benefits Consumers in the area of Responsiveness and Speed (as well as any other issues arising on Broadband Quality of Service). The key parameters in this discussion are proposed to be as follows ... Responsiveness ... Speed...*

**Question: #s 1-3:**

- 1) *Do you agree with a collaborative approach to the broadband quality issues listed above between Consumers, Service Providers and the RA? Why or why not?*

- 2) ***What other issues do you think should be discussed in the proposed Broadband Quality of Service discussion?***
- 3) ***The RA proposes to commence discussions on this issue within 30 days after the conclusion of this Consultation (with a view to providing a final document within 90 days), is this an acceptable timeline?***

In our view broadband quality issues are complex and unique to the various Service Provider operating environments in Bermuda. A comprehensive study of these issues would require a considerable amount of time and resource, that could be better spent on other priorities. In this area we believe the issues are again best left to natural competitive marketplace forces whereby customers will chose their Service Provider based on price, service and performance.

We are available to discuss any of the foregoing comments if helpful to you.

Respectfully submitted,



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Lin Gentemann  
Chief Legal Officer